



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 20 November 2007

14979/07

**Interinstitutional File:
2006/0086 (COD)**

**CODEC 1213
ENV 606
AGRI 371
DEVGEN 239
FORETS 59
FSTR 33
RECH 356
REGIO 48
TRANS 358**

NOTE

from: General Secretariat
to: Permanent Representatives Committee/Council

Subject: 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
– Outcome of the European Parliament's first reading
(Strasbourg, 12 to 15 November 2007)

I. INTRODUCTION

The Rapporteur, Mrs Cristina GUTIÉRREZ-CORTINES (EPP/ED - ES), presented a report consisting of 105 amendments (amendments 1-105) to the proposal for a Directive on behalf of the Committee on the Environment, Public Health and Food Safety. In addition, various political groups tabled a further 46 amendments (amendments 106-151).

II. DEBATE

The debate, which took place on 12 November 2007, was a joint debate which covered two separate items:

- the 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 (Rapporteur: Mrs Cristina GUTIÉRREZ-CORTINES (EPP/ED - ES)); and
- the Thematic Strategy for soil protection (Rapporteur: Mr Vittorio PRODI (ALDE - IT)).

Commissioner DIMAS opened the debate and:

- welcomed the general recognition that soil deterioration is a serious problem;
- emphasised the need to develop sustainable soil management methods;
- stressed the need to allocate sufficient resources;
- stated that the Commission estimates that there are over 300 different soil types in the Community that can be polluted;
- stressed the direct link between climate change and soil;
- stressed the need to gather information on the current status of soil so that decisions can be taken in full possession of the facts and where the problem is most acute;
- emphasised the need for degraded soil to be rehabilitated as soon as possible on the basis of information gathered by the Member States;
- affirmed the need for a long-term policy that will result in all Member States being able to show progress in a few years' time;
- stressed the need for the final version of the Directive to be consistent and to treat all Member States equally; and
- stressed the need to ensure subsidiarity and flexibility. Some amendments would give more subsidiarity, but could be problematic (particularly regarding measures for priority regions). Consistency is also important.

The Rapporteur for the Directive, Mrs Cristina GUTIÉRREZ-CORTINES (EPP/ED - ES):

- welcomed the unusually large degree of consensus between the political groups;
- noted that only nine of the twenty-seven Member States currently have legislation on soil protection. There is a danger that the Community will develop asymmetrically in this sector. This gap must be addressed;
- recognised that not all Member States can progress at the same rate. The subsidiarity principle should be respected. Some Member States should be required only to streamline existing legislation and should not have to enact new legislation. Others would have to develop it from scratch;
- stressed the importance of protecting human health and providing full and proper information to citizens;
- emphasised the need to build on best practice. It is important to make use of good national legislation where this already exists;
- stressed the need to avoid creating excessive new red tape;
- stated her opposition to any idea of the European Union imposing environmental legislation on the Member States. It would be wrong to focus mainly on sending out inspectors and taking non-compliant Member States to the European Court of Justice. It would be better to trust the Member States to implement the directive as effectively as possible;
- stressed the need to combat desertification and erosion; and
- recalled that the European landscape is man-made. It is the result of farmers' investment over the years.

The Rapporteur for the Thematic Strategy, Mr Vittorio PRODI (ALDE - IT):

- noted the concern of some MEPs about subsidiarity and that the European institutions will interfere in existing administrative arrangements at the national level;
- stated that the proposed directive is a framework directive which will respect Member States' prerogatives, though he noted that some Member States do not see matters in this way;
- stressed the added value in a European approach to monitoring soil pollution because it will help Member States in their work. Satellite analysis is a case in point. The European Commission has done good work in compiling a European soil atlas;
- stated that the challenge of climate change is a challenge to the whole of the Community. There will be an increase in rainfall and sea levels will rise. The Community and Member States need to be able to foresee these challenges and to take appropriate pre-emptive action (for example, coastal defences to prevent the influx of salt water);
- noted the threat of fires increasing desertification;
- stressed the need to treat soil to prevent the generation of greenhouse gases; and
- emphasised the need for a strategy and a directive that will guarantee the use of soil for future generations.

Speaking on behalf of the Committee on Industry, Research and Energy, Mr Joan CALABUIG RULL (PES - ES):

- stated that the Commission proposal is ambitious, but that it is flexible and is not unduly prescriptive when it requires Member States to take measures. The proposal allows Member States to make the most of their national administrative capacity;
- noted that soil is a non-renewable resource;
- stated that the cost of soil degradation is about 40 billion Euros per annum;
- noted that soil degradation damages human health and therefore increases health care costs;
- stressed the cross-border aspect of soil degradation; and
- argued that differing regulatory requirements are currently distorting the single market.

Speaking on behalf of the Committee on Agriculture and Rural Development, Mr Neil PARISH (EPP/ED - UK):

- called for the rejection of the Directive, not because he did not want to protect soil, but because he questioned whether the Directive was the right way to achieve this protection;
- argued that it is up to the eighteen Member States who do not currently have legislation to put such legislation in place;
- noted that there are already directives on groundwater and nitrates;
- stated that in the agricultural sector there is already a lot of cross-compliance legislation in place to address the issues of soil and soil compaction;
- expressed his fear that the Directive would create more red tape for farmers;
- noted the difficulty of having one general directive to cover all 300 different soil types; and
- recalled the great diversity of weather across the Community. The 2007 season was particularly rainy in northern Europe and there it was impossible to avoid soil compaction when harvesting the potato crop. Soil compaction can nevertheless be rectified the following year by subsoiling and repairing the damage to the soil.

Speaking on behalf of the EPP/ED political group, Mr Karsten HOPPENSTEDT (EPP/ED - DE):

- warned that the Commission proposal will create considerable red tape; and
- warned that the Directive will force Member States to change existing legislation that is already perfectly adequate.

Speaking on behalf of the PES political group, Mrs María SORNOSA MARTÍNEZ (PES - ES):

- welcomed the proposed Directive which will fill an important gap in the Community's environmental legislation;
- recalled the fact that soil is a non-renewable resource and that it is the basis for all human activity;
- welcomed the fact that European funding will be made available to the Member States to help implement the Directive;
- stressed the importance of a common European strategy and approach;
- noted that the Directive is ambitious, but stated it is flexible and not overly prescriptive. Each Member State will be able to take its own economic and social circumstances into account;
- stressed the importance of raising public awareness and providing information; and
- opposed those MEPs who were calling for an outright rejection of the proposal.

Speaking on behalf of the ALDE political group, Mr Holger KRAHMER (ALDE - DE):

- called for the outright rejection of the Commission's proposal, but stressed the importance he attaches to the protection of soil. This Directive is not the best way to protect soil. The key question is whether legislation should be enacted at European or national level;
- warned against a massive increase in bureaucracy. Some amendments would impose extra reporting requirements, for example those concerning gas installations which do not in most cases damage the soil. The focus should be placed entirely on soil that it at risk; and
- stated that land sales are purely a matter for private law. They should not fall within the scope of the proposed Directive.

Speaking on behalf of the Greens/EFA political group, Mrs Hiltrud BREYER (Greens/EFA - DE):

- stated that the cost of soil degradation in the European Community amounts to more than 38 billion Euros per annum;
- stated that only 2% of German soil remains in its natural state;
- stated that 12% of soil in the Community has been affected by erosion;
- noted that soil degradation is a cross-border phenomenon;
- regretted the fact that the EPP/ED political group and the agricultural lobby had caused the Environment Committee to water down the Rapporteurs' proposal;
- recalled that soil is an important medium for the sequestration of carbon dioxide. This capacity is being degraded; and
- called for concrete and legally binding objectives.

Speaking on behalf of the EUL/NGL political group, Mr Roberto MUSACCHIO (EUL/NGL - IT):

- stated that soil is an important part of the biosphere; it lives, it absorbs carbon dioxide and it creates biomass;
- gave warning that there is a risk that the Parliament will actually worsen the Commission's proposal; and
- strongly opposed calls to reject the Directive outright.

Speaking on behalf of the IND/DEM political group, Mrs Kathy SINNOTT (IND/DEM - IE):

- recognised that the protection of air and water quality are cross-border issues, but stated that this is not the case for soil protection. Soils are much less mobile and, other than the setting of reasonable standards of protection, this should remain a competence of the Member States and, within them, of local authorities;
- stated that some soil degradation is a result of Community policies. For example:
 - the Community removed beet from wheat rotation - but the insertion of beet conditioned the soil and made it more suitable for cereals;
 - the Community's forest grants have resulted in unsuitable spruce plantations which have made the soil more acidic and, in harvesting, have, in some cases, compacted the soil and thus rendered it infertile. In other cases, harvesting has loosened soil from the hills so that it has been washed away into rivers and lakes;
- stated that the Community should ban soil destruction, but leave its care and management to the people who understand its composition in each area.

Mrs Irena BELOHORSKÁ (NI - SK):

- questioned the need for Community legislation on soil protection. There is no cross-border dimension;
- noted that Article 5 as amended by the Environment Committee recognised the local and regional nature of soil protection - this is at odds with the rest of its opinion;
- warned that some amendments might lead to conflict with other already existing Community legislation; and
- called for a change in the terminology used to refer to soil that is at risk. This terminology should be such as to cause alarm.

Mr Jan BŘEZINA (EPP/ED - CZ):

- agreed with the call of the Committee on Legal Affairs for the rejection of the Commission's proposal;
- stated that soil protection should remain a matter of national competence;
- noted that there are many different types of soil in the Community which require management in very different ways;
- welcomed the fact that Member States with existing legislation would not need to change it; and
- argued that Member States alone can protect soil by their own efforts at national level alone.

Mrs Karin SCHEELE (PES - AT):

- argued that soil protection is a task for the European Community (as well as for national and regional administrations) and therefore supported the proposed Directive;
- noted that the Environment Committee's amendments had removed the most inflexible elements of the Commission's proposal; and
- stressed the importance of preventing soil erosion.

Mrs Marie Anne ISLER BÉGUIN (Greens/EFA - FR):

- called for legislation that was even more binding than the current proposal;
- noted that soil is a prerequisite for biodiversity; it filters water, it creates biomass and it is important in combating climate change; and
- stated that national action alone is not sufficient. There is a need for Community-level legislation.

Mr Bastiaan BELDER (IND/DEM - NL):

- warned that such directives already bring an extra administrative burden; and
- argued that the proposed framework does not respect the subsidiarity and proportionality principles.

Mr Jim ALLISTER (NI - UK):

- stated that the proposed Directive was an unwarranted power-grab by Brussels which will bring an additional and unnecessary level of bureaucracy;
- denied that soil degradation and management is a cross-border issue;
- called for the outright rejection of the proposed Directive; and
- suggested that, if the Directive does go through, it might include a provision allowing for farmers to be paid for activities that favour the sequestration of carbon dioxide.

Mrs Françoise GROSSETÊTE (EPP/ED - FR):

- recalled that her first instinct had been to oppose the proposed Directive. She had thought that a Framework Directive might not be the right way to address this issue. She had questioned the need for a further piece of legislation when there already exists a range of regulations on soil, waste, pesticides and the protection of nature. She was also concerned that the proposed Directive would increase the administrative workload at the local level;
- nevertheless stated that she had then come to recognise that human actions have not respected the soil. Intensive farming practices have exhausted the soil. Soil has also suffered due to climate change, desertification and urbanisation. Flooding often results from the fact that impoverished soil can no longer absorb rain-water;
- welcomed the Rapporteur's work to lessen the administrative burden of the Commission's proposal, but to keep the crucial parts of the proposal; and
- stressed the importance of respecting subsidiarity whilst at the same time protecting the soil.

Mr Gyula HEGYI (PES - HU):

- welcomed this proposal which would fill a major gap in existing European legislation; and
- stressed the danger that soil degradation poses to agricultural production.

Mr Jeffrey TITFORD (IND/DEM - UK):

- stressed the great diversity of soil types across the European Union. A 'one-size-fits-all' Directive would be absurd;
- noted that farmers themselves have a vested interest in protecting their soil. They do not need an extra administrative burden; and
- argued that massive immigration into the United Kingdom has resulted in a major new house-building programme which will in turn do great damage to British soil.

Mr Lambert VAN NISTELROOIJ (EPP/ED - NL):

- opposed the proposed Directive on the grounds of subsidiarity and proportionality;
- called instead for open co-ordination at the European level on this issue, including the exchange of best practice;
- warned that the proposed Directive might result in duplication of effort; and
- noted that the proposed Directive would address groundwater - even though there is already a groundwater directive.

Mrs Dorette CORBEY (PES - NL):

- stressed the urgent need to address soil degradation; and
- noted that soil problems are often local and that they only rarely constitute a cross-border issue. European legislation is not needed to address local soil problems.

Mrs Mairead McGUINNESS (EPP/ED - IE):

- recalled that the Committee on Agriculture and Rural Development had rejected the proposal;
- recognised the problem of soil degradation, but argued that the proposed Directive is not the right approach (she believed that open co-ordination was a more appropriate alternative);
- stressed the importance of promoting research in this area;
- warned that the proposed Directive would increase bureaucracy for farmers;
- stated that soil degradation is an issue for Member States rather than for the European Community; and
- stated that Irish farmers, who are in large measure worried about the Reform Treaty, would see the proposed Directive as another attempt to stifle them in their everyday activities - unless she and others could convince them otherwise.

Mr Péter OLAJOS (EPP/ED - HU):

- stressed the contribution to soil management and preservation performed by the Community's farmers;
- argued that the proposed Directive will at last protect farmers and consumers rather than polluters; and
- recalled the soil pollution legacy of Communism in his country. Clearing this up will cost at least 4 billion Euros.

Mrs Frieda BREPOELS (EPP/ED - BE):

- argued that a European Directive is required;
- stated that Flanders already has good soil protection legislation. The Directive must be flexible;
- stated that regions and Member States should not be penalised for adopting progressive measures in this area; and
- stressed that there is a cross-border issue on the frontier between Flanders and the Netherlands.

Mr Robert STURDY (EPP/ED - UK):

- stated that the proposed Directive is undesirable and unnecessary and that it would bring the Parliament and the Commission into disrepute;
- called on the Commission to concentrate on enforcing existing legislation. The Commission usually fails totally in this respect;
- expressed his extreme disappointment that the Commission had failed to make good on Commissioner Kyprianou's promises to put a stop to foot and mouth disease, blue tongue and avian flu - but that the United Kingdom has suffered outbreaks of all three. He had been wrong to believe in the Commissioner's promises;
- agreed that soil erosion is a problem, but not necessarily within the European Community. It is a problem outside the Community where significant deforestation takes place; and
- stated that, as a farmer, soil is his life. He will protect soil to the best of his ability. He called on the Parliament not to impose fresh legislation on him, but instead to allow him to continue protecting the soil in his own way.

Mr Horst SCHNELLHARDT (EPP/ED - DE):

- stressed the link between soil quality and food quality;
- questioned the need for a European directive;
- noted that a Water Framework Directive and a Groundwater Directive already exist. Adequate measures are already in place. There is no need for yet another Directive that would duplicate rules and increase administrative burdens; and
- called for open co-ordination and the exchange of best practice.

Mr Markus PIEPER (EPP/ED - DE):

- asked what added value would be generated by the Directive;
- noted the argument that the Directive will address existing distortions in the single market;
- stressed the importance of subsidiarity;
- recognised the need for co-ordination;
- warned against the introduction of undue bureaucracy.

Commissioner DIMAS once more took the floor. Regarding the Thematic Strategy, he:

- welcomed the recognition given to crucial links between soil protection and any strategy to combat climate change, biodiversity loss and desertification;
- agreed on the need to review existing environmental legislation to fully exploit and further strengthen the potential synergies with soil protection; and
- noted the various recommendations regarding a new directive on biowaste and a communication on desertification.

Regarding the Directive, the Commissioner:

- supported many of the amendments proposed by the Environment Committee, including:
 - the better clarification of the Directive's objective and the role played by soil functions in ensuring sustainable use of soil (Article 1 / amendment 36);
 - the introduction of voluntary codes of good practice and of a non-binding annex on possible measures to combat soil degradation (Articles 4 and 8 / amendments 58 and 65);
 - the addition of acidification to the list of soil degradation processes that need to be tackled in order to cover the different soil conditions that apply in some new Member States;
 - the clarification introduced in the provision dealing with the identification of contaminated sites (Article 10 / amendment 74).
- stated the Commission's concern on a number of amendments, including:
 - amendment 38 on Article 1 which would make the proposed Directive subsidiary to other Community legislation - with the effect that soil protection provisions contained in other Community legislation would take precedence over the provisions of the proposed Directive;
 - those amendments that would delete the deadline by which the programmes of measures for tackling agricultural threats should be drawn up;
 - those amendments (such as Amendment 77 concerning Article 12) that would eliminate the provisions concerning the information on soil contamination to be provided for certain land transactions. The soil status report is a very important part of the Commission's proposal. It will increase the level of transparency in land transactions, assist the competent authorities in identifying contaminated sites and speed up the establishment of the inventory. The costs involved in producing this report are negligible compared to the amounts of land transactions of such industrial sites.

- those amendments that would delete the common list of activities in Annex 2. This annex is of fundamental importance if a meaningful, enforceable, systematic and cost-effective inventory of contaminated sites is to be achieved. Many Member States and regions already use a very similar list to carry out their investigations. It is very important to have a common list to ensure harmonised implementation and to avoid a distortion of the internal market for the different sectors. Investors, economic operators, public authorities and society at large will be provided with legal certainty and with a common basis for assessing the progress made in identifying contaminated sites.

III. VOTE

The parliament adopted 99 amendments when it voted in plenary on 14 November 2007 (amendments 1-20, 22-37, 39-52¹, 54-55, 58-66, 68, 70-73, 76, 81, 83, 86-92, 94-104, 107-108, 124, 138 and 144-151).

The Commission has stated that it will follow the development of its proposal in Council and in the Parliament and consider its position under the light of this development.

The Commission's current position on the adopted amendments is that:

- there are 40 amendments which the Commission can accept fully, in part, or in principle. These are amendments: 1, 7, 12-13, 15, 20, 22, 30, 36, 41-42, 45, 47, 49, 55, 58-59, 61-65, 73, 83, 86, 89-90, 92, 96, 98-99, 103-104, 108, 144-148 and 150; and
- there are a further 59 amendments which the Commission cannot accept. These are amendments: 2-6, 8-11, 14, 16-19, 23-29, 31-35, 37, 39-40, 43-44, 46, 48, 50-52, 54, 60, 66, 68, 70-72, 76, 81, 87-88, 91, 94-95, 97, 100-102, 107, 124, 138, 149 and 151.

The text of the amendments adopted and the European Parliament's legislative resolution are annexed to this note.

¹ Please note that amendment 40 does not concern all linguistic versions.

Protection of soil *I**

European Parliament legislative resolution of 14 November 2007 on the 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 (COM(2006)0232 – C6-0307/2006 – 2006/0086(COD))

(Codecision procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2006)0232),
 - having regard to Article 251(2) and Article 175(1) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0307/2006),
 - having regard to Rule 51 of its Rules of Procedure,
 - having regard to the report of the Committee on the Environment, Public Health and Food Safety and the opinions of the Committee on Industry, Research and Energy, the Committee on Agriculture and Rural Development and the Committee on Legal Affairs (A6-0410/2007),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council and Commission.

Amendment 1

RECITAL 2

(2) Soil degradation or soil improvements have a major impact on other areas of Community interest, such as surface water and groundwater **protection**, human health, climate change, protection of nature and biodiversity, and food safety.

(2) Soil degradation or soil improvements have a major impact on other areas of Community interest, such as surface water and groundwater **quality**, human health **and life**, climate change, **degradation or** protection of nature and biodiversity, and food safety.

Amendment 2

RECITAL 4

(4) The Communication of the Commission to the European Parliament and the Council “Towards a Thematic Strategy on Soil Protection” identifies the main **eight** soil degradation processes to which soils in the EU are *confronted*. These are erosion, organic matter decline, contamination, salinisation, compaction, soil biodiversity loss, sealing, landslides and flooding. ***The current scientific knowledge on soil biodiversity and its behaviour is too limited to allow for specific provisions in this Directive aiming at its protection. The prevention and mitigation of the effects of floods have been addressed by the proposal for a Directive of the European Parliament and the Council on the assessment and management of floods.***

(4) The Communication of the Commission to the European Parliament and the Council “Towards a Thematic Strategy on Soil Protection” identifies the **nine** main soil degradation processes to which soils in the EU are *exposed*. These are erosion, organic matter decline, contamination, salinisation, compaction, soil biodiversity loss, sealing, ***desertification***, landslides and flooding.

Amendment 3
RECITAL 5

(5) Soil variability is very high in the Community and enormous differences exist in its structural, physical, chemical and biological state both within individual profiles and between soils. These diverse conditions and needs in the Community should be taken into account as they require different specific solutions for ***the identification of areas at risk, definition of targets and execution of appropriate measures to ensure protection of soil.***

(5) Soil variability is very high in the Community and enormous differences exist in its structural, physical, chemical and biological state both within individual profiles and between soils. These diverse conditions and needs in the Community should be taken into account as they require different specific solutions for ***addressing soil degradation.***

Amendment 4
RECITAL 6

(6) Community legislation, for instance in the fields of waste, chemicals, industrial pollution prevention and control, climate change, water, and agriculture and rural development, ***includes some provisions on soil protection, but these are neither designed nor sufficient to protect all soils against all degradation processes. Hence there is a need for a coherent and effective legislative framework,*** providing for common principles and objectives aiming at protection and sustainable use of soil in the Community.

(6) Community legislation, for instance in the fields of waste, chemicals, industrial pollution prevention and control, climate change, water, and agriculture and rural development, ***is already contributing to soil protection and can complement this framework,*** providing for common principles and objectives aiming at protection and sustainable use of soil in the Community.

Amendment 5
RECITAL 7

(7) Soil should be used in a sustainable manner which preserves its capacity to deliver ecological, economic and social services, while maintaining its functions so that future generations can meet their needs.

deleted

Amendment 6
RECITAL 8

(8) The aim of this Directive is to ensure the protection of soil, based on *the principles of preservation of soil functions, prevention of soil degradation, mitigation of its effects, restoration of degraded soils and integration into other sectoral policies by establishing a common framework and actions.*

(8) The aim of this Directive is to ensure the protection of soil based on *common objectives and respecting the existing national and Community legislation, in order to use the soil in a sustainable manner so that both current and future generations can satisfy their ecological, economic and social needs.*

Amendment 7
RECITAL 9

(9) A common framework *is needed in order to articulate the efforts of Member States to improve the protection of soils and its sustainable use, to control the transboundary soil degradation effects, to protect aquatic and terrestrial ecosystems, and to preclude* distortion of competition between economic operators.

(9) A common framework *will enable* Member States *and the regional and local authorities to protect their soils without* distortion of competition between economic operators. *At the same time, it will deliver guarantees and transparency within the internal soil market in the Member States. Such a framework should be adopted on the basis of a comprehensive survey of soil status and of the measures already taken in Member States.*

Amendment 8
RECITAL 10

(10) Since *the objectives of the action to be taken, namely to establish a common framework for the protection of soil, cannot be sufficiently achieved by the Member States and can therefore be better achieved at Community level by reason of the scale of the problem and its implications in respect of other Community legislation* on nature *protection*, water *protection*, food safety, climate change, agriculture and *areas of common interest, such as human health protection, the Community may therefore adopt measures*, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.

(10) Since *soil degradation can have severe impacts* on nature, water, food safety, climate change, agriculture and human health, *and since, despite existing Community legislation, soil degradation is likely to increase, there is a need for a directive that enables the protection of soil in all Member States, albeit only* in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.

Amendment 9
RECITAL 11 A (new)

(11a) Agriculture has always contributed positively to maintaining the structure of soil and its characteristics, and is an indispensable mechanism for conserving the organic quality of the soil and for helping to preserve the vegetal layer and avoid desertification.

Amendment 10
RECITAL 11 B (new)

(11b) The mid-term review of the common agricultural policy should establish target measures for maintaining and improving soil fertility, organic matter content and carbon sequestration capacity.

Amendment 11
RECITAL 11 C (new)

(11c) In order to avoid any overlap with existing agricultural and environmental legislation, and given the subsidiarity principle related to the implementation of ecoconditionality, each Member State should be able to decide to implement ecoconditionality taking into account its own climate, agriculture and soil characteristics.

Amendment 12
RECITAL 12

(12) In contrast to air and water, soil is mainly privately owned in the Community. Nevertheless it is a natural resource of common interest that has to be protected for future generations. In the public interest, therefore, land users should be **required** to take precautionary measures **when their use of the soil can be expected to significantly hamper soil functions.**

(12) In contrast to air and water, soil is mainly privately owned in the Community. Nevertheless it is a natural resource of common interest that has to be protected for future generations. In the public interest, therefore, land users should be **encouraged** to take precautionary measures **to prevent soil degradation.**

Amendment 13
RECITAL 12 A (new)

(12a) Fertility of the soil is the basis of life. The aim of all agricultural activity must be to maintain and improve that fertility.

Amendment 14
RECITAL 13

(13) Sealing is *becoming significantly more intense in the Community as a result of urban sprawl and increasing demand for land from many sectors of the economy, and this calls for a more sustainable use of soil.* Appropriate measures are needed to limit soil sealing, *for instance by rehabilitating brownfield sites, thus reducing the depletion of greenfield sites.* Where sealing *does* occur Member States should *provide* for construction and drainage techniques that would allow as many soil functions as possible to be preserved.

(13) Sealing is *increasingly of concern because it can inhibit those soil functions that deliver services vital to human activities and to the survival of ecosystems without contributing to sustainable development in accordance with the Renewed EU Sustainable Development Strategy as adopted by the European Council of 15/16 June 2006. This calls for a more sustainable use of soil.* Appropriate measures are *therefore* needed to limit soil sealing *arising from development projects which are likely to significantly impede soil functions and which do not contribute to the achievement of sustainable development. Member States should establish incentives for industrial and urban spatial development to occur on sites already used for industrial and urban purposes, and should limit the use of greenfield sites. Member States should also ensure that regulatory frameworks for land use planning are favourable to rehabilitation and should consider establishing fast-track planning authorisation procedures for remediation.* Where sealing *is to* occur *in such circumstances,* Member States should *ensure its effects are mitigated, for example by providing* for construction and drainage techniques that would allow as many soil functions as possible to be preserved, *and that it does not cause adverse environmental effects that would outweigh the benefits.*

Amendment 15
RECITAL 13 A (new)

(13a) Soil acidification is an important problem in certain parts of the Community, which needs to be addressed. It is therefore necessary for Member States to take appropriate measures to ensure that inappropriate land use practices do not cause soil pH to decrease. At the same time, the characteristics of soils that are naturally acidic (e.g. peatlands) or constitute specific natural habitats should not be altered.

Amendment 16
RECITAL 14

(14) A targeted and efficient soil protection policy should be based on the knowledge of where degradation is occurring. It is recognised that certain degradation processes, such as erosion, organic matter decline, compaction, salinisation and landslides, occur only in specific areas which are more at risk of such processes. This requires the identification of such risk areas.

(14) A targeted and efficient soil protection policy requires common soil protection objectives. At the same time, however, Member States and regional and local authorities need to be able to take measures at the appropriate level and scale, and to identify priority areas based on scientific knowledge about the local soil characteristics, soil degradation processes and the environmental, economic and social circumstances. There is a need for an effective exchange of information on the state of the art science in the Member States, the best practices for the identification of the priority areas and the codes of good practice.

Amendment 17
RECITAL 15

(15) To ensure a coherent and comparable approach in the different Member States, identification of risk areas for erosion, organic matter decline, compaction, salinisation and landslides should be based on a common methodology which includes elements known to be driving forces for the various degradation processes.

deleted

Amendment 18
RECITAL 16

(16) In the risk areas identified, measures should be taken to prevent further soil degradation by reducing the risk of it occurring and restoring degraded soils in order to preserve soil functions. ***deleted***

Amendment 19
RECITAL 17

(17) Action is to be taken under the responsibility of Member States, at the most appropriate level, based on the establishment of risk reduction targets and programmes of measures to reach those targets. ***deleted***

Amendment 20
RECITAL 18

(18) ***Such*** programmes of measures should take into account the social and economic impact of the measures envisaged; they should be reviewed periodically and may build on obligations, plans and programmes already set up under Community legislation or international agreements.

(18) Programmes of measures ***and codes of good practice*** should take into account the social and economic impact of the measures envisaged; they should be reviewed periodically and may build on obligations, plans and programmes already set up under Community legislation ***and funding*** or international agreements.

Amendment 22
RECITAL 19

(19) This Directive should contribute to halting desertification, ***which results from concurrent degradation processes, and soil biodiversity loss, and*** enhance cooperation in the implementation of the United Nations Convention to Combat Desertification ***and*** the Convention on Biological Diversity to which the Community is a party, and will enhance the implementation of these international environmental agreements.

(19) This Directive should contribute to halting desertification ***and the decline of biodiversity, and to mitigating and adapting to climate change, which are international environmental problems, with severe local and regional impacts, where soil degradation plays a significant role; it should also*** enhance cooperation in the implementation of the United Nations Convention to Combat Desertification, the Convention on Biological Diversity, ***the Framework Convention on Climate Change and the Kyoto Protocol*** to which the Community is a party, and will enhance the implementation of these international environmental agreements.

Amendment 23
RECITAL 22

(22) In order to successfully prevent and limit risk to human health and the environment stemming from soil contamination, ***Member States should identify*** the sites which according to ***their*** assessment are posing a significant risk in this regard. ***Given the number of sites which are likely to be contaminated, their identification requires a systematic step-by-step approach. To monitor progress on the identification of the contaminated sites a timetable is needed.***

(22) In order to successfully prevent and limit risk to human health and the environment stemming from soil contamination, ***priority needs to be given to the identification and remediation of*** the sites which according to ***Member States'*** assessment are posing a significant risk in this regard. ***The Member States should establish a process, including a timetable, for the assessment of the risks, the identification of the sites, the information of the public, the information of potential buyers in the case of land transactions, the order of priority and the funding of remediation. This process should prevent any overlap with existing national and Community legislation and should only add additional requirements if the current legislation is insufficient according to the assessment of the Member State. A thorough exchange of information is needed to promote the best practices for risk assessment, identification, information of the public and remediation.***

Amendment 24
RECITAL 23

(23) ***To support the identification of contaminated sites and to secure a common approach, it is necessary to establish a common list of activities which can have a significant potential to cause soil contamination. This common list of potentially soil polluting activities may be complemented by other more comprehensive lists adopted at national level.***

deleted

Amendment 25
RECITAL 24

(24) The identification of contaminated sites should be reflected in a national inventory of contaminated sites to be updated regularly and made available for the public to consult. Previous and current efforts by Member States to identify contaminated sites should be taken into account. *deleted*

Amendment 26
RECITAL 25

(25) In order to assist in the rapid identification of contaminated sites, the owner of a site where, according to official records such as national registers or cadastres, a soil-polluting activity has taken or is taking place, or the prospective buyer should, prior to completing the land transaction, provide relevant information on the status of the soil to the competent authority and to the other party in the transaction. The provision of such information at the time when a land transaction is being planned, will help to speed up the completion of the inventory of contaminated sites. It will also make the prospective buyer aware of the state of the soil and enable him to make an informed choice. *deleted*

Amendment 27
RECITAL 26

(26) Taking into account the polluter pays principle, Member States should ensure that action is taken to remediate the contaminated sites identified within their national territory. *deleted*

Amendment 28
RECITAL 27

(27) A National Remediation Strategy should be established, in particular for the purposes of setting remediation targets and the order of priority in which sites should be remediated. *deleted*

Amendment 29
RECITAL 28

(28) In those contaminated sites where the polluter cannot be found, cannot be held liable for the pollution under national or Community legislation or cannot be made to bear the costs of remediation, also known as orphan sites, responsibility for reducing risk to human health and the environment should fall on the Member States. For those purposes, Member States should put in place specific funding mechanisms to ensure a durable financial source for the remediation of such sites. *deleted*

Amendment 30
RECITAL 29

(29) Directive 2004/35/EC of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage establishes that, for orphan sites, remedial action may be taken by the competent authority as a last resort. That Directive should therefore be amended in order to align it with the remediation obligations laid down in this Directive. *deleted*

Amendment 31
RECITAL 30

(30) There is little public awareness of the importance of soil protection, and it is therefore necessary to introduce measures to improve knowledge, exchange of information and best practices. **deleted**

Amendment 32
RECITAL 31

(31) The success of this Directive relies on close cooperation and coherent action at Community, Member State and local level as well as on information, consultation and involvement of the public, pursuant to Community obligations under the UNECE Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters. Thus, for the preparation, modification and review of the programmes of measures on risk areas and the National Remediation Strategies, it is appropriate to provide for the application of Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC. **deleted**

Amendment 33
RECITAL 32

(32) It is recognised that different risk assessment methodologies for contaminated sites are currently being applied in Member States. In order to move towards a common approach ensuring neutral conditions of competition and a coherent soil protection regime, a thorough exchange of information is needed to establish the suitability of harmonising some of the elements of risk assessment as well as to further develop and improve the methodologies on eco-toxicological risk assessment. *deleted*

Amendment 34
RECITAL 33

(33) Provision should be made to allow the rapid adaptation of methods of identification of risk areas in Member States including regularly reviewing the common elements therein. *deleted*

Amendment 35
RECITAL 34

(34) Provisions should be adopted as regards the data exchange formats and data quality criteria and these would need to be consistent with the establishment of any infrastructure for spatial information in the Community. *deleted*

Amendment 36
ARTICLE 1, PARAGRAPH 1

1. *This* Directive *establishes* a framework for the protection of soil *and the preservation of the capacity of soil to perform any of* the following environmental, economic, social and cultural functions:

(a) *biomass production, including in agriculture and forestry;*

(b) storing, filtering and transforming nutrients, substances and water;

(c) *biodiversity pool, such as habitats, species and genes;*

(d) physical and cultural environment for humans and human activities;

(e) *source* of raw materials;

(f) acting as carbon pool;

(g) archive of geological and archeological heritage.

1. *The objective of this* Directive *is to establish* a framework for the protection *and sustainable use* of soil, *based on the need to prevent soil degradation, in particular due to climate change, to mitigate its consequences and to restore or remediate degraded soils, taking into account the location specific conditions, and recognising that the soil is, like water, a shared resource for mankind, an ecosystem, a non-renewable resource and a platform for* the following environmental, economic, social and cultural functions:

(a) *a basis for life and biodiversity;*

(b) storing, *acting as a buffer*, filtering, and transforming nutrients, substances and water, *and preserving ground- and surface water resources;*

(c) *basis for biomass production in agriculture and forestry;*

(d) physical and cultural environment for humans and human activities, *including for towns and cities, infrastructure, recreation and other forms of public and economic use;*

(e) *repository* of raw materials;

(f) acting as carbon pool;

(g) archive of geological, *cultural, geomorphological* and archeological heritage.

To that end, it lays down measures for the prevention of soil degradation *processes, both occurring naturally and* caused by a wide range of human activities, which undermine the capacity of a soil to perform those functions. *Such* measures include the mitigation of the effects of those processes, and the restoration and remediation of degraded soils to a level of functionality consistent at least with the current and approved future use.

To that end, it lays down measures for the prevention *and control* of *avoidable serious* soil degradation, caused by a wide range of human activities, *with due account also being taken of natural causes*, which undermine the capacity of a soil to perform those functions. *It lays down measures that improve the soil characteristics and functions, where appropriate.* The measures include the mitigation of the effects of those processes, and the restoration and remediation of degraded soils to a level of functionality consistent at least with the current and approved future *sustainable* use.

Amendment 37

ARTICLE 1, PARAGRAPH 2

2. This Directive shall apply to soil forming the top layer of the earth's crust *situated between the bedrock and the surface, excluding groundwater as defined in Article 2(2) of Directive 2000/60/EC of the European Parliament and of the Council.*

2. This Directive shall apply to soil forming the top layer of the earth's crust, *including the liquid and gaseous components, provided that it performs the functions referred to in paragraph 1.*

Amendment 39

ARTICLE 1, PARAGRAPH 2 A (new)

2a. This Directive shall not apply to areas of land in respect of which, prior to [date of entry into force of the Directive], by agreement with the competent authorities, remediation decisions have been taken or remediation has already been completed, so that the areas of land in question pose no significant danger to human health or the environment.

Amendment 41
ARTICLE 2, POINT 2

(2) 'dangerous substances' means substances or preparations within the meaning of Council Directive 67/548/EC and Directive 1999/45/EC of the European Parliament and of the Council.

(2) 'dangerous substances' means substances or preparations within the meaning of Council Directive 67/548/EC³ and Directive 1999/45/EC of the European Parliament and of the Council, ***including substances having persistent and bio-accumulative and toxic properties or very persistent and very bio-accumulative properties as well as radioactive substances, which may have a damaging impact on human health, the environment or the soil functions referred to in Article 1(1).***

Amendment 42
ARTICLE 2, POINT 2 A (new)

(2a) 'acidification' means a lowering of the soil pH caused by human action.

Amendment 43
ARTICLE 2, POINT 2 B (new)

(2b) 'compaction' means a process of densification in which total and air-filled porosity and permeability are reduced, inducing severe and long term changes in soil structure.

Amendment 44
ARTICLE 2, POINT 2 C (new)

(2c) 'valuable soils' means soils meriting protection due to their specific characteristics, structures, outstanding ecological, cultural and/or historical value or due to their use.

Amendment 45
ARTICLE 2, POINT 2 D (new)

(2d) 'priority areas which would need special protection' means areas where, due to their vulnerability caused by the soil types, climatic conditions and land management practices, there is decisive evidence or legitimate grounds for suspicion that one of the degradation processes listed in Article 6 has occurred or is likely to occur.

Amendment 46
ARTICLE 2, POINT 2 E (new)

(2e) 'geogenically contaminated soil' means a soil where there is a confirmed presence, caused by geogenic sources such as parent material and volcanic activity, of substances of such a level that Member States consider they may pose a significant risk to human health or the environment, taking the current and approved future use of the soil into account.

Amendment 47
ARTICLE 2, POINT 2 F (new)

(2f) 'land users' means persons who perform actions which have a direct or indirect impact on the soil or who plan or commission actions which have an impact on the soil.

Amendment 48
ARTICLE 2, POINT 2 G (new)

(2g) 'geological heritage' includes soil, geomorphological and geological objects and processes.

Amendment 49
ARTICLE 2, POINT 2 H (new)

(2h) 'contaminated site' means a site where there is a confirmed presence on or in the soil, caused by human activities, of dangerous substances of such a level that Member States consider the soil poses a significant risk to human health or the environment, taking the current and approved future use of the site into account.

Amendment 50
ARTICLE 2, POINT 2 I (new)

(2i) 'remediation' means measures
(a) to eliminate or reduce contaminants (decontamination measures),
(b) to prevent or reduce the spread of contaminants for a protracted period without eliminating the contaminants (safeguard measures)
(c) to eliminate or reduce damaging changes in the physical, chemical or biological properties of the soil.

Amendment 51
ARTICLE 2, POINT 2 J (new)

(2j) 'protective and restrictive measures' means other measures which prevent or reduce a hazard to human health or the environment, particularly restrictions on use.

Amendment 52
ARTICLE 2, POINT 2 K (new)

(2k) 'loss of organic substance' means a lasting reduction in the organic fraction of soil due to mineralisation into CO₂.

Amendment 54
ARTICLE 3, PARAGRAPH 2 A (new)

Where appropriate, Member States shall endeavour to integrate measures or policies that preserve or improve the soil's function to act as a carbon pool in their future soil policies or strategies, based on the latest research results and technological improvements.

Amendment 55
ARTICLE 4

Member States shall ensure that any land user whose actions *affect the soil in a way that can reasonably be expected to hamper significantly* the soil functions referred to in Article 1(1) is obliged to take precautions to *prevent* or *minimise* such adverse effects.

1. Member States shall ensure that any land user whose actions could cause lasting and substantial damage of one or more of the soil functions referred to in Article 1(1) is obliged to take proportionate precautions to avoid, reduce or control such adverse effects, in so far as is reasonable in the light of the purpose for which the land is being used and of the approved future use.

Amendment 58
ARTICLE 4, PARAGRAPH 1 A (new)

1a. For the purpose of paragraph 1 and within five years from [transposition date], Member States shall develop voluntary codes of good practice as regards soil protection for those activities which may reasonably be expected to hamper significantly the soil functions referred to in Article 1(1). These codes of good practice may build on existing national or Community codes and may contain the elements provided for in Annex -I.

Within three years from [transposition date], the Commission shall facilitate the distribution and exchange of information on the legislation or codes of good practice already existing in the Member States as regards the protection of the functions referred to Article 1, including the cultural heritage, natural parks and geologically valuable zones.

Amendment 59
ARTICLE 4 A (new)

Article 4a

The Commission shall promote the use of certain products that contribute most to maintaining and increasing the organic material of soils and to the prevention of desertification. Member States shall also promote the use of green fertilisers and compost that enhance the fertility and biological activity of soil.

Amendment 60
ARTICLE 5

For the purposes of preserving the soil functions referred to in Article 1(1), Member States shall take *appropriate* measures to limit sealing *or, where sealing is to be carried out, to mitigate its effects in particular by the use of construction techniques and products which* will allow as many of those functions as possible to be maintained.

1. For the purposes of preserving the soil functions referred to in Article 1(1), Member States shall take suitable measures to limit sealing, and to minimise its effects, to the extent which is necessary, in particular where a proposed development project involves soil sealing, and where:

(a) the project is of a type listed in either Annex I or Annex II of Council Directive 85/337/EEC and requires an assessment under that Directive;

(b) the assessment indicates that there are likely to be impacts arising from sealing that significantly impede one or more of the soil functions listed in Article 1(1).

This will allow as many of those functions as possible to be maintained.

2. Member States shall decide on the measures which are appropriate, in particular those mentioned in paragraph 3, taking into account the costs and benefits of such measures.

3. As sealing is an irreversible process, Member States shall develop codes of good practice on sealing that:

- preserve river basins and the natural flow of water;

- *prevent increased flood risks, resulting from sealing;*
- *promote proper access to green areas in expanding cities;*
- *preserve valuable geomorphological soil structures, characteristic landscapes and coastal areas;*
- *preserve archaeological sites, prehistoric caves and historical sites;*
- *avoid the visual impacts of extractive industries;*
- *facilitate industrial and urban spatial planning on areas already affected by industrial and urban planning; and*
- *promote brownfield investments.*

Amendment 61
ARTICLE 5 A (new)

Article 5a

Methodology

- 1. The state of the soil shall be monitored taking into account available information and, when necessary, generating new information using new technologies, such as GMES and INSPIRE. In particular, Member States shall encourage the use of digital technologies and digital mapping.*
- 2. For the identification of priority areas pursuant to Article 6, Member States may rely on existing empirical evidence or on modelling. If modelling is used, efforts shall be made to validate the models by comparing their results with measured data, which have not been used for the development of the model itself. Member States shall be allowed to use the information gathered with the new technologies mentioned in paragraph 1 for the identification of priority areas.*
- 3. The monitoring scale shall be determined at the discretion of the Member States.*

Amendment 62
ARTICLE 6

Identification of *risk* areas *of* erosion, organic matter decline, compaction, salinisation *and* landslides

1. Within five years from [transposition date], Member States shall identify the areas in their *national* territory, *at the appropriate level, where there is decisive evidence, or legitimate grounds for suspicion, that* one or more of the following soil degradation processes *has occurred or is likely to occur in the near future, hereinafter “the risk areas”*:

- (a) erosion *by water or wind*;
- (b) organic matter decline *brought about by a steady downward trend in the organic fraction of the soil, excluding undecayed plant and animal residues, their partial decomposition products, and the soil biomass*;
- (c) *compaction through* an increase in bulk density and a decrease in soil porosity;
- (e) salinisation *through the accumulation in soil of soluble salts*;
- (f) landslides *brought about by the down-slope, moderately rapid to rapid movement of masses of soil and rock material*.

Identification of *priority* areas *which need special protection against* erosion, organic matter decline, *soil biodiversity loss*, compaction, salinisation, landslides, *desertification or acidification*

1. Within five years from [transposition date], Member States shall identify the areas in their territory, *the priority areas as defined in Article 2, which in their estimation require special protection against* one or more of the following soil degradation processes:

- (a) erosion;
- (b) organic matter decline;
- (c) an increase in bulk density and a decrease in soil porosity (*compaction*);
- (e) salinisation;
- (f) landslides;
- (fa) *subsidence*;
- (fb) *desertification*;
- (fc) *adverse effects of climate change on the soil*;
- (fd) *soil biodiversity loss*;
- (fe) *acidification*.

For *the purposes of that identification*, Member States shall, *in respect of each of those soil degradation processes, use at least the elements listed in Annex I* and shall take into account the effects of those processes in exacerbating greenhouse gas emissions and desertification.

2. The *risk* areas identified pursuant to paragraph 1 shall be made public and reviewed at least every ten years.

For *this purpose*, Member States shall *determine the appropriate administrative level and geographical size unit, perform assessments using, where relevant according to their assessment, the criteria in Annex I and supply information about the assessment methods used by means of a procedure pursuant to Article 17.*

In identifying the areas, Member States shall take into account the effects of those soil degradation processes in exacerbating greenhouse gas emissions and desertification, the loss of human life and well-being and the damage to cultural heritage. Member States shall take into account present land use practices which aim already at combating these degradation processes.

2. The areas identified pursuant to paragraph 1 shall be made public and reviewed at least every ten years.

Amendment 63

ARTICLE 6, PARAGRAPH 2 A (new)

2a. Within two years from [transposition date] the Commission shall, in accordance with the regulatory procedure with scrutiny referred to in Article 19(3), produce guidelines, based on best practice, for the definition and identification of priority areas.

Amendments 64 and 124
ARTICLE 7

Article 7

deleted

Methodology

Member States may base the identification of risk areas on empirical evidence or on modelling. If modelling is used, the models must be validated by comparing the results on the basis of empirical data which have not been used for the development of the model itself.

Amendment 65
ARTICLE 8

1. For the purposes of preserving the soil functions referred to in Article 1(1), Member States shall in respect of the **risk** areas identified in accordance with Article 6, **draw up**, at the appropriate level, **a programme of measures including at least** risk reduction targets, **the appropriate measures for reaching those targets**, a timetable for the implementation of those measures and an estimate of the allocation of private or public means for the funding of those measures.

1. For the purposes of preserving the soil functions referred to in Article 1(1), Member States shall, in respect of the **priority** areas identified in accordance with Article 6, **ensure that**, at **what they deem the most** appropriate **geographical and administrative** level, risk reduction targets **are formulated to combat the degradation processes and that the necessary measures are taken, including integrated territorial care strategies or programmes of measures, and where possible restoration targets, where there are legitimate grounds for suspicion that one or more of the soil degradation processes has occurred or is likely to occur in the near future**, a timetable for the implementation of those measures and an estimate of the allocation of private or public means for the funding of those measures.

2. *When* drawing up and *revising* the programmes of measures pursuant to paragraph 1, Member States **shall give due consideration to the social and economic impacts of the measures envisaged.**

Member States shall ensure that measures are cost-effective, technically feasible and shall carry out impact assessments, including cost-benefit analyses, prior to the introduction of the programmes of measures.

Member States shall indicate in their programmes of measures how the measures are to be implemented and how they will contribute to achievement of the environmental targets established.

3. Where *an area is at risk from* different concurrent soil degradation processes, Member States may **adopt a single programme in which** appropriate risk reduction targets **are to be set** for all the risks identified together with the appropriate measures for reaching those targets.

1a. With a view to preventing any duplication of efforts, the programme of measures pursuant to paragraph 1 may build on obligations, plans and programmes already set up under national or Community legislation, such as those set up pursuant to the Common Agricultural Policy, including Annex IV to Regulation (EC) No 1782/2003 on cross compliance, and in Regulation (EC) No 1698/2005 on rural development, or international agreements, and may take into account the measures listed in Annex Ia.

2. *For the* drawing up and *implementation of* the programme of measures pursuant to paragraph 1, Member States **may establish a prioritisation of action according to the magnitude of the degradation process in their national territory and the effects of such degradation on climate change and desertification.**

Member States shall ensure that measures are cost-effective, technically feasible and shall carry out impact assessments, including cost-benefit analyses, prior to the introduction of the programmes of measures.

Member States shall provide information, pursuant to Article 17, concerning the objectives for preservation of the soil functions referred to in Article 1(1) and the measures taken.

The choice of the measures shall be left to the Member States.

2a. Member States shall give due consideration to the social and economic impacts of any measures pursuant to paragraph 1.

3. Where *areas would need special protection against* different concurrent soil degradation processes, Member States may **set** appropriate risk reduction targets for all the risks identified together with the appropriate measures for reaching those targets.

4. The programme of measures **shall** be drawn up within seven years from [transposition date] and **shall** be in application no later than eight years after that date.

The programme of measures **shall** be made public and shall be reviewed at least every five years.

4. The programme of measures **should** be drawn up within seven years from [transposition date] and be in application no later than eight years after that date.

The programme of measures **should** be made public and shall be reviewed at least every five years.

Amendment 107
ARTICLE 8, PARAGRAPH 4 A (new)

4a. Member States which already have specific national legislation in place to protect their soils shall be exempted from the obligations under this Article, on the condition that their legislation secures at least an equivalent level of protection.

Amendment 66
ARTICLE 8 A (new)

Article 8a

Agricultural use of soil

1. Each Member State, in accordance with its climate, soil characteristics and agriculture, as well as its best agricultural practices, may decide upon its own agricultural policy in relation to the soil.

2. As regards the agricultural use of soil, Member States shall encourage the choice of crops and afforestation methods or programmes which have a beneficial effect on soil organic matter and soil fertility and which can prevent landslides and desertification.

3. Member States shall also support agricultural practices which favour the filtering and water retention capacity of the soil, with a view to preventing compaction and erosion.

4. The Commission and the Member States shall promote and exploit research in particular as regards the functions of the different crops in relation to climate change and carbon capture with the aim of integrating this scientifically-based knowledge in the development of soil policy.

5. The use of compost shall be encouraged with the aim of maintaining soil fertility, enhancing soil organic matter levels and fighting erosion. For that purpose Member States shall adopt compost quality standards.

6. No later than two years after the entry into force of this Directive, the Commission shall present a proposal for a biowaste directive setting quality standards for the use of biowaste as a soil improver.

7. The development of the standards under cross compliance and the agri-environment measures under rural development aimed at protecting soil in the areas identified pursuant to Article 6 shall take into consideration the possible efforts and burden they may entail.

Amendment 68

ARTICLE 9

For the purposes of preserving the soil functions referred to in Article 1(1), Member States shall **take** appropriate and proportionate measures **to** limit the intentional or unintentional introduction of dangerous substances on or in the soil, excluding those due to air deposition and those due to a natural phenomenon of exceptional, inevitable and irresistible character, in order to avoid accumulation **that would hamper** soil functions or **give rise to** significant risks to human health or the environment.

*1. For the purposes of preserving the soil functions referred to in Article 1(1), Member States shall **ensure that** appropriate and proportionate measures **are taken at the appropriate administrative level that:***

(a) prevent the intentional or unintentional introduction of dangerous substances on or in the soil by illegal dumping, seepage or leakage. Measures shall be based on an assessment of the likelihood of whether activities involving hazardous substances on or in the soil might lead to soil contamination;

(b) limit the intentional or unintentional introduction of dangerous substances on or in the soil, excluding those due to air deposition, those due to a natural phenomenon of exceptional, inevitable and irresistible character or those which participate in the treatment or the improvement of the soil, in order to avoid accumulation to an extent at which soil functions are hampered or significant risks arise to human health or the environment.

Amendment 108

ARTICLE 9, PARAGRAPH 1 A (new)

1a. In order to comply with this Article, Member States shall take steps to limit the deposition of dangerous substances onto land through water used for irrigation, use of fertilisers, and waste spread on land in accordance with the existing relevant Community legislation in these fields.

Amendment 70

ARTICLE 9, PARAGRAPH 1 B (new)

1b. Measures to prevent soil contamination adopted by Community or national approval procedures aiming at protection of soil, are considered to be precautionary measures pursuant to paragraph 1.

Amendment 71

ARTICLE 9, PARAGRAPH 1 C (new)

1c. Member States shall ensure that contaminated soil is remediated taking account of the precautionary principle, the sustainability principle, the polluter-pays principle and the proportionality principle.

Amendment 72
ARTICLE 9, PARAGRAPH 1 D (new)

1d. For the purpose of preserving the soil functions and conditions required to ensure the protection of the environment and human health, sustainable economic activities, food safety, high quality standards and/or certified agricultural products and production systems, Member States shall take adequate measures in order to:

(a) promote suitable and sustainable land management practices;

(b) reduce contamination hazards in agricultural and forest soils;

(c) integrate and update legislation and policies;

(d) promote specific monitoring campaigns within pilot areas representing specific soil and production systems.

Amendment 73
ARTICLE 9, PARAGRAPH 1 E (new)

1e. Member States shall take appropriate steps to establish a hierarchy of measures to protect soil from pollution, with priority being given to prevention.

Not later than [three years after the entry into force of this Directive], the Commission shall, in accordance with the regulatory procedure with scrutiny referred to in Article 19(3), adopt a priority list of dangerous substances on or in the soil which are liable to have persistent and bio-accumulative and toxic properties or very persistent and very bio-accumulative properties, have irreversible or long-term negative impacts or disrupt endocrine functions. European reference values based on risk assessment for these substances shall be established.

Article 10

Inventory of contaminated sites

1. Member States shall, *in accordance with the procedure laid down in Article 11, identify the sites in their national territory where there is a confirmed presence, caused by man, of dangerous substances of such a level that Member States consider they pose a significant risk to human health or the environment, hereinafter “contaminated sites”.*

That risk shall be evaluated taking into account current and approved future use of the land.

2. Member States shall *establish a national inventory of contaminated sites, hereinafter “the inventory”. The inventory shall be made public and reviewed at least every five years.*

Article 11

Identification procedure

1. *Each Member State shall designate a competent authority to be responsible for the identification of contaminated sites.*

Article 10

Procedure for the identification, investigation and assessment of potentially contaminated sites

1. Member States shall *ensure that the contaminated sites in their territory are identified.*

2. *For the purpose of paragraph 1, Member States shall:*

(a) designate one or more competent authorities to be responsible for the identification of both potentially contaminated sites and contaminated sites and for the management of the related inventory;

2. Within *five years* from [transposition date], *the competent authorities shall* have identified the location of at least the sites where the *potentially soil-polluting* activities referred to in *Annex II* are taking place or have taken place in the past.

For those purposes, the activities referred to in point 2 of Annex II shall be considered independently of the thresholds specified in Annex I to Council Directive 96/61/EC, except for the activities carried out by micro-enterprises, as defined in point 3 of Article 2 in the Annex to Commission Recommendation 2003/361/EC, and those relative to the rearing of livestock.

The identification shall be *reviewed* at regular intervals.

(b) within *six years* from transposition date, have identified the location of at least the sites where the *following soil affecting activities* are taking place or have taken place in the past:

- *Establishments where dangerous substances are or were present in quantities equal to or in excess of the amounts indicated in Parts 1 and 2, column 2 of Annex I to Council Directive 96/82/EC (Seveso);*

- *Activities listed in Annex I to Council Directive 96/61/EC. These activities shall be considered as specified in Annex I to Council Directive 96/61/EC, except for the activities carried out by micro-enterprises, as defined in point 3 of Article 2 in the Annex to Commission Recommendation 2003/361/EC, and those relative to the rearing of livestock;*

- *Mining installations, including extractive waste facilities as covered by Directive 2006/21/EC of the European Parliament and of the Council¹;*

- *Landfills of waste as defined in Council Directive 1999/31/EC².*

In performing the investigations, Member States may exempt from the identification procedures operating installations which have been granted a permit to operate that includes obligations to prevent soil contamination and to periodically monitor the state of the soil. Information on these exemptions should be made available to the competent authorities.

For the identification Member States may furthermore use the list of activities in Annex II.

The identification shall be *updated* at regular intervals;

(c) for sites identified in accordance with point (b), measure the concentration levels of dangerous substances, which shall be restricted to substances handled in the sites identified in accordance with point (b);

(d) carry out an on-site risk assessment on the sites where the levels of dangerous substances may pose a significant risk to human health or the environment taking into account the current and approved future use of the site.

For this purpose, Member States shall base the assessment of the risks that substances on or in the soil pose to human health or the environment on methodologies which take into account:

- the concentration of the dangerous substance;

- the confirmed presence of a route or pathway by which the dangerous substance can reach somebody or something it can harm;

- the confirmed presence of a receptor, which could be harmed;

(e) report on the investigation and assessment methods used by them for risk assessment in accordance with the procedure referred to in Article 16.

3. In accordance with the following timetable, the competent authorities shall measure the concentration levels of dangerous substances in the sites identified in accordance with paragraph 2, and where the levels are such that there may be sufficient reasons to believe that they pose a significant risk to human health or the environment, an on-site risk assessment shall be carried out in relation to those sites:

(a) within **five years** from [transposition date], for at least 10% of the sites;

3. The identification steps provided for in paragraph 2 shall be performed, if they have not yet been so, according to the following time table:

(a) within **seven years** from [transposition date], for at least 10% of the sites;

(b) within 15 years from [transposition date],
for at least 60% of the sites;

(c) within 25 years from [transposition date],
for the remaining sites.

(b) within 15 years from [transposition date],
for at least 60% of the sites;

(c) within 25 years from [transposition date],
for the remaining sites.

3a. Member States shall establish national or regional inventories of contaminated sites. The inventory shall be made public and updated at least every seven years on the basis of information delivered to them or generated on their behalf, in particular to include new contaminated sites that have been identified and to exclude sites which have undergone remediation and no longer pose a significant risk to human health or the environment.

In compiling the inventory Member States may use the data and information already available at national level.

3b. Member States shall, where appropriate, give special attention to the distinction between anthropogenic pollution and geogenic contamination. Geogenically contaminated soils as defined in Article 2 shall be evaluated in terms of their risks to human health and the environment.

3c. Where a site is to be sold and where changes in the land use of a site occur on which an activity referred to in paragraph 2b is taking place or for which the official records, such as registers, show that it has taken place Member States shall ensure that:

(a) the owner or the prospective buyer shall inform the competent authority as referred to in paragraph 2.a and the other party in the transaction on the present and past activities on the site and any information at their disposal on the concentration levels of the dangerous substances in the soil. Member States may require a chemical analysis determining these concentration levels.

(b) the investigation and assessment necessary to decide whether a site is a risk to human health or the environment should always be completed before construction of any new development begins.

Competent authorities shall use the information resulting from 3a and 3b for the purpose of identifying contaminated sites.

Where requested competent authorities shall make available to the owner of the site or to the prospective buyer the already existing information on the sites referred to in paragraph 1.

3d. The reports of investigations according to paragraphs 3 and 3c(a) shall be made available to the competent authority.

¹ OJ L 102, 11.4.2006, p. 15.

² OJ L 182, 16.7.1999, p. 1.

Amendment 146
ARTICLE 13, PARAGRAPH -1 (new)

-1. Member States shall, within seven years from [transposition date], ensure that a remediation strategy or strategies are drawn up and made public at the administrative level they consider appropriate, including at least general remediation targets, a prioritisation, a timetable for implementation of remediation measures for the contaminated sites and the funding mechanism pursuant to paragraph 3.

Member States shall notify the Commission in accordance with the procedure in Article 16 of the remediation strategy or strategies.

Amendment 147
ARTICLE 13, PARAGRAPH 1

1. Member States shall ensure that the contaminated sites ***listed*** in their ***inventories*** are remediated.

1. Member States shall ensure that the contaminated sites ***in their territory*** are remediated, ***in accordance with priorities to be set, or already set, by the Member States themselves.***

Member States shall also ensure that temporary and urgent safety measures are adopted where there is a serious risk of contamination spreading, threatening both human health and the environment.

Amendment 148
ARTICLE 13, PARAGRAPH 2, SUBPARAGRAPH 1 A (new)

Member States shall encourage the use of best available techniques for remedial action.

Amendment 81
ARTICLE 13, PARAGRAPH 2 A (new)

2a. Member States shall determine the appropriate measure taking into account, inter alia, the costs and benefits of that measure.

Amendment 149
ARTICLE 13, PARAGRAPH 2 B (new)

2b. If the means required for remediation are not technically available, or represent a disproportionate cost with respect to expected environmental benefits, sites may be conditioned in such a way that they do not pose any significant risk to the environment or human health, including by restricting access to them or allowing natural recovery. If Member States choose either of these options, they shall monitor the risk to human health and the environment.

Amendment 83
ARTICLE 13, PARAGRAPH 3

3. Member States shall set up appropriate mechanisms to fund the remediation of ***the*** contaminated ***sites*** for which, subject to the polluter pays principle, the person responsible for the pollution cannot be identified or cannot be held liable under Community or national legislation or may not be made to bear the costs of remediation.

3. Member States shall set up appropriate mechanisms ***at national level (including for instance funds, investment aids, tax exemptions or reductions, tax refunds, or direct price support schemes)*** to fund the remediation, ***or provide for the remediation,*** of ***those*** contaminated ***areas*** for which, subject to the polluter pays principle, the person responsible for the pollution cannot be identified or cannot be held liable under Community or national legislation or may not be made to bear the costs of remediation. ***With a view to fostering remediation, Member States shall guarantee the proper functioning of these mechanisms in order to maintain investor confidence and achieve the aims of this Directive.***

Member States shall establish processes for managing cases where liability for funding remediation (or a portion of the remediation) should be transferred from one potentially responsible person to another. Existing financing mechanisms in Member States should be maintained if they have proved effective.

Amendment 150
ARTICLE 15, PARAGRAPH 2

2. Article 2(1), (2), (3) and (5) of Directive 2003/35/EC shall apply to the preparation, modification and review of the programmes of measures on **risk** areas referred to in Article 8 and the **National** Remediation Strategies referred to in Article **14**.

2. Article 2(1), (2), (3) and (5) of Directive 2003/35/EC shall apply to the preparation, modification and review of the programmes of measures on **priority** areas referred to in Article 8 and the Remediation Strategies referred to in Article **13**.

Amendment 86
ARTICLE 15 A (new)

Article 15a

Cooperation between Member States

Where a Member State is aware that any of its priority areas or contaminated sites are likely to have significant negative effects on human health or the environment in another Member State, or where a Member State likely to be significantly affected so requests, the Member State in whose territory the priority areas or the contaminated sites are located shall inform the other Member State and consult it on the measures to be taken to prevent or reduce such negative effects.

Amendment 87
ARTICLE 16, PARAGRAPH 1

1. Member States shall ***make the following information available to the Commission within eight years from [transposition date], and every five years thereafter:***

(a) a summary of the initiatives taken pursuant to Article 5;

(b) the risk areas established pursuant to Article 6(1);

(c) the methodology used for risk identification pursuant to Article 7;

(d) the programmes of measures adopted pursuant to Article 8 as well as an assessment of the efficiency of the measures to reduce the risk and occurrence of soil degradation processes;

(e) the outcome of the identification pursuant to Article 11(2) and (3) and the inventory of contaminated sites established pursuant to Article 10(2);

(f) the National Remediation Strategy adopted pursuant to Article 14;

(g) a summary of the initiatives taken pursuant to Article 15 as regards awareness raising.

1. Member States shall, ***by means of a procedure in accordance with Article 17, enable the Commission to have access to data which contains information in accordance with Articles 5, 6, 10 and 13, and to a summary of the awareness-raising initiatives taken on the basis of Article 15.***

Amendment 88
ARTICLE 16, PARAGRAPH 2

2. The ***information referred to in paragraph 1(b) shall be accompanied by metadata and shall be made available as documented digital georeferenced data in a format that can be read by a geographic information system (GIS).***

2. The ***Member States may also use their own systems for gathering information, in accordance with paragraph 1.***

Amendment 89
ARTICLE 16, PARAGRAPH 2 A (new)

2a. Successful measures and programmes of measures evaluated and made available pursuant to this Article may be included in Annex -I.

Amendment 90
ARTICLE 17

Within one year from [entry into force], the Commission shall set up a platform for the exchange of information between Member States and stakeholders on the *risk* area identification pursuant to Article 6 *and on* risk assessment methodologies for *contaminated* sites currently in use or under development.

*1. Within one year from [entry into force], the Commission shall set up a platform for the exchange of information **and coordination** between Member States, **regional and local authorities** and stakeholders on:*

(a) best practices in preserving and improving the soil's function to act as a carbon pool, pursuant to Article 3;

(b) the identification of valuable soils and best practices to protect, preserve and improve their characteristics and functions pursuant to Article 4(1a);

(c) codes of good practice pursuant to Article 4(1b), including best practices for preventing and combating erosion, organic matter decline, compaction, salinisation, landslides, adverse effects from climate change, desertification, and biodiversity decline resulting from soil degradation processes;

(d) the codes of good practice for sealing pursuant to Article 5;

*(e) the **priority** area identification pursuant to Article 6;*

*(f) risk assessment methodologies for **polluted** sites currently in use or under development;*

(g) scientific information on soil protection from inter alia the Seventh Framework Programme and subsequent programmes, and on the experience of preventing soil degradation and dealing with soil contamination. The Commission shall develop, in accordance with the regulatory procedure with scrutiny referred to in Article 19(3), guidelines for risk assessment methodologies for contaminated sites.

Amendment 91

ARTICLE 17, PARAGRAPH 1 A (new)

1a. In setting up the platform, the Commission shall take into consideration the existing systems in Member States and compatibility with national information systems. The rules of Directive 2007/2/EC shall remain unchanged. Member States shall support the Commission with regard to the quality of data and metadata and to the use of data from the past.

Amendment 92

ARTICLE 17, PARAGRAPH 1 B (new)

1b. If it becomes clear, on the basis of the exchange of the information referred to in paragraph 1, that the methods used for assessing the threat of soil contamination in accordance with Article 10 must be harmonised or that the Directive needs to be adapted in line with technical and scientific advances, the Commission shall, pursuant to Article 251 of the Treaty, propose common criteria for assessing the risk of soil contamination or implementing the requisite adjustments.

Amendment 138
ARTICLE 17 A (new)

Article 17a

Measures that, according to this Directive, have to be taken by the Member States, shall be financed by the Member States. Co-financing by the Community shall only be possible when permitted by existing conditions of current programmes.

Amendment 94
ARTICLE 19, PARAGRAPH 4

4. The Committee shall adopt its rules of procedure.

4. The Committee shall adopt its rules of procedure. *These rules shall allow stakeholders' representatives to participate in the Committee's deliberations.*

Amendment 95
ARTICLE 19, PARAGRAPH 4 A (new)

4a. The Committee shall consult the affected economic stakeholders and environmental associations before taking its decisions.

Amendment 96
ARTICLE 23
Article 6, paragraph 3 (Directive 2004/35/EC)

Article 23
Amendment to Directive 2004/35/EC

deleted

In Article 6 of Directive 2004/35/EC, paragraph 3 is replaced by the following:

'3. The competent authority shall require the remedial measures to be taken by the operator. Subject to Article 13(1) of Directive xx/xx/xx, if the operator fails to comply with the obligations laid down in paragraph 1 or 2(b), (c) or (d) of this Article, or cannot be identified or is not required to bear the costs under this Directive, those measures may be taken by the competent authority itself.'

Amendment 97
ARTICLE 24, PARAGRAPH 1, SUBPARAGRAPH 2 A (new)

Where existing national provisions remain in force unamended, a notice of compliance shall suffice.

Amendment 98
ANNEX - I (new)

ANNEX -I

Possible elements in the codes of good practice for protection or improvement of the soil

Codes of good practice for the different land use activities referred to in Article 4 may contain the following elements:

- 1. a description of the impacts on soil functions that can be expected (only those soil functions likely to be significantly hampered would need to be considered);*
- 2. techniques, methods and land management practices that can minimise the disruption to soil functions, while at the same time allowing a sustainable use of the soil;*
- 3. a list of information sources and competent authorities that can advise the land user on how to use the soil with minimum soil disruption;*
- 4. a list of national and Community legislation relevant to soil protection and applicable to the specific activity;*
- 5. guidance for risk assessment methodologies.*

Amendment 99
ANNEX I, SECTION 1, ROW 3 A (new)

Organic matter content

Amendment 100
ANNEX I, SECTION 1, ROWS 8 AND 9

Hydrological conditions

Hydrological *and hydrogeological*
conditions

Agro-ecological zone

Agro-ecological zone

*Anthropogenic factors (e.g. hydraulic
works, etc.)*

Amendment 101
ANNEX I, SECTION 1, ROW 9 A (new)

pH

Amendment 102
ANNEX I, SECTION 4, ROW 4 A (new)

Proximity to roads

Amendment 103
ANNEX I, SECTION 5 A (new)

SECTION 5a

**COMMON ELEMENTS FOR THE
IDENTIFICATION OF AREAS AT RISK
OF ACIDIFICATION**

pH

Soil typological unit (STU) (soil type)

Soil texture

Climate

Land use

Soil organic matter

Cation Exchange Capacity (CEC)

ANNEX Ia

Possible measures pursuant to Article 8

**POSSIBLE MEASURES TO COMBAT
EROSION**

Change arable land to grassland

*Planting of hedgerows, groups of trees
and afforestation*

*Restriction of construction work in very
vulnerable sites*

*Adequate crops/crop rotations and catch
and interim crops*

Application of compost

Reduced tillage

Mulching

*Use of winter cover, buffer strips and
hedgerows*

Proper use of machinery

Construction and maintenance of terraces

Prevention of fires

*Restriction of inappropriate practices on
hill slopes*

Coastal management techniques

**POSSIBLE MEASURES TO COMBAT
ORGANIC MATTER DECLINE**

Change arable land to grassland

Planting of trees

Application of compost

*Restriction of construction work in very
vulnerable sites*

*Adequate crops/crop rotations and catch
and interim crops*

*Reintroduction into the soil of crop
residues*

Reduced tillage

Mulching

Avoid drainage of wetlands to protect peat soil

**POSSIBLE MEASURES TO COMBAT
SALINISATION**

Change arable land to grassland

Adequate crops/crop rotations

Application of appropriate irrigation techniques and equipment

Use of water of appropriate quality

Appropriate drainage of irrigated land

Use of organic fertilisers (e.g. compost, manure)

Soil washing

**POSSIBLE MEASURES TO COMBAT
COMPACTION**

Change arable land to grassland

Reduced tillage

Application of compost

Cultivation at optimal soil moisture

Restriction of excessive heavy machinery use

Use of low contact pressure and low pressure tyres

Appropriate drainage

Adequate stocking rates and duration of grazing

**POSSIBLE MEASURES TO COMBAT
LANDSLIDES**

Restrict constructions that increase landslide risks, especially on steep slopes

Avoid deforestation; planting of trees to retain the soil in place

Prevention of land abandonment

Establishment and maintenance of landscape elements such as terraces, hedgerows, groves

List of potentially soil polluting activities

Activities referred to in Article 10

1. Establishments where dangerous substances are or were present in quantities equal to or in excess of the amounts indicated in Parts 1 and 2, column 2 of Annex I to Council Directive 96/82/EC (Seveso).

2. Activities listed in Annex I to Council Directive 96/61/EC.

3. Airports

4. Ports.

5. **Former** military sites.

6. Petrol and filling stations.

7. **Dry** cleaners.

8. Mining installations not covered by Council Directive 96/82/EC, including extractive waste facilities as defined in Directive 2006/21/EC of the European Parliament and of the Council.

9. Landfills of waste as defined in Council Directive 1999/31/EC.

10. Waste water treatment installations.

11. Pipelines for the transport of dangerous substances.

3. **Areas in** airports **where use, handling and storage of dangerous substances occurs or has occurred.**

4. **Land-based areas in** ports **where use, handling and storage of dangerous substances occurs or has occurred.**

5. **Areas in former** military sites **where use, handling and storage of dangerous substances has occurred.**

6. Petrol and filling stations.

7. **Industrial dry** cleaners.

10. Waste water treatment installations **above 2,000 population equivalents.**

11. Pipelines for the transport of dangerous substances.