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NOTE

from: General Secretariat of the Council
to: Delegations
Subject: Environmental burdens and the need to provide their funding
- Note from the Slovak delegation

Delegations will find attached a note from the Slovak delegation on the above item, which will be dealt with under "Other business" at the meeting of the Council (Environment) on 10 October 2011.

ENVIRONMENTAL BURDENS AND THE NEED TO PROVIDE THEIR FUNDING

- Note from the Slovak delegation -

The issue of contaminated sites is solved in different ways in new and old Member States, where companies have always been privately owned and it is easy to identify responsibility for contaminated sites and search for solutions to fulfil the "polluter pays" principle.

Overall **1.845 sites** were identified as a result of the projects "Systematic Identification of Contaminated Sites in the Slovak Republic" and "Regional Studies of Environmental Impacts of Contaminated Sites on the Environment for Selected Regions", which were implemented during the years 2006 - 2010 by the Slovak Environmental Agency.

About 1.150 of these sites permanently represent **significant risk for human health and for the environment** and about **100 of them pose a really high risk**. Long-term hidden and uncontrolled spills of dangerous substances into the environment occurred in these sites. Many of the sites are abandoned at present and there is no responsible body which could perform remediation measures, as it does not exist or is unknown. On the other sites production activities have continued with other enterprises, but usually the company has insufficient financial sources for remediation, or is not interested in the improvement of the unfavourable situation.

Fortunately, there are also enterprises that accepted their responsibility for taking measures on contaminated sites during privatization. Investigation and remediation were performed on many of them and many sites are permanently monitored. Moreover, the results of the systematic identification of contaminated sites also show that there is insufficient information about the actual pollution of many suspect sites. Such sites are termed as *probable contaminated sites*.

Remediated and rehabilitated sites

Remediation is defined as work performed on rock, ground water and soil that is focused on elimination, reduction or limitation of contamination to the acceptable value with regard to actual and future land use. Overall 696 rehabilitated sites have been put on the Register of Contaminated sites - Part C (remediated sites).

Preliminary risk assessment of individual sites was included in the systematic identification of contaminated sites. Assessed sites were split into the categories of high, moderate and low risk. Approx. 100 sites were ranked in the group of high risk and approx. 120 in the group of moderate risk. Industrial and municipal landfills have had the highest proportion in those two groups (38.1 %). A high number of the contaminated sites relate to the engineering industry (11.9 %) and petrochemical industry including fuel filling stations (16.2 %). A lower percentage of contaminated sites concern the chemical industry (4.8 %), although the most extensive contaminated sites and the highest concentrations of dangerous substances in ground water, soil and rock are linked to these sites. Thus, the latter category will represent the highest financial demands for investigation and remediation activities.

Priority objectives

Based on the results of the finalized projects and after acceptance of the requirements resulting from the present Slovak and EU legislation, the State Remediation Program was compiled. It was approved by the Slovak Government in 2010 and defines the **following priority objectives**:

- To ensure a complex and systematic solution to the contaminated sites issue,
- To ensure protection of human health and the environment in burdened sites,
- To ensure the implementation of measures resulting from the EU directives,
- To ensure stepwise removal of contaminated sites and minimization of the risks resulting from them.

These objectives will be achieved by improved management of contaminated sites, identification and investigation of probable contaminated sites, detailed investigation of contaminated sites and remediation and monitoring of them.

Solving the issue

With regard to above mentioned facts, the V4 Ministers agree that soil and water contamination is a problem of multiple dimensions: environmental, social and economic. Bearing in mind the common efforts towards smart sustainable and inclusive growth, the rehabilitation and revitalization of the contaminated sites could have an important role in the enhancement of resource efficiency, protection of natural resources, introducing new technologies, while creating new jobs and strengthening green economy. **Therefore the V4 Ministers underline the importance of taking measures as regards keeping the possibilities of financing remediation of contaminated sites in the future financial mechanism.**

Proposal of the Slovak Republic regarding the above-mentioned issue

Considering the contaminated sites, the Slovak Republic proposes to help the countries of the former socialist bloc, which joined the EU, in the implementation of the "polluter pays" principle and to create a financial instrument for the elimination of contaminated sites from the past.

In this context we propose the following:

- To create an EU tool for financing old environmental burdens (contaminated sites) where the producer of contamination is unknown or does not exist and where the "polluter pays" principle cannot be applied. There is a need for definition of a clear rule, that in case that this principle is not applicable in private sector, the state financial support of remediation should not be regarded as a State aid, since the remediation does not improve the recipient's market position.
- To create a special EU fund for immediate support in the event of ecological disasters directly related to contaminated sites. A simplified and fast mechanism for disbursement should be introduced (e.g. situation in Ajka, Hungary, one year ago).

Based on estimates for the whole EU we propose to earmark 27 billion EUR for the EU tool for financing of contaminated sites and 2 billion EUR for special fund for the immediate prevention of ecological disasters for the 2014 -2020 period.

The Slovak Republic has estimated that the financial needs associated with the solution of contaminated sites are approximately 2.3 billions EUR to 2020. After consultation with the V4 countries and several Eastern European EU countries, it has estimated that the total requirement is about 27 billion EUR. The "old" Member States historically did not have such massive problems with old environmental burdens, but the post-socialist states, where transition to market mechanisms causes problems with the "polluter pays" principle as a result of economic transformation in the nineties, are still facing this problem.

The Slovak Republic is currently in the process of adopting the new act which will include the specific rules for the cases where is not possible to apply the polluter pays principle. This means cases where the State has to take responsibility for contaminated sites. Maintaining the principle of private property protection, protection of inheritors and excluding the possibility of retroactivity, the system is settled in a way to maximize justice in terms of the liability of contamination producers and successors, as well as owners of the property. Owners who cannot demonstrate the acquisition of property without knowledge of the existence of the burdens or who acquired property on very favourable terms, which apparently showed the damages caused by burdens, will have to solve the existing burdens alone.

In other cases, the State takes responsibility for remediation. Along with the finances from the Cohesion Fund/Policy, the new act defines as one of the possible sources for this purpose 10% of annual revenues of the Environmental fund. This does not apply to incomes from emission trading, whose goal remains the reduction of greenhouse gas emissions. However, in certain conditions, it is necessary to provide state aid for the private sector according to the degree of risk. Therefore, the private sector should be also one of the beneficiaries of the aid. We do not consider this to be the state aid, which distorts the markets; whereas rehabilitation of old inherited overcast sites doesn't improve the market position of the beneficiary and doesn't reduce its production costs.