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European Co-ordination Action for Demonstration of
Efficient Soil and Groundwater Remediation

The European Soil Framework Directive draft: Impact & consequences in Europe and Austria

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Paris, 20th March, 2008

Soil Framework Directive **STATE OF PLAY**

WHAT HAPPENED SO FAR:

• **2004 to 2006: preparation phase**

- Stakeholder consultations
- Internet-Consultation
- European Commission Interservice Consultation
- ☑ **September 2006: Soil Thematic Strategy and Draft Proposal for a SFD (COM(2006) 232)**
- ☑ Autumn 2007: European Parliament – 1st reading
- ☑ December 2007: European Environment Council: rejected by a qualified minority (AT, DE, FR, NL, UK)
 - no clear benefits (AT, DE, NL, UK)
 - more detail necessary (FR)

2008

- Slovenia: no further activities
- French presidency: priority topic



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The directive addresses "Soil"

- **PRO: COMPLETES PROTECTION OF THE TOTAL ENVIRONMENT**

- Missing piece in environmental law
- Puts functions and ecological services upfront
- Calls for integration

- **CON: SECTORAL APPROACH**

- No groundwater
- 3 framework directives are addressing the soil and water system
- Diffuse pollution is difficult to address



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It is only a framework

- **PRO : FLEXIBILITY**

- Focuses on management
- Possibilities to keep existing successful national approaches
- Possibilities to use other regulations, policies, subsidies to address soil threats in a concerted way

- **CON: NO FIXED GOALS**

- Not very concrete in its ambitions
- Risk that some concrete numerical standards and deadlines will be introduced during the political discussions
- Not all threats are covered



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It's a directive

PRO: MORE POWER

- Without a directive "you are nothing"
- Addresses member states, not citizens and industries directly: Room for different national implementations
- Raises public awareness
- Stimulates countries with weak soil protection regimes

CON: JURIDICAL JUNGLE

- Soil problems are local and require tailor-made local solutions
- Risk of being brought to court for infringements
- May interfere with long standing national soil protection policies

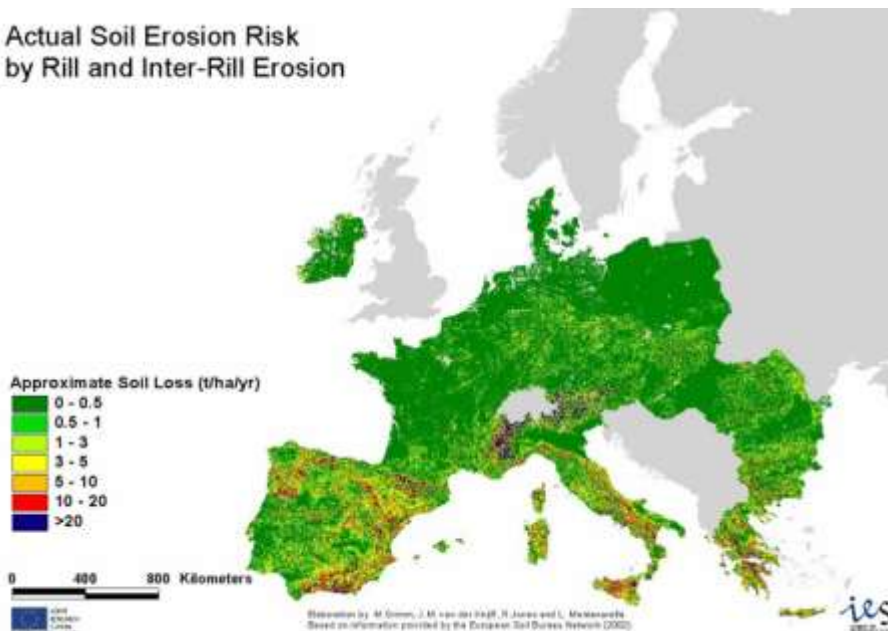


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Actual Soil Erosion Risk
by Rill and Inter-Rill Erosion



EROSION

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Soil Framework Directive 'Risk area approach'

- Identify risk areas according to common definition and criteria
- Set targets for the area
- Make a plan with measures to reach the targets
- Report, evaluate and improve

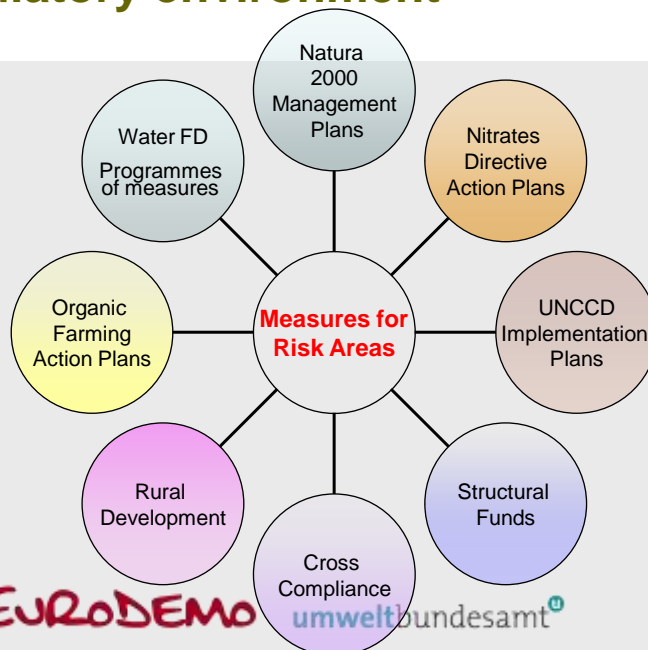


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Regulatory environment

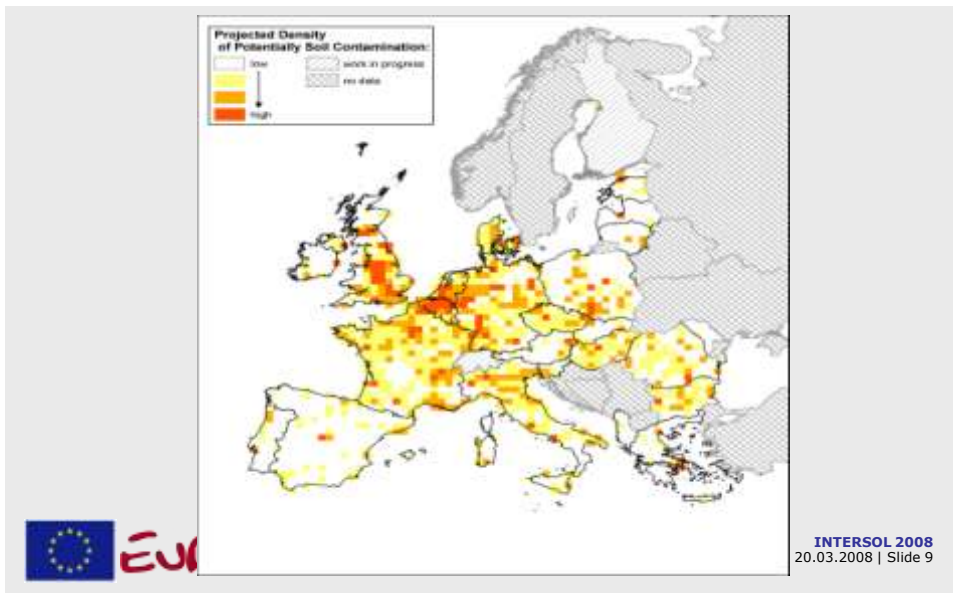


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Contamination



Soil Framework Directive Prevention of Contamination

Art. 9: Prevention of soil contamination

- rather short, unspecific text
- linkages to other existing EU policies for pollution prevention are missing
- lack of integration could be a reasonable origin of confusion in Member States, leading to difficulties in formulating a relevant soil protection policy.
- dangerous substances via air deposition excluded?
- best & cost effective attitude towards environmental protection!

Contaminated sites SFD approach (1)

STEP 1: Locate sites with former or present **soil polluting activities** listed in **Annex 2**

- ambiguity in listed activities
- important activities are missing
- no obligatory list, should be demonstrative or
- common basis to establish national lists

STEP 2: Measure concentrations of **dangerous substances** at these sites

- Directives 67/548/EC & 1999/45/EC not helpful
- addressed substances should already give focus instead of broad umbrella
- important risks (e.g. landfill gas) might not be covered



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Contaminated sites SFD approach (2)

STEP 3: If concentrations are significant, perform an **on site risk assessment**

Art. 10: inventory of contaminated sites

- Concentration (or risk) levels: 'Significant' does not mean "high" or "serious" or "unacceptable", very wide interpretations are possible
- 'Risk' does not correspond to 'concentration levels in soil' (e.g. landfill gas, or buried waste)
- focus on drawing up a complete inventory, instead of identifying and dealing with the worst risks first (plus firm action whenever development provides an opportunity and resources for remediation), detracts from the risk-based approach



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Contaminated sites SFD approach (3)

STEP 4: In case of **significant risks** for human health and environment in view of **current and approved future use**
↳ **mechanism of 'de-listing' remediated sites?**

STEP 5: Remediation, according to priorities. Human health should have the highest priority

- **Art. 14: National Remediation Strategies**
- **Art. 12:** Buyers /sellers of suspect sites have to provide a **soil status report**



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Contaminated sites The Soil Status Report

Article 12:

- obligation for owners or prospective buyers of sites ("Annex II locations") to provide a soil status report to the competent authorities
- some countries do have mechanisms in place that may in the end lead to the same results
- new legal instrument, which may ask for adjustments of several existing national laws
- tremendous effort, e.g.
 - administration to ensure the capacity for the necessary reports
 - system of authorising and appointing reliable 'risk assessors'
- properties subject to the status report requirements may be stigmatised, even in the absence of any risk
- may hinder the reuse of industrial land (due to blight and additional costs of transactions), thus undermining one key aim of soil protection (sustainable use and re-use of land and reduction of risks/threats).

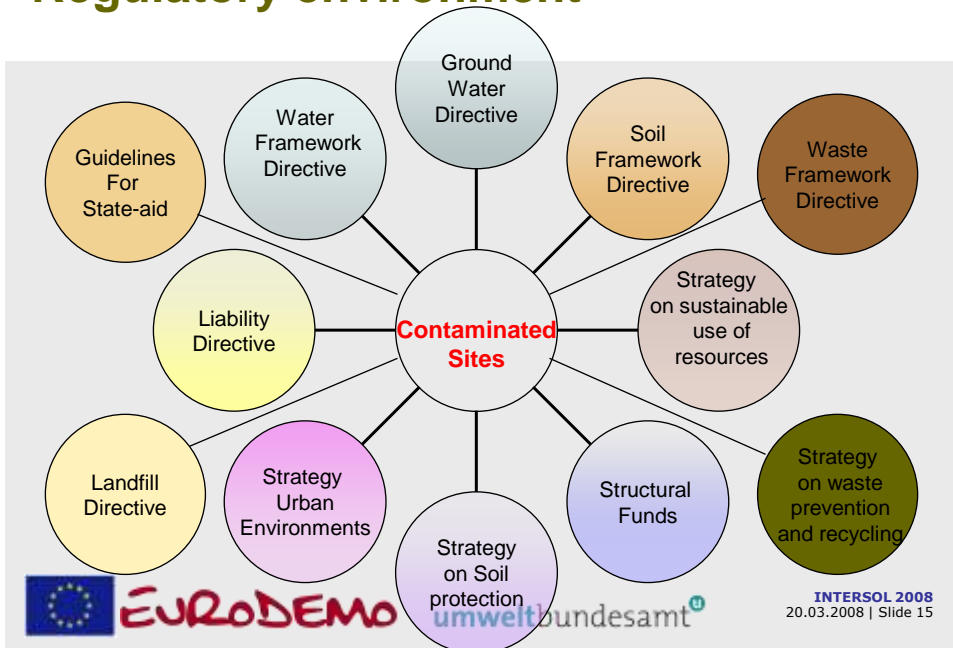


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Regulatory environment



Solving contaminated site problems



- Integrate risk assessment, remediation and redevelopment in a single process
 - Flexible spatial planning
 - Long term perspective
 - Sharing of cost and financial risks
- Make decisions as soon as possible and accept uncertainties you can handle
- Involve stakeholders and possible funders from the start

Who will remediate these ?



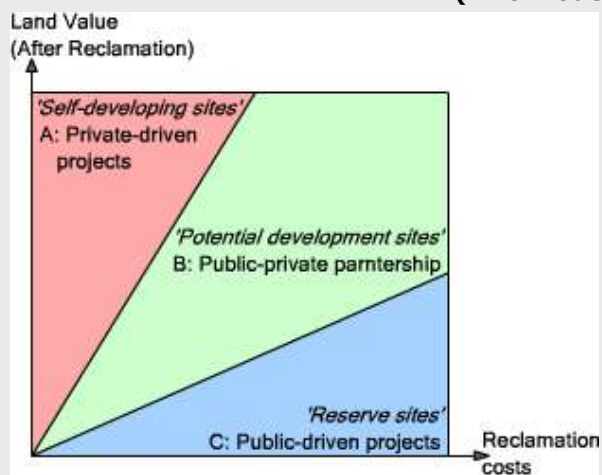
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Socio-economic dimensions

(ABC model, CABERNET)



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Soil Framework Directive - Ideas COMMON FORUM on Contaminated Land

Emphasis is a European "FRAMEWORK" (directive)

- (1) Less importance to Annex 2 (no 'black list')
- (2) Flexibility for national implementation
- (3) Less emphasis on 'concentration levels'
- (4) Implement source-pathway-receptor-paradigm
- (5) RBLM: Sustainable solutions by balancing socio-economic and environmental benefits and impacts
- (6) Soil Status Report: allow existing approaches achieving the same (e.g. obligations by civil law)
- (7) Decisions concerning priorities for remediation should be left to MS
- (8) Relate the SFD, the Liability Directive & GWD



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Soil Framework Directive Anticipated future developments

Priority under French Presidency (2008)

- a new draft starting from the last Portuguese proposal
- New philosophy (?): 'good soil status' (see WFD)
- Revision of the systematic approach on contaminated sites and flexibility for MS with existing systematic approaches
- 'Added value' for environment in comparison to costs needs to be demonstrated
- linkage to IPPC-Directive (currently under revision!!!) and Liability Directive
- linkages to land use & spatial planning



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(COMMON FORUM Secretariat)*

THANK YOU FOR ATTENTION!

ANY QUESTION AND REMARK WELCOME!

Paris, 20th March, 2008