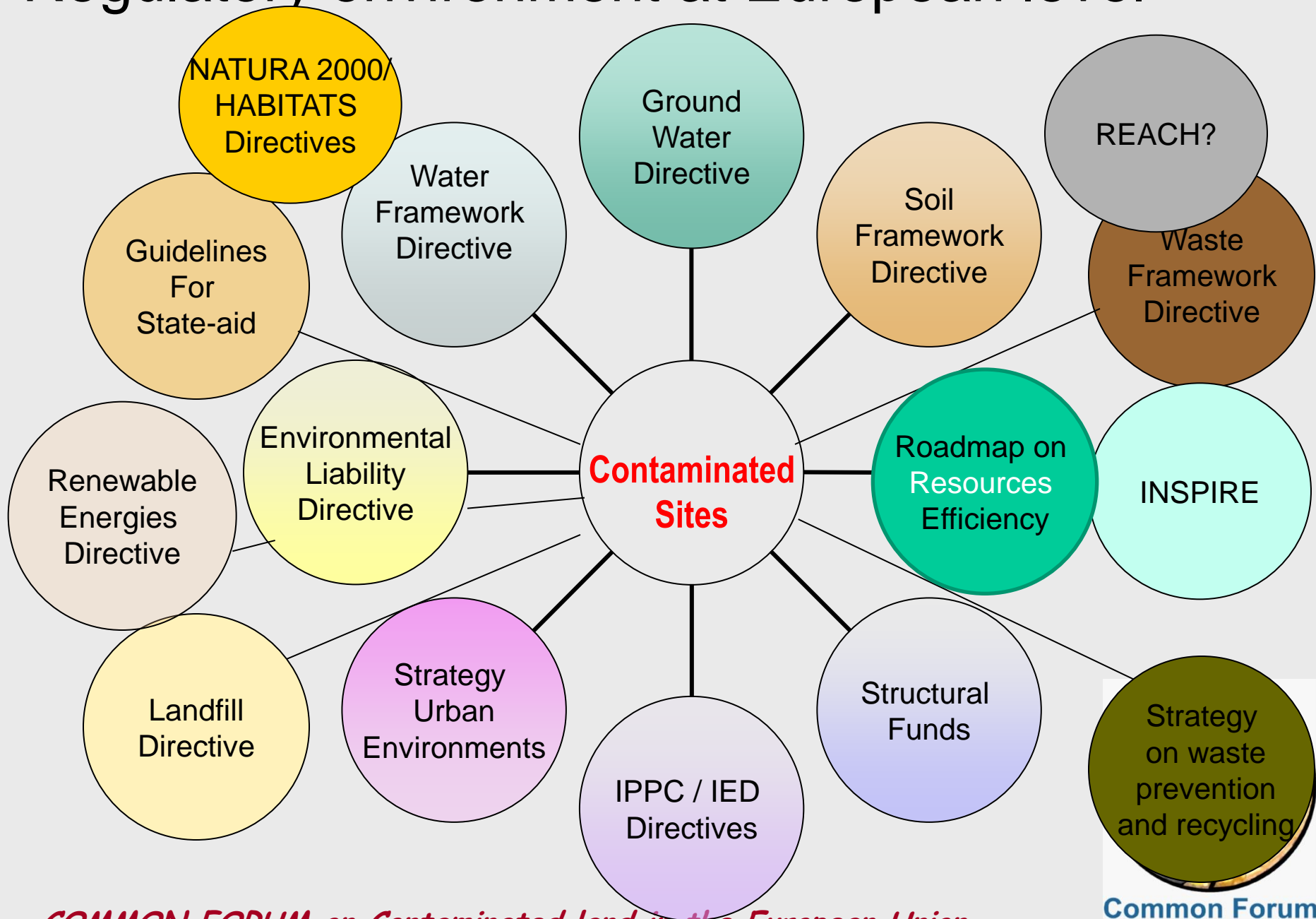


European regulations concerning contaminated site management and status of the directive for soil protection

D. DARMENDRAIL
March 2012

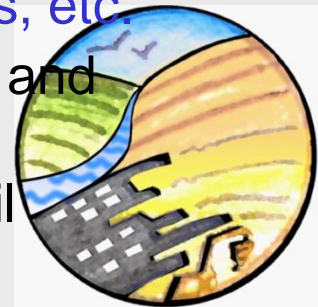


Regulatory environment at European level



the Soil Protection Strategy

- 4 pillars:
 - (1) framework legislation with protection and sustainable use of soil as its principal aim;
 - Soil Protection Directive – Draft
 - (2) integration of soil protection into other policies
 - Environmental Liability Directive – Implementation phase
 - Revision of the Sewage Sludge Directive, the IPPC / IED Directive, the Waste Framework Directive
 - INSPIRE / format for environmental reporting
 - Soil Provisions in the Renewable Energies Directive
 - Roadmap on Resource Efficiency
 - Biodiversity, Climate Change, Rural development Plans, etc.
 - (3) closing the recognised knowledge gap by Community and national research programmes;
 - (4) increasing public awareness of the need to protect soil



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Second part of the discussion

- German presidency (1st half 2007)
- Portuguese presidency (2nd half 2007)
 - voting for agreement during Environment Council dd. 20.12.2007
 - blocking minority by Germany, the Netherlands, Austria, France and the UK
- French presidency (2nd half 2008) – New proposal
- Czech presidency (1st half 2009) – Intense discussions
- Spanish presidency (1st half 2010)
 - Start from Portuguese draft
 - Coreper March 2010: 6 against, 4 in middle (Sweden, Finland, Poland and Romania)
- Not at the agendas of the Belgian, Hungarian and Polish presidencies (2nd half 2010, 2011)
- Not a priority for Denmark



Blocking Minority MS Statements

- Experienced countries having yet a National Approach, integrated in other policies (water, health, IPPC, food, ...)
 - **Austria:** Soil contamination treated on a different way, problems on costs (related to Appendix II)
 - **France:** problem on methodology and goals (too much emphasis on inventory and too little on prioritisation and remediation)
 - **Germany:** concern on several chapters, but mainly on Contamination; needs of common agreement on goals to be reached, evolving process necessary
 - **Netherlands:** needs on all threats, but at appropriate levels, difficulties for implementing EU legislation, bad timing,
 - **United Kingdom:** needs of Proportionality, too time and costs consuming, focus on specific issues that are not necessarily priorities



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And NOW

- Unformal discussions with CF
 - Alternative proposal discussed between experts from PRO and CON Countries
 - Posted on <http://www.commonforum.eu/SoilDirectiveAlternative.asp>
- Discussions with EU presidencies:
 - Denmark
 - Cyprus
 - Ireland
- Discussions with European Commission
 - A Framework Directive to harmonise Soil Provisions in EU Legislations



the Soil Protection Strategy

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Environment Liability Directive / Situation

- Common Forum Questionnaire on MS transposition – available on our website
- Around 50 Court Cases in Europe
 - Most linked to soil and Water Damages
- EC Report on the challenges of the ELD issues
 - harmonization needed,
 - financial provisions.
 - Proposal for extending to marine environment



Main Changes in the Industrial Emissions Directive (IPPC recast)

- New industrial activities covered (20-50 MW combustion plants, wood production, ...)
- Revision of emission limits
- Transitional national plans for large combustion plans
- To **receive a permit**, installations covered by IPPC rules must apply “Best Available Techniques” (BATs) to optimise their all-round environmental performance.
- **Baseline report** for all sites where activity involves use, production or release of relevant hazardous substances and having regard to the possibility of soil and groundwater contamination
- **Emissions to air, soil or water**, as well as noise and safety are all considered
- **New Site closure and remediation** procedures
- Better administrative control / integration



New waste directive / Soil related issues

- Revision of waste directive December 2008.
 - National transposition before end of 2010
- According to Article 2 (*Scope*) para 1 subpara (b) unexcavated contaminated soil is excluded from the scope of WFD.
- According to the subpara (c) uncontaminated soil excavated in the course of construction activities where it is certain that the material will be used for the purpose of construction in its natural state on the site which it was excavated is also excluded from the scope.
- BUT what if it is reused somewhere else?
 - It is in principal waste - permit / notification needed for the reuse
 - Rather heavy procedure for clean soil
 - Separation between "professional reuse" and private reuse?



Directive on wastes from extractive industry (2006/21/EC)

- Definition for inert waste and unpolluted soil
 - Criteria for "inert waste" given in comitology procedure (TAC-committee) – 2009
 - Draft proposal for the "unpolluted soil"
 - National threshold values for defining uncontaminated soil / national background values!!
- Article 20 – Inventories of former waste facilities
 - Guide on inventories (february 2011)
- Article 21 – exchange of information around
 - (b) the **rehabilitation** of those closed waste facilities identified under **Article 20** in order to satisfy the requirements of **Article 4**. Such methodologies shall allow for the establishment of the most appropriate **risk assessment procedures and remedial actions** having regard to the variation of geological, hydrogeological and climatological characteristics across Europe.



SUSTAINABILITY CRITERIA FOR BIOFUELS

Directive 2009/28/EC

Calculating GHG emissions savings (Annex V)

Bonus (29 gCO₂eq/MJ) if the land:

- (a) was not in use for agriculture or any other activity
- (b) falls into one of the following categories:
 - (i) severely degraded land, including such land that was formerly in agricultural use;
 - (ii) heavily contaminated land



- heavily contaminated land' means land that is unfit for the cultivation of food and feed due to soil contamination.

- Bonus applies for up to 10 years provided that

- [...] that soil contamination for land is reduced



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Roadmap for Resource Efficiency (1/3)

- Commission proposal in September 2011
- Discussed at Environment Council December 2011
- Natural resources: Minerals, Metals, Energy, Fish, Timber, Water, fertile Soils, Biomass, Biodiversity...
- Need of:
 - a 4 to 10 fold increase in resource efficiency by 2020
 - A policy framework
 - Reducing needs
 - Limiting impacts



Roadmap for Resource Efficiency (2/3)

Member States should:

- Better integrate direct and indirect land-use and its environmental impacts in their decision making and limit land take and soil sealing to the extent possible (continuous);
- Implement the actions needed for reducing erosion and increasing soil organic matter (continuous);
- Set up an inventory of contaminated sites, and a schedule for remedial work (by 2015). »



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Roadmap for Resource Efficiency (3/3)

- **Other Sectors to add:**
 - Food production and consumption
 - Construction of buildings and infrastructure
 - Transports
- **Governance and monitoring**
 - All EU environmental legislation fully implemented by 2020
 - Resource efficiency considerations part of all policy and decision-making processes at EU, national, regional and local level



Current EC actions under the Soil Strategy

- EEA - 2010 State of the Environment / Soil part - 2011
- DG ENV Report on the implementation of the Soil Strategy – 13 February 2012

http://ec.europa.eu/environment/soil/three_en.htm

- JRC – The state of Soil in Europe (2012-02)

<http://ec.europa.eu/dgs/jrc/index.cfm?id=2540>

- 10-11 May 2012 – DG ENV Conference on Soil remediation and soil sealing



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Current EC actions under the Soil Strategy

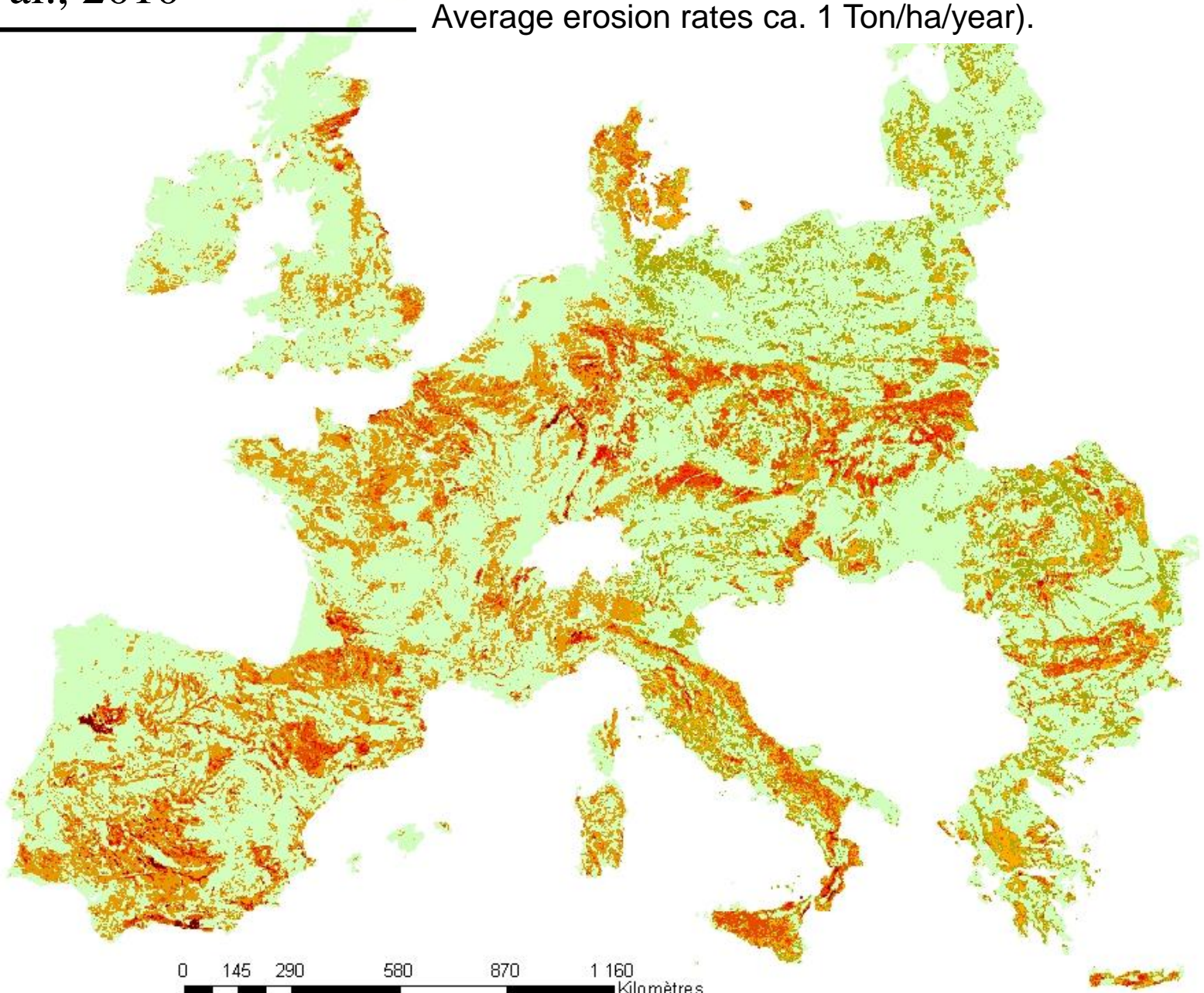
- Summary:
 - Soil Degradation continues in the EU:
 - **Soil Sealing** : loss of 1.000 km² per year (+3% per year, +14-15% in Ireland, Greece or Spain)
 - **Soil erosion**: 1.3 million km² affected. Almost 20% of these are subjected to a soil loss in excess of 10 t/ha/y
 - difficult to quantify the full extent of local **soil contamination** : In 2006, EEA estimation / three million potentially contaminated sites in the EU, of which 250,000 were actually contaminated.



16 % of the area produce 77 % of the erosion
Average erosion rates ca. 1 Ton/ha/year).

Légende

- 0
- 0.01 - 0.5
- 0.51 - 1
- 1.1 - 2
- 2.1 - 5
- 5.1 - 10
- 11 - 20
- 21 - 170



0 145 290 580 870 1160 Kilomètres

Upcoming actions under the Soil Strategy

- Collaboration with FAO at international level
- Soil Monitoring at regular intervals (five-ten years), also by using new remote-sensing techniques – GMES programme
- Further **integration** of soil protection in different policies:
 - CAP negotiations
 - EU Biodiversity strategy to 2020
 - Resource Efficiency strategy / details
 - Cohesion policy provisions

OR HOW TO PUT PRESSURE ON “NO” COUNTRIES

COMMON FORUM on Contaminated land in the European Union



Concluding remarks

- Different pieces of legislation, with different basic principles (hazards for waste, risks for soils)
- Need of real integration for more sustainability
- Real need for technical work for transposition



- Thanks for your attention!



- More information on
www.commonforum.eu

