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From : General Secretariat

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Subject : **Soil protection**

- **Thematic Strategy for Soil Protection**
 - 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
 - = Policy debate at Council (Environment) on 20 February 2007
 - Written contributions from delegations
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In reply to questions by the Presidency (6069/07), delegations will find annexed a written contribution from NL.

THE NETHERLANDS

1. **What are the main strong points/added value of the proposed Thematic Strategy with its objective of creating a consolidated and more sustainable use of soils across the EU, and how efficiently does the proposed draft Framework Directive manage to fulfil that objective?**
2. **Are there any areas of potential concern in terms of scope, requirements and implementation of the proposed draft Directive?**
3. **Do the proposed Thematic Strategy and draft Framework Directive on soil protection fit in with and contribute to Community action in relation to other environmental policies and sectoral areas?**

Re 1.

The Netherlands is pleased that the Commission has promulgated a soil strategy and supports the strategy's objective: the protection and sustainable use of soil by preventing soil pollution and functionally rehabilitating polluted soils. Certainly, from the environmental perspective, it can be useful for the EU to have a soil protection policy. In that case, however, it is necessary that such a policy take into account the broad range of soil types and uses in Europe and the measures Member States are taking to prevent threats to soil quality and to combat or mitigate soil pollution. The Netherlands supports the emphasis on integration, knowledge development and awareness (pillars of the strategy).

Whereas the strategy can be considered to be a potentially useful instrument, the added value of a Directive remains to be proven.

More specifically:

- The Netherlands considers policy integration an important and robust means of protecting the environment. It is nevertheless important to make ecological, socioeconomic and cost-benefit analyses before proceeding with policy integration. In this light, the Netherlands considers it helpful to have an updated overview of the effects on soil quality of existing relevant Community policies. Therefore the Netherlands would like to invite the Commission to present an updated analysis thereof in order to identify the remaining gaps in EU soil policy and the possible benefits of a Directive.
- Knowledge development is essential. The Netherlands is pleased that this was pointed out in the Seventh Framework Programme, because there are significant gaps. The relationship between soil and climate change and soil biodiversity should be given priority.
- Awareness. Knowledge about and awareness of the importance of healthy soil are requirements for sustainable soil use and management. The Netherlands is ready and willing to share with other Member States its know-how and expertise in the broad field of sustainable soil management and use. It could share knowledge on, for example, its approach to soil pollution (in terms of technologies used and means of generating funds), soil biodiversity and sustainable soil use in agriculture. The Netherlands also has instruments for fully incorporating soil into land-use planning processes.

Re 2. The Netherlands feels that the soil strategy could prompt and support a joint process in the Member States. However, as far as legally binding measures at EU level are concerned, the Netherlands is of the opinion that, for reasons of proportionality, those would not provide an appropriate instrument to address this process. The Netherlands considers it essential that a soil strategy offer maximum policy freedom. Emphasis should be on positive inducement to take action and not on binding requirements. Dutch soil policy and legislation is largely consistent with the Commission's aims, in the substantive sense but not in the legal sense. Significant adaptations would be needed to achieve that level of consistency. The Netherlands wants to continue with its policy as it is, with as few additional requirements and binding measures as possible, especially of the kind that are not in line with its national policy. A Directive should allow Member States to pursue its aims by methods other than those indicated in the Directive.

A Directive should not, for example, provide quantified acceptable risk levels, fix the percentage of organic matter in the soil or prescribe a single method for measuring soil pollution. It should not include a general requirement for identifying risk areas.

It should in particular avoid increasing the bureaucratic and administrative burden. The Netherlands wants to minimise the bureaucratic and administrative burden. The more room there is to dovetail a Directive with national policy, the less chance there is that the additional burden will increase

Re 3. The soil strategy could contribute towards goals in other areas of Community policy, such as climate, water and biodiversity.

There are already Community laws in place that contribute to soil protection, for example legislation on prevention and management of industrial pollution, water and agriculture, waste etc. It is important to define clearly and precisely what is covered by each Directive. This has not been done so far. A soil Directive should not overlap with other Directives, or impose any additional measures regarding matters for which rules already exist. For example, groundwater is explicitly excluded from the proposed SFD (Article 1 (2)), but water beds are not. The Netherlands is of the opinion that water beds should not fall under the SFD as proposed by the Commission. Also, the Netherlands is currently developing policy to deal with diffuse pollution within the context of the Water Framework Directive. A soil Directive should leave room for dovetailing that type of national policy with the proposed soil policy.