



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 25 February 2014

6970/14

LIMITE

**ENV 190
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NOTE

from:	General Secretariat
to:	Delegations
Subject:	Soil protection in the Union
	- Background paper

With a view to the lunchtime discussion on "Soil protection in the Union" that will take place on the occasion of the Environment Council (Brussels, 3 March 2014), delegations will find in Annex a background paper prepared by the Presidency, including key questions for Ministers.

Soil protection in the Union

- Background paper -

Introduction

1. In the context of the Sixth Environment Action Programme ¹, which included the objective to protect natural resources and to promote a sustainable use of soil, the Commission adopted a Thematic Strategy for Soil Protection ² (hereafter 'the Soil Thematic Strategy') including a proposal for a Directive of the European Parliament and of the Council establishing a framework for the protection of soil and amending Directive 2004/35/EC ³ (hereafter 'the Soil Framework Directive proposal').
2. The Soil Thematic Strategy and the Soil Framework Directive proposal originated from the need to ensure a sustainable use of soils and protect their functions in a comprehensive manner throughout the Union, against a background of increasing pressure and degradation of this important natural resource.

Continuing degradation

3. Soil is a non-renewable resource subject to potentially rapid degradation processes such as erosion, decline of soil organic matter, contamination, salinisation, soil sealing and compaction as well as floods and landslides. These processes can seriously threaten the ability of the soil to provide the necessary functions for life, affecting its role for food production, climate change mitigation, biodiversity protection and the fight against desertification. Soil degradation also aggravates water scarcity, since it is fertile soils that can best store water, and soil is key to natural flood management.

¹ Decision No 1600/2002/EC (OJ L 242, 10.9.2002, pp. 1–15).

² 13401/06 - COM(2006) 231.

³ 13388/06 - COM(2006) 232.

4. The 2010 Status of the Environment Report ⁴ of the European Environment Agency and the scientific assessment ⁵ published by the Joint Research Centre of the Commission in 2012 noted that soil degradation continues across the EU. Erosion, soil sealing and acidification had all increased in the past decade, and the trend was likely to continue unless challenges such as rising land-use, the inefficient use of natural resources and the preservation of organic matter in soil were addressed. It was also underlined that, five years after the adoption of the Soil Thematic Strategy, there was still no systematic monitoring and protection of soils across Europe.
5. In its conclusions on integrated soil protection ⁶, the Council recognised that, although the information on identified threats was not complete, there was sufficient scientific evidence to conclude that soil degradation processes continue to take place in many areas of the European Union. It also noted, that to safeguard the soil's capacity to perform its vital functions, the sustainable use of soils or soil protecting measures as appropriate needs to be assured, thus placing soil alongside water and air as a natural resource to be protected. In its conclusions of 2010 in preparation for the tenth meeting of the Conference of the Parties (COP 10) to the Convention on Biological Diversity (CBD), the Council reaffirmed the mitigation and adaptation potential of soils. In 2012, in its conclusions on "A Blueprint to Safeguard Europe's Water Resources", the Council acknowledged the need to act in order to reduce the EU's vulnerability to floods and droughts, supporting biodiversity and soil fertility as well as improving the status of waters.

⁴ The European Environment - State and Outlook 2010 - Soil - SOER 2010 Thematic Assessment.

⁵ The State of Soil in Europe - A contribution of the JRC to the European Environment Agency's Environment State and Outlook Report - SOER 2010, February 2012, EUR 25186 EN.

⁶ 10800/02.

Lack of a coherent approach to soil protection

6. Some soil protection aspects can be found scattered in the *acquis*, hence different sectoral policies can contribute to protecting soil, for example in areas such as water, waste, chemicals, industrial pollution prevention, nature protection and pesticides. Positive effects on the state of agricultural soils can be expected from cross-compliance in the Common Agricultural Policy and from the support measures under Rural Development. However, they are not coupled with a dedicated legal framework on sustainable soil use due to their different objectives and scopes.
7. The current approach, combined with national legislation mostly limited to contaminated sites, has not prevented soil degradation across the EU, as shown in the above-mentioned reports.

Transboundary aspects of soil degradation

8. There are about 100 transboundary river basins in the EU, 25 of which have identified soil erosion linked to agriculture as a problem. Soil "moves" when agricultural products are traded within or across countries. The quality of such products is determined by the quality of the soil where they were grown. Only healthy, non-polluted soils ensure the quality of products traded freely within the internal market, preventing health risks across boundaries.
9. The importance of soil for climate protection does not stop at borders. The release of organic carbon from soil organic matter may exacerbate climate change. A loss of only 0.1 % of the 75 billion tonnes of organic carbon contained in European soils equals the carbon dioxide emissions of 100 million cars.

10. Soil degradation and land take inside the EU affect the productivity of the land bank for food, feed and fibre production. This will be aggravated as the human demands on soil by 2050 are expected to double at the global level. The EU will thus be even more dependent in future on its finite soil resources and on their sustainable use. Over the period 1990-2006, land take in Europe resulted in the loss of an annual productive capacity equivalent to six million tonnes of wheat, enough to provide 80 million people with bread for a year.
11. Twelve Member States have declared themselves affected by desertification under the United Nations Convention to Combat Desertification, a sign of the common and cross-border nature of such extreme forms of soil degradation.

Recent developments

12. The outcome document 'The Future We Want' of the United Nations Conference on Sustainable Development held in Rio de Janeiro in June 2012 (Rio+20) underlines the economic and social significance of good land management, including soil management, particularly its contribution to economic growth, biodiversity, sustainable agriculture and food security, eradicating poverty, the empowerment of women, addressing climate change and improving water availability ⁷. It goes on to recognise the need for urgent action to reverse land degradation and to achieve a land-degradation neutral world in the context of sustainable development ⁸.

⁷ Paragraph 205.

⁸ Paragraph 206.

13. On 2 October 2013, the Commission adopted the REFIT Communication ⁹. It stated the following on the Soil Framework Directive proposal: *'The Commission notes that the proposal has been pending for 8 years during which time no effective action has resulted. It will therefore examine carefully whether the objective of the proposal, to which the Commission remains committed, is best served by maintaining the proposal or by withdrawing it, thus opening the way for an alternative initiative in the next mandate. This will be judged on the feasibility of reaching adoption before the European Parliament elections'*.
14. The Seventh Environment Action Programme, which entered into force on 17 January 2014, has pointed out the *'varying level of progress made at Member State level to ensure soil protection'* ¹⁰ and the fact that *'The Union and its Member States should also reflect as soon as possible on how soil quality issues could be addressed using a targeted and proportionate risk-based approach within a binding legal framework. Targets should also be set for sustainable land use and soil'* ¹¹.
15. On 20 December 2013 the General Assembly of the United Nations decided to proclaim 5 December as World Soil Day and 2015 as the International Year of Soils ¹². The General Assembly recognised that *'the sustainability of soils is key to addressing the pressures of a growing population'* in terms of food security and stable and sustainably used ecosystems.

⁹ 13920/13 + ADD 1 - COM(2013) 685 and its Annex.

¹⁰ Point 24.

¹¹ Point 25.

¹² A/RES/68/232.

The way forward – key questions for discussion

16. Within the Council, the Soil Framework Directive proposal was examined under successive presidencies with progress reports regularly presented to Council. The latest state of play indicated that while a majority of delegations could support in principle a Framework Directive on soil protection, holding the view that it was needed to fill a gap in Union environmental legislation and to provide a more holistic approach to soil protection, several delegations, however, remained critical of the proposed Directive, opposing it on grounds of the subsidiarity and proportionality principles, expected costs and administrative burden.
17. Against the background above, the Presidency is seeking the views of Ministers on the following questions to focus the lunch discussion and contribute to a reflection on soil protection at European Union level:
- a) *Do you agree that protecting soils remains an important objective for the Union?*
 - b) *Do you consider that a dedicated piece of Union legislation is the appropriate approach to soil protection at EU level or, alternatively, what would you envisage to reflect the "targeted and proportionate risk-based approach within a binding legal framework" called for by the Seventh Environment Action Programme?*
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