Environment: strategy for the protection and sustainable use of soil

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The Presidency briefed the Council on **progress** concerning the draft Directive establishing a framework for the protection of soil, as set out in its report.

While the European Parliament delivered its opinion in first reading in November 2007, the **Council has not yet reached political agreement** on this dossier. Several delegations regretted this fact and expressed the need for a Community instrument, whereas others reiterated their opposition to such common measures as well as their concerns in relation to administrative burden and cost-effectiveness.

The following contains an outline of the **major outstanding issues** addressed in the latest Presidency text by means of a number of compromise proposals.

Scope and definitions; current/ approved future use of degraded soils: a number of delegations are of the opinion that, in some cases, re-establishing the appropriate level of functionality of a soil can be achieved through changing the land use. Other delegations, and the Commission, are concerned that such a provision could be misused by the owner of a contaminated site to circumvent remediation.

Integration (Article 3): a majority of delegations are of the opinion that integrating soil protection aspects into policies which may significantly exacerbate soil degradation processes as set out in this Article would be essential for a successful soil protection strategy. However, a number of delegations remain concerned about the scope of Article 3 and the potential difficulty of transposing and implementing it. They are also apprehensive about possible overlap with other pieces of Community legislation, notably the Directive on the assessment of the effects of certain plans and programmes on the environment. **Identification of priority areas**: some Member States would prefer to manage possible soil degradation processes without having to define specific areas, and wish to ensure that the assessment would not be required to go down to the individual plot level. They are furthermore doubtful that establishing relevant levels of risk acceptability, including in numerical terms, would be practicable. Finally, there is a concern that some degradation processes may occur across the whole of a Member State's territory in a patchy way, making it impracticable to define specific areas.

Identification and inventory of contaminated sites: this Article, dealing with soil contamination, covers some of the most intensively debated provisions of the Directive. Several delegations have expressed concerns regarding the identification procedure for contaminated sites, finding it too cumbersome and costly, as well as the timeline for the finalisation of the inventory of contaminated sites. The Article now contains a much streamlined identification procedure, leaving significant flexibility to Member States. A number of other delegations and the Commission, however, oppose the degree of flexibility as provided for in the text and prefer greater harmonisation in order to achieve a level playing field across the EU.

Soil status report: some delegations remain concerned about cost implications for economic actors, with potential negative impacts on economic development and in particular the housing market.

In the current Presidency text, requirements concerning the establishment, content and use of soil status reports have been relaxed and leave more flexibility to Member States in order to respond to these concerns.

Implementation and adaptation to technical progress: this Article on comitology poses problems for some delegations which would prefer a platform for the exchange of information and best practices, without further provisions that could in their view lead to harmonised risk assessment methodologies in some degree.