

## INTERNATIONAL COMMITTEE ON CONTAMINATED LAND

### QUESTIONNAIRE ABOUT LEGAL FRAMEWORK FOR SOIL/SITE CONTAMINATION MANAGEMENT

**COUNTRY:** SPAIN FEDERAL

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#### **OVERALL CONTEXT**

1. Does your national policy have a specific definition of “contaminated site”, “contaminated soil”? If yes, please provide the definition.

Yes. The Spanish regulation (Royal Decree 09/2005) on regard this issue defines contaminated soils as those ones exhibiting chemical concentrations in soil which yield a risk level higher than acceptable risk ( hazard quotient >1 for substances with systemic effects and  $>10^{-5}$  for carcinogenic ones.

2. Is Groundwater included in this definition?

Not as such. However, at the end of the day soil contamination is based on risk assessment and groundwater is then considered

3. Does your policy on contaminated sites/land/soil include other definitions (i.e. brownfield, sediment)?

Not

4. Which sources are you considering? Industrial operations? Transport? Urban contamination? Etc. Mainly industrial sources

#### **LEGAL FRAMEWOK**

5. Does your country have legislation with respect to contaminated land management?

- a. Whatever the situation is, please be precise if it's a specific or a common legislation, if integrated in a more general one (including prevention of emissions, soil protection, land planning, environment & health, etc.)

General one. Is included in waste legislation and, partially, in industrial emissions control legislation.

- b. If there is no legislation, please be precise how you tackle the problem.

- c. What are the main policy objectives?

Policy objectives, as national recovery plan or similar does not exists as such. Soil contamination is tackled on case by case basis

- d. What are the foundational principles on which the national policy is based? (e.g., polluter pays, risk-based, fit-for-use, stand-still, transparency, ...).



Soil contamination policy is founded in:

- Polluter-payer principle and
- .-risk based and
- fit for use

6. What is the Chain of Liability for the management of contaminated land?

a. Polluter? Land owner? Last operator? Occupier?

Polluter > Land owners >Occupiers

b. Is there any difference between new and historic contamination?

c. Can a responsible party pass on the liability to a purchaser? (under statutory law? Contractually?)

No

d. Do you separate the obligation to remediate soil pollution and the liability regarding the damage caused by soil pollution and the related remediation measures?

No

e. Are you facing specific situations (e.g. privatization of the industrial activities, war impacted areas, ...) needing special programme?

No

7. Are there any specifications at regional / local level?

Yes, although national regulations are country wide mandatory (de minimis), several regional authorities have developed specific regulations on this regard

8. Are there specifications for site closure?

When an industrial facility included in RD09/2005 is planned to be closed a report on soil contamination is required.

9. Is there any legal requirement to conduct investigation for potential contamination in the sale of the property?

No, under RD09/2005 vendors are only legally binded to inform buyers on the existence of potentially soil contaminant activities.

10. Does your national policy have any kind of inventories/registers? If yes, please be precise regarding which sites are registered, how the data are collected and if the databases are public.

Yes, there is a provision on waste Act to keep a national inventory of contaminated sites (only those legally declared as such). This inventory is done by means of regional authorities contributions. A Consolidation at federal level is foreseen for the end of 2013.

11. What are the strong, weak points and the major bottlenecks with respect to the current regulations in your country?

On my personal point of view:



- 1) The link among industrial classification activities and soil contamination. Industrial classification activities, which is made for statistical purposes not always describes real industrial operations/processes.
- 2) The manner how GW contamination is addressed

## **TECHNICAL ISSUES RELATED TO THE LEGAL FRAMEWORK**

12. Are there site investigation requirements?

Only in broad terms at national scale

13. Are Risk Assessment & Management the main tools?

Yes

14. Are there specific technical approaches used?

- a. For Human Health (HH), Ecosystems, Groundwater (GW), Surface waters (SW), other targets (i.e. buildings, infrastructures, ... please be precise).

Human health protection and/or ecosystem protection approach have to be settled by regional authorities prior to soil contamination declaration

- b. On a site by site specific approach, or by derivation of guideline values? If possible, please detail your answer.

Guidelines values for several substances does exist at national level for general purposes (preliminary investigations), derivation of specific values on risk basis is also permitted to assess specific cases.

- c. Do you take into consideration others sources of pollution in the risk assessment?

Yes, at national scale guideline values account for others sources and also can be when specific values are calculated

15. If the national policy uses guideline values, please be precise in describing the following points:

- a. Reasons for derivation of generic values

To streamline soil contamination management

- b. Objectives / levels of implementation (investigation, risk assessment, remediation)

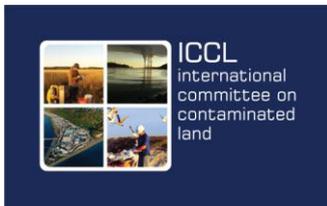
Not well understood

- c. Priority substances

Royal decree Annex V and VI (60 substances) (see references)

- d. Protocols of derivation (including acceptable risk levels used).

- 1) To choose among human health or ecosystem protection
- 2) To identify relevant exposure routes (de minimis routes are provided for several soil uses –general purposes (including orchards) ,industrial, urban-
- 3) To select and justify reference doses
- 4) To define reasonable most exposure individual exposure factors
- 5) To back-calculate soil concentrations to get allowable risk



6) To address other contaminant sources

Allowable risk: as mentioned above

16. What are the drivers for remediation?

- a. To what level is clean-up required? (i.e. acceptable risk, land use values, ...)

To acceptable risk

- b. Does your national policy use cost-benefits analysis for the choice of the remedial solution?

Not addressed at national scale

17. What are the main remediation strategies or treatment techniques used in your countries (including Natural Attenuation)?

- a. Distribution of techniques?  
b. Evolution in time?  
c. Acceptance of innovative treatment techniques?

Not addressed at national scale

18. Are you considering sustainability in the national approach?

- a. If yes, how? In particular, how the three pillars of sustainability are considered and balanced.  
b. If no, explain the reasons and the future challenges.

Not well understood

19. How does your country bridge the CLM approach with:

- a. Land planning programmes?  
b. Public health programmes (aggregation of impacts on surrounding populations)

Land developments licenses are conditioned to achieve risk levels in line with soil planned use.

## **FINANCIAL ISSUES**

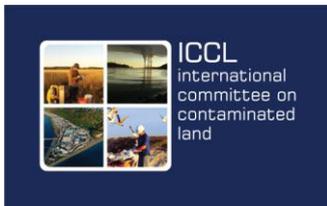
20. What are the specific practices with respect to “Orphan sites”?

Not specific prescriptions on orphan sites

21. Do you have an idea of the annual budget allocated to Soil Contamination Management?

- a. How is it divided between public, private and others?

Unless no liable part is identified or public emergency, decontamination bill is assumed by: Polluter > Land owner > Occupiers



- b. What are the main financial / funding systems in place in your country? (e.g. Financial guarantees, insurance, public – private partnerships, special foundation, industrial consortium, enforcement, ...).  
Currently does not exist special funding scheme. If soil decontamination take place in a land redevelopment operation and public investment is needed, these investments would be reimbursed to public treasure against the profits of land redevelopment.
- c. Between the different steps of management (investigation, remediation, monitoring...)?  
Not fully understood

## **ORGANISATIONAL ISSUES**

22. How are stakeholders and in particular communities involved in the approach?

23. Is there a specific approach for:

- a. Brownfields?
- b. Megasites?
- c. Widespread pollutions?
- d. Reuse of excavated soils? (e.g., in relation to their quality)

There is a draft legislative piece to regulate reuse of excavated soils in land reclamation to provide mining reclamation, site conditioning...in safe conditions

24. Does your national policy include any accreditation system for consultants or service providers? If yes, please provide some details.

Not at national scale

25. Do you have any training / capacity building programme, any management accountability and performance measurement?

No

26. How is the necessary inter-governmental coordination for CLM organized? (e.g. with Health Protection Department, with the public site owners, with state or local public sector environmental organizations, with special interest advocacy groups, )

It depends on the scale and severity of the cases

## **CRUCIAL DEVELOPMENTS IN THE FUTURE**

Are there any additional issues to be further developed in the following months/years whatever they are (Research and Development needs, organisational issues, ...)?



Unofficially or officially, do you see any opportunities for collaboration in the coming months or years that may improve overall coordination among international organizations? (e.g., conferences, workshops, international (technical or policy) initiatives, growing alliances (e.g., in support of redevelopment /reuse of contaminated lands, etc.).

Unofficially: Any kind of collaboration, if so, would performed at zero cost. Personally I would be very interested to solve the link among gw and soil contamination in the EU framework.

## ***REFERENCES***

Please give most important references (documents, website, projects, and case studies) that could be relevant for explaining your national approach

<http://www.boe.es/boe/dias/2005/01/18/pdfs/A01833-01843.pdf>