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**Public Consultation on the future EU Initiative on No Net Loss of Biodiversity and Ecosystem Services**

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**Scope and Objectives of the future EU No Net Loss initiative**

**Question 1: The future EU initiative on No Net Loss will cover the following causes of biodiversity loss: land-use change, over-exploitation of natural resources and diffuse pollution to water and soil.**

**Response (single choice reply, compulsory):** I disagree strongly

**Question 2: You are invited to explain your answer to the previous question**

**Response (open reply, optional):**

Exclusion of climate change as a driver is based on the argument that international mitigation discussions are underway, and so the inclusion of climate change within the scope of the future No Net Loss (NNL) will have no positive benefits in halting biodiversity loss. This assumes that mitigation is the only biodiversity-related response to climate change. However, the integration of climate change adaptation into biodiversity conservation actions is a significant gap which should be considered within any NNLI. It could be central to maintaining biodiversity in, for example, protected area networks. On this basis, the exclusion of climate change as a driver should be reconsidered.

**Question 3: The future EU initiative on No Net Loss will focus on territory outside the Natura 2000 network.**

**Response (single choice reply, compulsory):** I agree

**Question 4: You are invited to explain your answer to the previous question**

**Response (open reply, optional):**

We agree that the focus should be on unprotected sites, so long as the current Fitness Check of the N2K legislation maintains the commitment to no net loss within the Natura framework. We are not sure the extent to which the Fitness Check might threaten this.

**Question 5: Do you think that the future EU initiative on No Net Loss should, in the first instance, cover the terrestrial environment and subsequently be extended to cover the marine environment, or should the initiative cover, from the start, both the terrestrial and the marine environment?**

**Response (single choice reply, compulsory):**

The terrestrial environment AND the marine environment from the start

**Question 6: Agriculture**

**Response (single choice reply, compulsory):** Very important

**Question 7: Built development (public and private)**

**Response (single choice reply, compulsory):** Very important

**Question 8: Energy infrastructure**

**Response (single choice reply, compulsory):** Very important

**Question 9: Extractive industries**

**Response (single choice reply, compulsory):** Very important

**Question 10: Fisheries and aquaculture**

**Response (single choice reply, compulsory):** Very important

**Question 11: Forestry**

**Response (single choice reply, compulsory):** important

**Question 12: Transport infrastructure**

**Response (single choice reply, compulsory):** Important

**Question 13: Other sectors (provide details in the question below)**

**Response (single choice reply, compulsory):** No opinion

**Question 14: You are invited to explain your answers to the previous question including the identification of sectors that you had in mind if you indicated that "other sectors" were "very important" or "important."**

**Response (open reply, optional):**

All of the sectors listed are either 'very important' or 'important' to the topic of NNL. The magnitude and nature of footprints will differ between sectors and within sectors. It should be recognised that,

in some geographic areas, different sectors could be associated with each other (e.g. energy infrastructure in sites of extractive industries as part of post operation and new uses of the land; energy infrastructures in forest areas - wind energy in forests).

**The mitigation hierarchy including compensation and offsetting**

**Question 15: What is your opinion concerning the following statement – ‘the correct application of the mitigation hierarchy is essential if No Net Loss of biodiversity and ecosystem services is to be achieved’?**

**Response (single choice reply, compulsory):** I agree

**Question 16: Some stakeholders, while supporting the mitigation hierarchy in principle, are concerned that in practice the steps in the sequence will not be respected and that efforts to avoid, reduce and restore will be put aside in favour of compensation/offsetting. In your opinion, should the future EU initiative on No Net Loss of biodiversity and ecosystem services, address compensation/offsetting OR should this be excluded.**

**Response (single choice reply, compulsory):**

The future EU initiative should include compensation/offsetting on condition that strict measures and robust safeguards are in place to avoid abuses.

**Question 17: You are invited to provide an explanation of your answer to the previous question**

**Response (open reply, optional):**

Compensation/off-setting should be included as human interventions will occur and it would be naive to assume that interventions with a permanent negative impact will not happen just because there is no off-setting option in the initiative. However, we agree that strict measures need to be in place, and a major challenge for the initiative will be developing a scheme for determining adequate off-setting that is agreed to by the vast majority of stakeholders (including conservation NGOs).

**Question 18: How well do you think the mitigation hierarchy is built into existing EU legislation and policies?**

**Response (single choice reply, optional):** Not very well

**Question 19: Please provide an explanation of your response to the previous question**

**Response (open reply, optional):**

From a biodiversity perspective, it is not clear and explicit in the legislation, and does not have a wide application in any of the existing directives (they were never developed with this hierarchy in mind). Therefore, some form of retro-fitting will be required to enable it to be implemented across the board, otherwise at best it will be ineffective and at worst it could be abused.

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**Question 20: Enhancing the scope and strengthening the implementation of the Environmental Liability Directive**

**Response (single choice reply, optional):** Neutral

**Question 21: Strengthening the EIA Directive and improving its implementation**

**Response (single choice reply, optional):** Neutral

**Question 22: Strengthening the SEA Directive and improving its implementation**

**Response (single choice reply, optional):** Neutral

**Question 23: Improving spatial planning in the terrestrial, coastal and marine environments**

**Response (single choice reply, optional):** Support the inclusion of this measure as part of the initiative

**Question 24: Enhancing the mainstreaming of environmental measures in the CAP so as to better protect semi-natural areas**

**Response (single choice reply, optional):** Support the inclusion of this measure as part of the initiative

**Question 24: Addressing NNL objectives in the context of the EU Forest Strategy**

**Response (single choice reply, optional):** Neutral

**Question 25: Biodiversity proofing of the EU budget**

**Response (single choice reply, optional):** Strongly support the inclusion of this measure as part of the initiative

**Question 26: Developing a voluntary EU framework for compensation/offsetting including technical guidelines and benchmarking good practice**

**Response (single choice reply, optional):** Neutral

**Question 27: Developing a legal framework at EU level for compensation/offsetting including general principles and common standards**

**Response (single choice reply, optional):** Strongly support the inclusion of this measure as part of the initiative

**Question 28: Promoting the use of market instruments to support the NNL objective including a possible “No Net Loss” label**

**Response (single choice reply, optional):** Support the inclusion of this measure as part of the initiative

**Question 29: Can you suggest other measures in addition to those identified in the previous question that would be important to include in the future EU NNL initiative?**

**Response (open reply, optional):**

Resolution of the measures linked to the protection of soil, otherwise the NNL will be difficult to implement or, at worst, there will be increased risk to soil resources across the EU. Why are GAEC soil measures not included in the measures, as these already address some of the aims of NLL?

**Question 30: Take steps to improve the effectiveness of the existing legislation and policies including through better enforcement, increasing awareness and technical guidelines.**

**Response (single choice reply, compulsory):** Essential to be included

**Question 31: Reviewing and where appropriate revising existing pieces of environmental legislation to ensure that the principle of No Net Loss of Biodiversity and Ecosystems is respected and that the mitigation hierarchy is properly integrated**

**Response (single choice reply, compulsory):** Essential to be included

**Question 32: Ensure that policies and actions supported by EU funds respect the principle of No Net Loss and apply the mitigation hierarchy appropriately.**

**Response (single choice reply, compulsory):** Essential to be included

**Question 34: A framework at EU level to promote the coherent and consistent use of compensation/offsetting, including technical guidance and benchmarking best practice**

**Response (single choice reply, compulsory):** Essential to be included

**Question 35: Other measures (see below):**

**Response (single choice reply, optional):** Desirable to be included

**Question 36: If, in answering the previous question, you indicated that "other measures" were either "essential to be included" OR "desirable to be included" you are invited to provide further details regarding what those measures are.**

**Response (open reply, optional):**

Lack of enforcement of existing legislation relating to biodiversity is a major problem. It depends what is meant by environmental legislation. Other key legislation should also have the same action applied, e.g. energy, transport, agriculture, as problems with design or enforcement may not be those relating to biodiversity legislation.

**Addressing the challenges of compensation/offsetting**

**Question 37: Compensation/offsetting measures can be carried out at, or in close proximity to, the site where the damage took place. This is so called "on site" compensation/offsetting. In some cases compensation/offsetting is done at another location, away from the site where the damage occurred. This is so called "off-site" compensation/offsetting. We would like to get your opinion regarding "on-site" vs "off-site" compensation/offsetting.**

**Response (single choice reply, compulsory):**

The choice of on-site vs offsite compensation/offsetting should be made on a case by case basis with a view to achieving the best outcomes for biodiversity and ecosystem services.

**Question 38: Compensation/Offsetting can be designed to replace the biodiversity and the ecosystem services that are lost with the same kind of biodiversity and the same ecosystem services. This type of compensation/offsetting is referred to as "like for like". In other cases, the biodiversity and/or ecosystem services that are lost are replaced with biodiversity of a higher value and/or critical/priority ecosystem services although in such cases the area of land dedicated to the compensation/offset may be less than the area of the land where the damage occurred. This type of compensation/offsetting is referred to as "trading up". We would like to get your opinion concerning "like for like" vs "trading up"**

**Response (single choice reply, compulsory):**

"Like for like" compensation/ offsetting is always the preferred approach but "trading up" can be considered if there is convincing evidence that this would provide a better outcome for biodiversity and ecosystem services.

**Question 39: Making sure that the compensation/offset is additional and that it represents a gain in biodiversity and/or ecosystem services that would not have happened without the compensation/offset. This is known as 'additionality'.**

**Response (single choice reply, compulsory):** Very important

**Question 40: Securing the compensation/offset over time and making sure that the compensation/offset is protected and managed appropriately.**

**Response (single choice reply, compulsory):** Important

**Question 41: Putting in place appropriate measures to monitor the compensation/offset and to enforce compliance with the conditions under which the compensation/offset is established.**

**Response (single choice reply, compulsory):** Very important

**Question 42: The possibility of using compensation/offsetting measures strategically (e.g. pooling compensation/offsetting obligations linked to several different projects) in the framework of co-**

**ordinated spatial planning in order to optimize the outcomes for biodiversity and ecosystem services.**

**Response (single choice reply, compulsory):** Important

**Question 43: In order to provide compensation/offsets you need to understand what is going to be lost in terms of biodiversity and ecosystem services and you need to assess what will be gained by the compensation/offset. In this way you can make sure that the gain represented by the compensation/offset is at least equivalent to what is going to be lost. In this question we are asking for your opinion on how to assess losses and how to assess the value of the compensation/offset.**

**Response (single choice reply, compulsory):** The type of assessment that is appropriate should be determined in a flexible manner taking into account the complexity, the scale and the type of biodiversity and ecosystem services that are likely to be affected.

**Question 44: There should be a proportionate approach to metrics, with more streamlined procedures and simpler baseline studies and metrics for impacts that are low level, or which only affect widespread biodiversity and non-critical ecosystem services, but detailed, full assessments and metrics for more significant impacts.**

**Response (single choice reply, optional):** I agree

**Question 45: Compensation/Offsets should preferably be in place before the impact occurs, but if this is not possible, the issue of time preferences can be integrated into the metrics which are used to discount future benefits.**

**Response (single choice reply, optional):** Neutral

**Question 46: For non-threatened/common biodiversity, compensation in the form of payments into a trust fund (fee 'in lieu') could be allowed.**

**Response (single choice reply, optional):** I disagree

**Question 47: In relation to the location of compensation/offsets which take place off-site, "service areas" could be designated on a bio-geographic basis in which compensation/offsets could be implemented.**

**Response (single choice reply, optional):** I agree

**Question 48: Compensation/Offsets can take quite a lot of time and resources to implement and therefore it may not be appropriate to require compensation/offsetting in cases where the impacts on biodiversity and/or ecosystem services are comparatively trivial and for this reason a threshold could be applied such that impacts below the threshold would not be subject to compensation/offsetting**

**Response (single choice reply, optional):** I disagree strongly

**Question 49: Are there any other issues concerning compensation/offsetting that are not covered by the preceding questions in this section and which you consider should be taken into account?**

**Response (open reply, optional):** No response provided

**Question 50: Which national (voluntary or mandatory) measures on compensation/offsets are you aware of and how effective are they (excluding national measures transposing the requirements of the Habitats Directive and the Environmental Liability Directive)?**

**Response (open reply, optional):** No response provided

### **Closing questions**

**Question 51: Do you have additional comments that you would like to make concerning the development of the No Net Loss initiative?**

**Response (open reply, optional):**

- a) The Birds/Habitats Directives should not be omitted from discussions of an NNL initiative.
- b) What happens in protected areas is strongly linked to biodiversity conservation in the rest of the landscape.
- c) Without a strong regulatory framework, NNL will not deliver improved biodiversity and associated benefits, or it could lead to unintended outcomes.
- d) The definition of key concepts needs to be a consensus of all interested parties.
- e) The underlying assumption is that the tools and understanding exists to deliver on the aims for biodiversity. However, that would be incorrect and there is a risk that oversimplifying metrics and trading schemes will be used, which in the long term, fail to maintain biodiversity.

**Question 52: Do you have any comments you would like to make concerning the consultation and the questionnaire?**

**Response (open reply, optional):** No response provided

**Question 53: Do you accept to be contacted by the Commission in the event that further details concerning your replies would be helpful?**

**Response (single choice reply, compulsory):** Yes