

October 2007

**EEF submission to
the DEFRA
consultation on the
proposed EU Soils
Framework Directive**

About us

EEF, the manufacturers' organisation, is a trusted partner to businesses across Britain. We have a membership of 6,000 manufacturing, engineering and technology-based businesses and represent the interests of manufacturing at all levels of government. Comprising 11 regional Associations, the Engineering Construction Industries Association (ECIA) and UK Steel, EEF is one of the UK's leading providers of business services in employment relations and employment law, health, safety and environment, manufacturing performance, and education and skills.

Executive summary

- EEF recognises the importance of soils as a valuable resource and supports efforts to ensure its sustainable use however we do not feel that the Commission's current proposal for the Soils Framework Directive, will help to deliver the desired outcomes, in particular with regards to soil contamination and remediation.
- The draft Directive in its current form is overly prescriptive and lacks proportionality, with too much focus on the identification of hazards as opposed to risks. The requirement to identify, remediate and produce a soils status report, irrespective of the real risk involved, will lead to unnecessary administrative burden and preventable costs to industry and national governments.
- The proposal does not take into account the subsidiarity principle. A Framework Directive should be concerned with setting shared environmental objectives, with flexibility left to Member States as to how these would be achieved, taking a account of potential risks related to the current or future use of the land. An overly centralised and rigid approach will hamper sustainable soil management in Member States with effectiveness national frameworks in place, such as the UK.
- The current proposal represents considerable overlap with existing EU wide and National environmental legislation. The Commission should focus on ensuring the coherence and effectiveness of current mechanisms, before proposing further measures.
- **We therefore recommend that the UK should be seeking rejection of the proposal in its current form. Any comment in this paper should be taken in this context.**

Part 1: General Questions

A) What are your views on the current level of soil protection measures in the UK considering the risks and threats faced by soils, including those identified by the Commission?

1. EEF believes that UK framework for soil protection, which has development over a number of years, is adequate to deal with the major risks and threats faced by soils.

B) If you consider these measures to be inadequate, do you believe that any gaps are best dealt with on a common basis across the EU, for example to avoid distortion in competition, or better dealt with at a domestic level?

2. As mentioned above, we believe that current measures to protect soil in the UK are adequate. There might be an argument for the need for more action in other Member States, where the national legislative framework may either be non-existing or less developed, but this should not hamper the UK's ability to work within its existing framework.
3. As such, we do not feel that an adequate case has been made for additional, prescriptive legislation at EU level. Whilst there might be a need for a greater collaboration with regards to best practice on soil protection and remediation, any common basis across Europe should be based on shared environmental objectives, with flexibility left to Member States as to how these would be achieved.

C) What, if any, gaps exist in terms of addressing soil protection at an EU level in particular the risks identified by the Commission?

4. EEF believes that soil protection is already addressed through a number of existing and forthcoming EU Directives, such as Integrated Pollution Prevention and Control (IPPC), Strategic Environmental Assessment Directive and Environmental Liability Directive (ELD) to name a few, as well national policies, particularly those related to planning decisions. It is important that these are allowed time to work in unison, before drastic changes are being considered.
5. Any gaps are more likely due to inadequate implementation or enforcement within Member States than a lack of further measures. EEF believes that the Commission should concentrate on ensuring the effectiveness of current initiatives, before proposing further measures, which could lead to greater complexity, duplication of efforts and more burdens on business, in exchange for little environmental gains.

D) Does the solution to these gaps lie in amending existing EU Directives, or in introducing a new overarching framework for soil protection?

6. EEF is not convinced that an adequate case has been made for additional, prescriptive legislation at EU level. If gaps within the current set of EU Directives relevant to soils have been identified then looking at amending current legislation to address these gaps appears to be a more cost-effective solution than introducing more legislation with potential overlap in scope.

7. Any overarching framework would need to be limited to the setting of environmental objectives, with flexibility left to Member States as to how these would be achieved. It is crucial that any new framework should not hamper the positive progress that has already been within Member States that have effective legislative frameworks in place.

E) Are there any existing EU provisions that give some protection to soils which, in your view, do not work or which could do with simplification?

8. With a number of recent additions to the suite of Directives impacting on soils priority should be given to ensuring effective implementation and enforcement of these existing policies before new proposals are considered.
9. Additionally, the ECJ ruling from the “van der Walle” case that contaminated soil is waste seems to create overlap between existing EU waste legislation and the proposed contaminated land provisions of the draft Soil Framework Directive. To this end, it is not clear whether the owner of a site of an Annex II activity would need to treat the ground as contaminated soil, or whether the site would be considered a landfill site. Ideally this overlap needs to be resolved.

F) In terms of the risks and threats identified by the Commission, how urgent are these problems? Is there sufficient evidence to tackle them now?

10. Objectives should be based on sound scientific evidence, a risk-based approach and take into account cost-effectiveness and technical feasibility. The current proposal from the Commission does not adequately take account of this, and more time should be given to collect evidence to underpin any decisions.

G) Who should bear the costs involved in any new obligations? Should we follow a polluter pays approach, a market-based system where, for example, a property developer pays the cost of remediation, or should these costs fall to taxpayers?

11. Polluter pays is a well established concept in EU and UK policy. The current focus on having costs recovered from the polluter, where possible, should remain in order to remain a deterrent to pollution. The current owner is not always the polluter. This requires the system to be administered in a fair and equitable manner.

Part 2: Consultation Questions

Chapter I: GENERAL PROVISIONS

Article 1: Subject Matter and Scope

Q.1 What are your views on the scope of the proposed Directive, in particular the definition of soil and the soil functions which are listed?

12. EEF supports the Commission's view that soil represents a valuable resource and support efforts to safeguard its function, where this is cost-effective, technically feasible and environmentally and socially beneficial.
13. However, it is important to note that soil does not necessarily exhibit all of its potential functions at every location and nor is it appropriate for it to do so. For example, areas set aside for industrial development require different functionality than an agricultural soil. Efforts to protect soil functionality therefore need to take account of risk in relation to the current or future use of the site, ensuring that functionality is fit-for-purpose, rather than cover the whole range listed here.
14. The current definition of soil degradation appears to include damage caused not only by human activity, but also natural causes. EEF questions the practicality of this and believes that this requires more clarification.

[see also our response to question 3].

Q.2 Do you think the proposed Directive seeks the right level of protection for our soils?

15. We believe that the current proposal is disproportionate to the risk involved and overly prescriptive. Whilst briefly acknowledging the existence of other European and National legislation impacting on soil, the draft Directive does not ensure that these are adequately taken into account. This will lead to duplication of efforts and unnecessary burden on industry, in exchange for little environmental gains.
16. There may be an argument for the need for more action in other Member States, where the national legislative framework may either be non-existing or less developed, but this should not hamper the UK's ability to work within its existing framework. However, any overarching framework would need to be limited to the setting of environmental objectives, with flexibility left to Member States as to how these would be achieved.

Q.3 Do you think it is important for Member States to address natural degradation as well as that caused by human activity?

17. We agree that the loss of valuable soil should be limited where possible in line with risk-based principles. However, we are not convinced that natural degradation should be covered by this Directive in the same way as that caused by human activity. Instead Member States should be free to address natural degradation as part of their national or regional strategies.

Article 2: Definitions**Q.4 Do you have any comments on these definitions? Do you think it is important to clarify any other terms in the proposed Directive?**

18. We believe that all definitions relevant to the draft Soils Directive should be kept under one Article. At present, soils and soil degradation are defined in Article 1, whilst contaminated sites are defined in Article 10. In addition, we believe that 'remediation' and 'priority areas' should be defined here.

19. EEF is concerned about the current definition of sealing and its potential impact on industry, where 'covering of soil surface with an impermeable material' might be necessary to achieving environmental outcomes.

[see also our response to questions 10-13]

Article 3: Integration**Q.5 Do you consider there is a significant benefit in expanding the duty, as provided by the proposed Directive, to carry out an environmental assessment in so far as soil is concerned, so that it covers all other sectoral policies which may have a significant impact on soil? If so, which particular sectors of policy do you think impact on soil and need to be covered? And what are your views on leaving out the duty to consult in relation to these additional sectors?**

20. We agree that a holistic view should be taken when environmental assessments are carried out, ensuring that environmental impacts to all media (e.g. air, water and soil) are taken into account. However, we believe that the existing Strategic Environmental Assessment (SEA) Directive and Environmental Impact Assessment (EIA) Directive as well the Integrated Pollution and Prevention Control (IPPC) Directive adequately cover these. We believe that expanding the duty as suggested by the draft Directive would lead to inconsistency, duplication, greater complexity and ultimately more burden on industry and governments.

Q.6 What are your views on how this provision could be improved, for example, should it instead only refer to the SEA Directive in the recitals and include this additional duty in respect of soils only in respect of policies not already covered by the SEA Directive?

21. EEF agrees that, should the proposal go ahead, it should be made clear in the recitals and scope that it only applies in respect of policies not covered by other Community or National legislation.

Article 4: Precautionary measures**Q.7 There are a number of ways in which this proposed Article could be adapted. Please let us have your views on how this provision could be amended.**

22. We believe that any precautionary measure should be proportionate to the risk involved. It is not clear how this proposal links to other Articles within the draft Directive, in particular Articles 5 and 9. At present, the scope of Article 4

is very wide and the potential impact of this proposal on industry could be significant, in exchange for little environmental gains.

23. We support the notion of a de-minimus provision, however, this should not be limited to areas of land affected but should also be linked to the risk the operation might pose to the environment or human health

Q.8 What activities, which are not already regulated in the UK, if any, do you consider may have a significant adverse impact on soils?

24. We believe that industry's activities impacting on soils which have the potential to pose significant risks to human health or the environment are adequately controlled in the UK.

Q.9 Do you have any comments on the issues raised, and on our initial analysis of costs and benefits?

25. EEF agrees that there is a need for greater clarity with regards to the scope and detailed requirements of Article 4. Depending on what exactly it means and whether it requires additional measure to what is already in place (EIA, IPPC) costs could be substantial to government and industry.

Article 5- Soil Sealing

Q.10 Do you consider there to be significant benefits in having new EC legislation that deals with soil sealing? If so, what are the benefits and do they in your view exceed the potential costs?

26. We agree that in some cases limiting soil sealing might be necessary to protect important soil function, for example its ability to store water in areas at risk from floods, however this is already adequately covered in EU legislation such as the Water Framework Directive, the forthcoming Floods Directive and UK land use and planning policies. We therefore do not see any benefits in introducing a further European requirement on this and believe that it should be left to Member States to decide how to manage this.
27. A direct link between soil function and construction techniques appear over simplistic and does not reflect soils dynamic nature. In many cases covering soil with an impermeable surface is necessary to achieve environmental outcomes, such as avoiding contaminants to enter the soil system.

Q.11 Do you think there would be value in amending the draft Directive for a range of options?

28. We agree that Member States should be considering potential negative impacts brought on by soil sealing as part of their overall consideration of a proposed development's environmental, social and economic impacts. However, the Environmental Impact Assessment Directive (EIA) already requires Member States to identify aspects of the environment likely to be significantly affected by the proposed project, including soil, and consider likely significant impacts the project might have on it. The proposed Article 5 would duplicate this.
29. We agree that, should the Article remain, exceptions to the requirement to limit soil sealing should exist, as discussed in our response to question 10.

Q.12 What are your views on amending this provision so that it only requires mitigation of new soil sealing through use of permeable construction materials?

30. We do not agree that there is a need for a European requirement to limit soil sealing as proposed in the draft Directive. Whilst there might be a need for greater collaboration with regards to best practice on soil sealing technology, any common basis across Europe should be based on shared environmental objectives, with flexibility left to Member States as to how these would be achieved.

Q.13 Do you agree with our concerns and our assessment of the costs and benefits as set out in our initial RIA?

31. EEF agrees with the assessment set out in the consultation.

CHAPTER II: RISK PREVENTION, MITIGATION AND RESTORATION

Articles 6 and 7: Identification of risk areas and methodology

Q.14 Do you consider that this risk-area/programme of measures approach is appropriate? How do you consider that this provision could be improved, for example, what are your views on requiring Member States to put in place programmes of measures to address degradation processes with an adequate focus on higher risk areas and higher risk activities (but without requiring formal identification of risk areas) or requiring more clearly harmonised standards?

32. We believe that the proposal is overly prescriptive and very onerous for Member States to implement. At present, the definition of a 'risk area' is not very clear and could potentially lead to years of testing with no environmental gain. There needs to be a greater focus on adopting a goal-orientated approach, with emphasis on identifying significant or unacceptable risks (taking into account existing pathways and the presence of a receptor), and not hazards.

Q.15 Is there a significant benefit, in your view, in having a common EU-wide framework in place?

33. EEF does not believe that there is significant benefit in having a prescriptive EU framework on this in place, other than to set shared environmental objectives. Member States should be allowed to retain their existing national approaches to identify risk areas, with the EU setting guidelines which allow for local variation.

Q.16 Do you consider that the correct degradation processes have been listed for the purpose of identifying risk areas? What are your views on seeking to have compaction removed from this list so that it is dealt with only under the proposed Article 4?

34. When talking about degradation processes, it is important to distinguish between natural and anthropogenic degradation of soils.

35. We support the proposal to remove compaction from the list of degradation processes, as this is already covered under existing legislation and under the new Article 5 on soil sealing.

Q.17 Do you consider that the definitions of soil erosion, soil carbon and the other degradation processes are correct considering the range of soil functions which the proposed Directive seeks to protect?

36. We have no comment on the appropriateness of these definitions however we question why these are not under Article 2, with the rest of the definitions.

Q.18 What are your views on the inclusion of salinisation as a threat – do you consider that it should be defined to exclude managed retreat?

37. Salinisation is not a major issue in the UK. We agree that if it was to be included it should be defined to exclude managed retreat.

Q.19 If the proposed Directive were to require detailed risk-mapping, is it important for it to require Member States to use all the Annex I factors or could the methodology be left to individual Member States?

38. In order to ensure that environmental benefits are achieved in the most cost-effective way, we believe that the methodology should be left to Member states. Requiring changes to established UK technical practice could be very costly and would not be in line with a risk based approach.

Q.20 Do you agree with our concerns and our estimate of the costs and benefits of this provision?

39. EEF cannot see any major benefits of this provision and agrees that it would lead to significant disproportionate costs.

Article 8: Programme of measures

Q.21 How important do you think it is for us to be permitted to continue to use existing CAP measures to deliver the required Programme of Measures? Do you think such existing measures in their current form are adequate for addressing soils issues in high risk areas?

40. EEF has no comment on this.

Q.22 Would you like the Government to be able to use a range of measures, from guidance and codes of practice to regulations, to implement this proposed Article?

41. EEF supports the voluntary approach as is currently encouraged under the UK's existing contaminated land regime and would hope to see government continue to use such measures.

Q.23 Do you agree with our concerns and our estimate of costs and benefits?

42. We agree with the rough costs and benefits identified in the initial RIA. Government should have a closer look at potential additional administrative burden, which are more difficult to assess. Particular emphasis should also be given to potential burdens on SMEs.

CHAPTER III: SOIL CONTAMINATION

43. EEF does not believe that there are any benefits in having the provisions set out in Chapter III, and therefore supports rejection of the whole Chapter. Should the Chapter remain in future drafts of the Directive, an in-depth review and reformulation of the whole Chapter is needed to ensure the provisions are workable and do not pose undue burden on national governments and industry.

Article 9: prevention of soil contamination

Q.24 Are there any benefits in having this provision?

44. EEF does not believe that there are any benefits in having this provision. The Environmental Liability Directive, the Waste Framework and Landfill Directives and the Integrated Pollution Prevention and Control Directive already address prevention of potential soil pollution, and where contamination occurs requires its remediation.

Q.25 How do you think this proposed Article could be amended to improve it?

45. In case of this Article remaining, it needs to make clear that it does not apply to installations meeting the requirements of the IPPC Directive, which provides adequate provisions to prevent soil contamination.

Article 10 and 11: Inventory of contaminated sites and identification procedure

Q.26 Do you agree with the costs and benefits identified in our preliminary analysis? How do you think the proposed Directive could be amended to reduce the costs involved whilst achieving the same benefits?

46. EEF believe that depending on the prescriptiveness of the final text, the costs associated with this provision could be higher. For example, the general publication and period review of the inventory requires substantial bureaucratic efforts. Also placing a site on an inventory automatically following the risk assessment, could discourage voluntary action by owners. Instead a site should only be included on the inventory where the responsible person is unwilling to remediate within a given timescale. Finally, it should be explicitly stated that a site would be removed from the inventory once remediation has taken place.

47. By not having a goal-orientated, risk-based approach this provision could lead to significant unnecessary burdens on business, in exchange for little environmental gains, which goes against in any principle of better regulation.

48. Amended the Article so that the overall objective is kept but with the exact methodology left to members states would reduce costs whilst achieving the same benefits. Actions should be prioritised based on identification of significant risks, not hazards, in order to avoid excessive costs, and voluntary action should be encouraged not discouraged.

Q.27 Should the proposed Directive enable Member States to retain their existing national approaches to the identification of contaminated land,

provided these deliver some basic common requirements, or should they be required to follow a common detailed procedure? If so, what are the basic common requirements that can in your view reasonably be included in the proposed Directive?

49. EEF strongly supports Member States to retain their existing national approaches to identification of contaminated land, with the Commission setting some high-level guidelines based on risk, which take into account local variation.

Q.28 What are your views on the Commission's definition of contaminated sites? Is it appropriate?

50. EEF believe that the Commission's definition is overly precautionary and not risk-based. A 'confirmed presence, caused by man, of dangerous substances' is not enough to identify areas that pose a significant risk to human health or the environment. The existence of at least a significant risk, through the existence of a clear pollution-pathway-receptor relationship taking into account the current or future use of the site, should be the main evaluation criteria.

Q.29 What are your views on the list of potentially polluting activities set out in Annex II?

51. EEF strongly opposes the inclusion of Annex II in the Directive.

52. Whilst the activities listed in Annex II may have the potential to pollute soil, this should not be seen as there being a strong likelihood that pollution has taken place or is going to take place. Those with environmental permits in place are singled out as a source of contamination. IPPC activities, for example, already have to comply with soils protection measures, including measures to prevent soil contamination. Each site is assessed individually on its potential impact on the environment, including soil, before a permit is granted and conditions are applied to the surrender of permit to ensure that environmental conditions are met when an operation ceases.

53. Former military sites are undefined and without adequate definition this could unnecessarily blight a wide variety of sites. For example, archaeological excavations, heritage sites, such as castles, former battlefields and a wide variety of other historic buildings/sites could therefore be automatically classed as potentially contaminated. The use of "former" also precludes existing military sites.

54. Additionally, there are a wide variety of activities not covered by Annex II, which could also cause land contamination, including activities that are not regulated because they fall below thresholds set out under IPPC or Seveso. Therefore activities such as oil storage, fly-tipping/illegal waste operations do not appear to be covered. In this respect, Annex II appears to be a narrow pre-defined list focused on hazards rather than a more flexible risk based regime such as exists in the UK.

55. Finally, the Directives specified in Annex II are relatively recent. How does the EU intend to address historic activities/contaminated sites that ceased operation prior to these directives being implemented and may in any case not have fitted easily into one of the current activity descriptions?

56. This provision will lead to unnecessary costs and red tape, whilst investigations carried out irrespective of concrete evidence, would not lead to increased environmental protection.

Q.30 Do you consider that it is necessary to test for dangerous substances at all sites on which potentially polluting activities have taken place or do you think testing should be targeted based on a risk assessment?

57. As mentioned above we strongly believe that any sampling programmes should be firmly based on risk. Testing all sites 'where a potentially polluting activity' is taking or has taken place would lead to significant costs and should not be borne by industry.

58. The Directive should encourage a risk based approach, where sampling should only occur if there is clear evidence that soil functions are significantly hampered or that there is risk to human health or the environment on a particular site.

Q.31 Do you think the timescales given in the draft Directive for compiling and reviewing the inventory are reasonable?

59. We believe that the timescales given in the draft Directive are too short. The provision needs to fit in with existing National systems, so as to avoid unnecessary costs.

60. The requirement to periodically review, rather than update the inventory appears overly onerous. Instead the inventory should only be updated if there is a change. EEF recommend that there should be a clear statement in the Directive that states, once a site has been remediated, it would be removed from the inventory.

Q.32 How do you think this requirement will affect land values?

61. We believe that this requirement will have a significant impact on land value. Being on the list alone and thereby under suspicion of soil contamination would have a negative impact on land prices, and discourage the remediation and reuse of brownfield sites. Consequently, greater pressure could be placed on undeveloped greenfield sites for new developments, which is seemingly at odds with the intent of Article 5 of the proposed Directive to minimise more land being subjected to soil sealing.

62. The label of 'contaminated site' should only apply to sites where there is evidence of significant risks, allowing the responsible person to remediate within a given timescale, after which the site will lose its label.

Article 12: Soil Status Report

Q.33 How do you think this provision could best be amended to minimise any possible negative impacts that this Article may have in Great Britain?

63. EEF opposes the provision of a soil status report for sites on the inventory which is made public. We agree that owners of the land should make prospective buyers aware of the soil status where this is appropriate. However, information regarding the sale of a site is subject to private law and

should not be required to be made public, but instead be restricted to the parties involved in the sale of the site.

64. Installations that fall under IPPC already have to produce reports on baseline conditions prior to operating and at the time of surrendering PPC permits in the UK. The soil status report would therefore appear to be an area of overlap with these existing provisions.
65. EEF therefore supports deletion of this provision from the draft Directive.

Q.34 What are your views on the costs and benefits of this provision? What effect do you think this will have on land prices?

66. The requirement to produce a soils status would result in high and unnecessary costs to industry, even if the site turns out not to be contaminated. This contradicts the polluter-pays-principle as well as better regulation principles.
67. As mentioned above [see our response to question 32] the stigmatisation of sites could have the unintended consequence that brownfield areas cannot be sold and greenfield sites are claimed for developments instead.

Q.35 What do you think are the public health/environmental benefits of the requirement to produce Soil Status Reports? Do you consider that they will benefit business activity?

68. We cannot see any benefits to public health, the environment or business activity of this requirement in this country. There maybe advantages in this when buying property in countries with no existing legislation on contaminated land, however this should not hinder activities in Member States that have effective national systems in place.
69. This requirement places a particular undue burden on small and medium sized enterprises who generally lack the resources to undertake something as onerous as a soils status report.

Article 13 and 14: remediation

Q.36 Do you agree that contaminated sites as defined should be remediated? Do you think these provisions could be amended to make them more proportionate? If so, how?

70. EEF does not agree that all contaminated sites, as defined in Article 10, should have to be remediated, irrespective of their risk to the environment or human health. Before any action is taken, there needs to be evidence of a) the presence of pollutants that have the potential to do significant harm, and b) a clear source-pathway-receptor-linkage, taking into account the current and future approved use of the site.

Q.37 Should this provision be aligned with existing European Directives so that where they apply, those Directives' arrangements concerning remedies will operate as now?

71. It is crucial that the provision, should it remain, is aligned with existing Directives such as ELD, IPPC, Waste Directives and the Groundwater Directive, to prevent duplication of effort and conflicting objectives.

Q.38 Do you agree with the costs and benefits identified in our preliminary analysis? How do you consider these costs could be reduced whilst achieving the same or similar benefits?

72. The costs are likely to be substantial and considering the full extent of the provisions is still unclear they could well be underestimated. For example, the cost benefit analysis of soil remediation (especially to landfill) may not give full consideration to the health & safety aspects of such remediation, in terms of increased risk of injury/accidents due to increased vehicle loads when moving the soil, or to the environmental impact, in terms of increased transport emissions. Sometimes managing the pathway or receptor of soil pollution is the more sustainable option, than remediating contaminated soil irrespective of the risks involved.

73. The potential impact on SMEs must be given particular consideration.

Q.39 What are your views on requiring Member States to put in place appropriate mechanisms to fund remediation of orphan sites?

74. Remediation should only take place if there is a real risk to human health or the environment and where the future use of the site requires it. Remediation of soil contamination is a local issue and it should therefore be left to Member States to decide how remediation of orphan sites would be paid for.

Q.40 What are your views on requiring Member States to have a public 'National Remediation Strategy' in place? Do you think this will affect existing national approaches such as remediation by developers?

75. Soil contamination is a local issue and a requirement for a National Remediation Strategy is therefore unnecessary, and out of proportion. Instead it should be left for Member States to decide how this is taken forward at regional level, through for example planning strategies.

CHAPTER 4: AWARENESS RISING, REPORTING

Article 15: Awareness raising and public participation

Q.41 Do you agree with our concerns and the costs and benefits identified?

76. We agree that this could be cumbersome and expensive for governments, however it is important that government targets the right audience for this to ensure participation and costs will vary accordingly.

Q.42 What are your views on this provision (Article 15) and how could it be improved?

77. We agree that it is important to raise awareness about the importance of the sustainable use of soil. In the UK, progress has already been made in this area under the Soils Action Plan.

Article 16: Reporting

Q.43 What are your views on this provision (Article 16) and how could it be improved?

78. We believe that reporting should be limited to a meaningful and necessary minimum and should only be required when changes occur. The requirement to periodically report will place undue burden on Member States and industry.

Article 17: Exchange of Information

Q.44 Do you consider that this platform for the exchange of information would be useful for the Government and stakeholders?

79. We agree that the exchange of information, in particular on best practice, is important however it is not clear what benefit this prescriptive requirement would bring to government or stakeholders. We would urge the Commission to undertake a cost-benefit analysis of this proposal before taking this forward.

Q.45 Is this too narrow a range of information? If so, what else should be included?

80. EEF has no comment on this question.

Articles 18-24: final provisions

Q.46 What are your views on these provisions (Articles 18-24)?

81. We have concerned about use of a committee, nominated by Member States, to determine common criteria for soil contamination risk assessment. We expect that industry experts are fully involved with this in cooperation with the Commission and in consultation with stakeholders.

82. EEF support the government's drive for better regulation and simplification. Our members are keen to see increased effectiveness in regulation and a reduction in the administrative burdens placed on businesses, and we therefore expect to see any penalties to adhere to Hampton and Macrory principles.

83. We agree that any proposal to change the Environmental Liability Directive should be carefully assessed so as to avoid causing delay and extra administrative costs during implementation.

84. We agree with the statement in the consultation documents that 24 months are a very short time frame for implementation of the proposed Directive in its current form.

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