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MEETING DOCUMENT

From:	General Secretariat of the Council
To:	Working Party on the Environment
Subject:	Nature Restoration Regulation: WPE on 13 February 2023 – Presidency Steering Note

Delegations will find attached a steering note prepared by the Presidency with a view to the meeting of the Working Party on the Environment on 13 February 2023.



Presidency Steering note

Meeting of the Working Party for Environment - 13 February 2022 – Nature Restoration Regulation

The Presidency has prepared this steering note to guide discussions at the WPE meeting on 13 February, focusing on Chapter I (Article 1), Chapter II (Articles 7, 9, 10) Chapter III (Article), Chapter III (Article 16) and Chapter V (Articles 19-21). This steering note has been prepared based on previous comments from Member States and discussions in the WPE and at the Environment Council of 20 December.

New changes build upon and are made to the CZ Presidency's compromise text (Rev 1) on Articles 1-10 (document 14884/22, of 18 November 2022) and are identified in track-changes.

In Rev 1, a change from 3- to 5-years measuring interval was proposed for the indicators in Articles 8(1), 9(2) and 10(2). Since the issue of measuring intervals is closely linked to discussions on monitoring and reporting intervals, this issue is not proposed to be discussed at the WPE meeting on 13 February.

Pending consultations between the Legal Services of the two institutions, further information regarding Article 6 might be presented.

The Presidency invites delegations to send written comments and drafting proposals related to Articles 1, 7, 9, 10, 19, 20 and 21 shortly after the WPE meeting, with the deadline of 14 February COB.

Subject matter of the NRL (Article 1)

Reference to land degradation (Article 1(1)(b))

In Rev 1, the proposed addition of “Land degradation neutrality” in Article 1(1)(b) met mixed reactions from Member States. While most Member States supported the addition of a reference to land degradation as such, some Member States expressed doubts regarding the specific reference to the neutrality objective. The Presidency notes that the concept of land degradation neutrality stems from the *United Nations Convention to Combat Desertification* (UNCCD), to which the EU is a Party. Furthermore, land degradation neutrality is included as a target in Agenda 2030 (target 15.3). As there are currently no other objectives specifically referring to land degradation within the EU, the Presidency proposes to keep the reference to land degradation *neutrality*, as proposed in the Rev 1.

Amendments to Article 1(2)

The Presidency notes general support from Member States regarding the Rev 1 amendments to Article 1(2), clarifying that the 20% overall restoration target to 2030 shall be applied to land and sea areas separately.

To conclude, the Presidency does not propose any further amendments to Article 1.

For discussion:

- Do you have any objections to or comments on the Presidency’s proposals to keep the wording from Rev 1 in Article 1?

Restoration of the natural connectivity of rivers and natural functions of the related floodplains (Articles 7, 3(14bis) and Recital 45)

Vertical connectivity (Articles 7(1), 7(2) and 3(14bis))

Several Member States have proposed that vertical connectivity should be included in the concept of connectivity of rivers in Article 7, with reference to the importance of connection between surface and ground water and its role for terrestrial ecosystems. Some Member States have argued that the

addition of vertical connectivity would increase the level of ambition and make the targets in Article 7 hard to achieve.

The Presidency perceives that a majority of Member States support the inclusion of vertical connectivity in the scope of Article 7. However, the Presidency also notes that while article 7(1) and 7(2) focus on identification and removal of artificial barriers, vertical connectivity is to a large degree dependent on natural processes (erosion and sedimentation) that are often affected by other factors than such barriers. To the extent that artificial structures do hinder vertical connectivity of rivers, the Presidency considers it appropriate that they are covered by the scope of Article 7. To achieve this, the Presidency proposes to amend the definition of Free flowing rivers in Article 3(14bis), while making a more general reference to barriers to connectivity in articles 7(1) and 7(2), and in Recital 45.

Definitions related to barriers and free flowing rivers (Article 3)

Several Member States have proposed adding new definitions related to Article 7, and/or proposed extended definitions as well as additions that further exemplify the term “obsolete barriers” used in Article 7(2).

The Presidency notes that there is ongoing work on definitions within in an ECOSTAT core group established within the framework of the Common Implementation Strategy for the Water Framework Directive. The core group works with definitions and criteria to define what would qualify as a stretch of free-flowing river. Since the need of harmonization between this regulation and other related EU law has been stressed by several Member States, The Presidency finds it appropriate that relevant terms are defined within ECOSTAT rather than in this regulation.

Furthermore, the Presidency notes that the term “other uses” in Article 7(2) leaves room for Member States to consider a wide range of uses when determining whether a barrier is to be considered obsolete or not. On this basis, the Presidency does not see a need to add further examples of what barriers are to be considered as obsolete.

Reference to plan for removing obsolete barriers (Article 7(2))

As noted by one Member State, the “plan for removing obsolete barriers” referred to in Article 7(2), relates to both points (e) and (f) in Article 12(2).

The Presidency therefore proposes to amend article 7(2) to include a reference also to Article 12(2)(e).

To conclude, The Presidency proposes the following amendments to Article 7, Article 3(14bis) and Recital 45.

Article 7

1. Member States shall make an inventory of barriers to connectivity of surface waters and, **taking into account their socio-economic functions**, identify the barriers that need to be removed to contribute to the achievement of the restoration targets set out in Article 4 of this Regulation and of the objective of restoring at least 25 000 km of rivers into free-flowing rivers in the Union by 2030, without prejudice to Directive 2000/60/EC, in particular Articles 4(3), 4(5) and 4(7) thereof, and Regulation 1315/2013, in particular Article 15 thereof.

2. Member States shall remove the barriers to ~~longitudinal and lateral~~ connectivity of surface waters ~~identified~~ **based on the inventory** under paragraph 1 of this Article, in accordance with the plan for their removal referred to in Article 12(2), points ~~(e)~~ **and** (f). When removing barriers, Member States shall primarily address obsolete barriers, which are those that are no longer needed for renewable energy generation, inland navigation, water supply, **flood protection**, or other uses.

Article 3

(14bis) 'free flowing river' means a river or a stretch of river whose longitudinal, **vertical** and lateral connectivity is not hindered by artificial structures forming a barrier and whose natural functions are largely unaffected.

Recital 45

(45) The EU Biodiversity Strategy for 2030 requires greater efforts to restore freshwater ecosystems and the natural functions of rivers. The restoration of freshwater ecosystems should include efforts to restore the natural ~~longitudinal and lateral~~ connectivity of rivers as well as their riparian areas and floodplains, including through the removal of barriers with a

view to supporting the achievement of favourable conservation status for rivers, lakes and alluvial habitats and species living in those habitats protected by Directives 92/43/EEC and 2009/147/EC, and the achievement of one of the key objectives of the EU Biodiversity Strategy for 2030, namely, the restoration of at least 25 000 km of free-flowing rivers. When removing barriers, Member States should primarily address obsolete barriers, which are those that are no longer needed for renewable energy generation, inland navigation, water supply, **flood protection** or other uses.

For discussion:

- Do you support the proposed amendments to Article 7(1), 7(2) and 3(14bis)?

Restoration of agricultural ecosystems (Article 9, 3(14ter) and Annex V)

Grassland butterfly index (Article 9(2)(a))

Some Member States have proposed to delete the indicator “grassland butterfly index” in Article 9(2)(a), since they find that it could be considered covered by or included in Article 8, while a majority of Member States have stressed that it is a suitable indicator of biodiversity in agricultural ecosystems.

The Presidency does not propose any changes to Article 9(2)(a), but has noted that the update of “New deal for Pollinators”, that the Commission presented on 24 January, might have connections to this indicator. During the meeting, the Commission will give a short presentation concerning this topic.

Stock of organic carbon (Article 9(2)(b))

A few Member States have raised concerns that the indicator “stock of organic carbon” in Article 9(2)(b) overlaps with provisions on carbon

sequestration under LULUCF and have therefore proposed to delete this indicator. The Commission has clarified that LULUCF does not cover the stock of organic carbon, only the flux, and that the indicator can also be considered a proxy to several ecosystem services, as well as soil biodiversity.

The Presidency does not perceive a general support to delete the indicator and does not propose any changes to Article 9(2)(b).

Share of agricultural land with high-diversity landscape features (Article 9(2)(c) and Annex IV)

Several Member States have raised concerns regarding the description of the indicator “Share of agricultural land with high-diversity landscape features” in Annex IV. In particular, the need to allow for management of high-diversity landscape features dependent on grazing or mowing has been stressed by several Member states. The Presidency notes that the Commission has stressed that larger elements like pastures are not intended to be covered by this indicator, but that does not solve the issue of management of for example permanently grass covered margins adjacent to stonewalls, hedgerows or solitary trees in arable land.

The Presidency proposes an amendment to the description of high-diversity landscape features in Annex IV, with the intention to allow for management that is necessary for the maintenance of the biodiversity. As the exception would only apply to management that is *necessary* to maintain biodiversity, it would not include grazing or fodder production on land lying fallow that otherwise comply with criteria for high diversity landscape features (also covered by GAEC 8 in the CAP).

Furthermore, the potential need to allow for use of pesticides to battle invasive alien species (IAS) has been highlighted by one Member State. Actions to battle IAS are very important, but since they are likely to only concern a minor share of the total amount of landscape features, the Presidency does not propose any amendments of Annex IV concerning use of pesticides.

Restoration of drained peatlands under agricultural use (Article 9(4))

Several Member States have questioned the feasibility of the targets for restoration of drained peatlands in Article 9(4) and have raised particular

concerns regarding detrimental effects on agricultural production, neighbouring land and challenges in managing rewetted areas. To increase feasibility of the targets, some Member States have suggested that the percentage of rewetted peatlands under other land uses should be raised, or that the specification of which land uses the rewetting target covers should be deleted altogether.

To increase flexibility, the Presidency proposes that the percentage of drained peatlands under other land uses than agriculture or peat extraction that may contribute to the achievement of the rewetting targets referred to in the first subparagraph, points (a), (b) and (c), is raised from 20% to 30%.

Definition of "rewetting peatland" (Article 3(14ter))

Following comments from Member states, a definition of "rewetting peatland" was proposed by the CZ Presidency in Article 3(14ter) in Rev 1. The proposal met mixed responses, as several Member States saw the definition as overly restrictive, while others welcomed the focus on resumed peat formation and stressed that only full rewetting is effective for restoration of organic soils.

The presidency notes that Chapter 1 of the 2013 Supplement to the 2006 IPCC Guidelines for National Greenhouse Gas Inventories: Wetlands, presented by the Intergovernmental Panel on Climate Change (IPCC), contains a general definition of rewetting, as follows:

Rewetting - The deliberate action of changing a drained soil into a wet soil, e.g. by blocking drainage ditches, disabling pumping facilities or breaching obstructions.

The Presidency notes that the IPCC definition is well established and allows for an interpretation that can be adapted to differences in national conditions. The definition is also referred to in Recital 54 of this regulation. The Presidency therefore proposes a revised definition of rewetting peatland, based on the IPCC definitions.

To conclude, the Presidency proposes the following amendments to Article 9 and related definition and Annex

Article 3

(14ter) - 'rewetting peatland' means ~~a~~ the deliberate action of changing a drained peat soil into a wet soil, ~~that aims to bring the water table of a drained peatland back to that of the peat-forming peatland; the peatland is rewetted when the mean annual water table is near or at the soil surface~~

Article 9

(4) For Organic soils [...]

Member States may [...]

In addition, Member States may put in place restoration measures to rewet organic soils that constitute drained peatlands under land uses other than agricultural use and peat extraction and count those rewetted areas as contributing, up to a maximum of ~~23~~30%, to the achievement of the targets referred to in the first subparagraph, points (a), (b) and (c).

Annex IV

Share of agricultural land with high-diversity landscape features	<p>Description: High-diversity landscape features are elements of permanent natural or semi-natural vegetation present in an agricultural context which provide ecosystem services and support for biodiversity. In order to do so, landscape features need to be subject to as little external disturbances as possible to provide safe habitats for various taxa, and therefore need to comply with the following conditions:</p> <ul style="list-style-type: none">a) they cannot be under productive agricultural use (including grazing or fodder production), <u>except when such management is necessary for the preservation of biodiversity</u>, andb) they should not receive fertilizer or pesticide treatment <p>Land lying fallow can be considered as high diversity landscape features if it complies with criteria (a) and (b) above. Productive trees part of arable land agroforestry systems and productive elements in non-productive hedges can also be considered as high diversity landscape features, if they comply with criterion (b) above, and if</p>
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	<p>harvests take place only at moments where it would not compromise high biodiversity levels.</p> <p>Unit: Percent (share of Utilised Agricultural Area).</p> <p>Methodology: as developed under indicator I.21, Annex I of Regulation 2021/2115, as based on LUCAS for landscape elements, Ballin M. et al., <i>Redesign sample for Land Use/Cover Area frame Survey (LUCAS)</i>, Eurostat 2018, and for land laying fallow, <i>Farm Structure, Reference Metadata in Single Integrated Metadata Structure</i>, online publication, Eurostat.</p>
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For discussion:

- Do you agree with the proposed amendments to the definition of *rewetting peatlands* in Article 3(14ter)?
- Do you agree with the proposed increase from 20% to 30% of drained peatland from other land uses than agriculture and peat extraction that can contribute to the rewetting target in Article 9(4)?
- Do you agree with the proposed additions to the description of the indicator *Share of agricultural land with high-diversity landscape features* in Annex IV?

Restoration of forest ecosystems (Article 10)

The Presidency perceives that most Member States are of the opinion that inclusion of a common set of indicators for restoration of forest ecosystems on EU level is appropriate and relevant, although some Member States have questioned the relevance of such a common list.

Furthermore, Member States have proposed several deletions or amendments of the indicators in Article 10(2). At the same time, several additions (*tree species diversity, native/ autochthonous species composition, forest fragmentation* and *old growth forest*) have been proposed. Suggested deletions, amendments and proposals for new indicators have been met with mixed responses from Member States. Furthermore, several Member States has noted the need of alignment between this regulation and the Commission proposal for a new EU Framework for Forest monitoring.

The Presidency notes that each Member State has the option to add indicators deemed relevant for tracking forest ecosystem condition on national level in their NRPs. Given the disparity in comments received from Member States so far and the ongoing work on an EU Framework for Forest monitoring, the Presidency proposes to keep the list of indicators in Article 10(2) as proposed by the Commission.

The presidency notes that several member states have welcomed the Rev 1 proposal to add a non-fulfilment clause in Article 10(3) and consider the proposed derogations appropriate.

To conclude, the Presidency doesn't propose any amendments to article 10.

For discussion:

- Do you have any objections to or comments on the Presidency's proposal regarding Article 10(2) and (3)?

Access to justice (Article 16)

In the steering note for WPE on 9 January, the Presidency noted that access to justice is relevant in several ongoing negotiations on EU legislation and that possibility of a uniform approach would be explored. The Commission's proposals for this regulation, amendments to IED, a new Urban Wastewater Directive and a new Air Quality Directive all include provisions on Access to justice. However, since the ongoing WPE negotiations of these proposals are in different phases, the Presidency considers that there is little room for a horizontal approach at this point.

A few Member States have questioned the need for a separate article on Access to Justice and whether it should be replaced by a recital text. Furthermore, some Member States have expressed that they would prefer a horizontal EU legislation on Access to justice while others have raised questions regarding the coherence between Article 16 in this regulation and the Aarhus Convention.

However, the Presidency notes that there are currently only a few concrete proposals for amendments and specific questions regarding Article 16.

Therefore, the Presidency currently doesn't propose any amendments to Article 16.

For discussion:

- Do you have any objections to or comments on the Presidency's proposal not to amend Article 16?

Chapter V: Delegated powers and committee procedure

Objectives of the delegated powers (Article 19)

A number of Member States have made comments on the objectives for adapting Annexes I–VII through delegated acts, and, in particular, noted the lack of objectives for adaptation of Annexes I, II, V and VII. Furthermore, some Member States have asked for clarification of the concept of “latest scientific evidence” being the objective for adaptations pursuant to Article 19(3), (4) and (6). The Presidency also notes that the Council Legal Service, at the WPE on 16 September, expressed that Member States may want to explore how to further limit the delegated powers.

Firstly, the Presidency notes that pursuant to Article 290(1) TFEU, the objectives of the delegation of powers shall be explicitly defined.

Secondly, while “latest scientific evidence” (used in paras (3), (4) and (6)) does not seem to be commonly used in similar provisions in other EU law, there are many examples of provisions empowering the Commission to adapt legislative acts to “technical and scientific progress”. Where, as one Member State noted, the current wording could be perceived as implying that adaptations must be made ad hoc, or as soon as new scientific evidence appears, this would not be the case for “technical and scientific progress”. The Presidency considers this wording to be appropriate as an objective for all amendments possible under Article 19, except for para (2)(a) (see below). In addition, for regrouping of habitat types in Annexes I and II, as well as for amendments to the list of examples in Annex VII, it would also be relevant to take into account lessons learned from applying this regulation. For example, the Commission could find it necessary to regroup the habitat

types based on either its own evaluation or on information from the Member States on problems that they have encountered in the implementation of Articles 4 and 5 due to the grouping of habitat types.

Finally, the Commission has proposed that it should be empowered to adapt the list of habitat types in Annex II (para 2) but not the corresponding list in Annex I (para 1). Where both Annexes I and II contain references to habitat types listed in Annex I to the Habitats Directive, only Annex II contains references to the Eunis habitat types. To the understanding of the Presidency, the objective of the delegated powers to adapt the list of habitat types in Annex II, would therefore be to enable changes to the habitat types list in Annex II to ensure that they are in line with any changes to the Eunis habitat types. The Presidency considers it appropriate to clarify that this is the objective for changes to the list of habitat types (para (2)(a)). In this context, the Presidency also considers it appropriate to further clarify the difference between amendments to adapt *the groups* of habitat types and to adapt *the list* of habitat types.

Content and scope of the delegated powers (Article 19)

Several Member States have expressed concerns regarding the content and scope of the delegated acts that the Commission is empowered to adopt under Article 19, and some Member States question whether the delegated powers are limited to non-essential elements. The Presidency notes that under Article 290(1) TFEU, “The essential elements of an area shall be reserved for the legislative act and accordingly shall not be the subject of a delegation of power”. The Presidency also notes that the Council Legal Service, at the WPE on 16 September, expressed that Article 19 as currently formulated could be seen as including delegated powers allowing the Commission to extend the scope of application of the Regulation.

For example, substantial additions of habitat types or marine species to Annexes II and III would imply that the obligations on Member States pursuant to Article 5 would increase. Regrouping of habitat types in Annexes I and II and changes to the descriptions, units and methodologies applied to the indicators for agricultural and forest ecosystems in Annexes IV and VI as well as changes to the list of common farmland birds in Annex V could also have effects on the Member States’ obligations.

The Presidency considers that the proposed amendments (see above) to the objectives of the delegations in Article 19(1)–(7), as well as the clarification on regrouping of habitat types, will further limit the delegation to the Commission to adopt delegated acts compared to the Commission’s proposal. The Presidency also proposes to clarify, in the recitals, the existing requirement on the Commission to carry out impact assessments in accordance with the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. Besides that, the Presidency also suggests that the word *adapt* is used in all paras in Article 19.

The Presidency proposes the following amendments to Article 19:

Article 19

1. The Commission is empowered to adopt delegated acts in accordance with Article 20 to amend Annex I in order to adapt **the way** the ~~groups of~~ habitat types **are grouped to technical and scientific progress and to take into account the experience gained from the application of this Regulation.**

2. The Commission is empowered to adopt delegated acts in accordance with Article 20 to amend Annex II in order to adapt:

(a) the list of habitat types to ensure consistency with ~~any changes to Annex I to Directive 92/43/EEC or~~ updates to the typology to the European nature information system (EUNIS) habitat classification, and;

(b) the way the ~~groups of~~ habitat types **are grouped to technical and scientific progress and to take into account the experience gained from the application of this Regulation.**

3. The Commission is empowered to adopt delegated acts in accordance with Article 20 to amend Annex III in order to adapt the list of marine species referred to in Article 5 ~~in accordance with the latest scientific evidence~~ **to technical and scientific progress.**

4. The Commission is empowered to adopt delegated acts in accordance with Article 20 to amend Annex IV, in order to adapt the description, unit and methodology of indicators for

agricultural ecosystems ~~in accordance with the latest scientific evidence~~ **to technical and scientific progress.**

5. The Commission is empowered to adopt delegated acts in accordance with Article 20 to amend Annex V in order to **adapt** ~~update~~ the list of species used for the common farmland bird index in the Member States **to technical and scientific progress.**

6. The Commission is empowered to adopt delegated acts in accordance with Article 20 to amend Annex VI in order to adapt the description, unit and methodology of indicators for forest ecosystems ~~in accordance with the latest scientific evidence~~ **to technical and scientific progress.**

7. The Commission is empowered to adopt delegated acts in accordance with Article 20 to amend Annex VII in order to adapt the list of examples of restoration measures **to technical and scientific progress and to take into account the experience gained from the application of this Regulation.**

Recital 75

(75) In order to ensure the necessary adaptation of this Regulation, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of amending Annexes I to VII to adapt the group of habitats, to **adapt the list of bird species used for** ~~update the information on~~ the common farmland bird index, as well as to adapt the list of biodiversity indicators for agricultural ecosystems, the list of biodiversity indicators for forest ecosystems and the lists of marine **habitats and** species ~~to the latest scientific evidence~~ **and the examples of restoration measures to technical and scientific progress, to take into account experience from the application of the Regulation or to ensure consistency with the EUNIS habitat types.** ~~Such delegated acts should not result in significant additional burdens on the Member States.~~ It is of particular importance that the Commission carries out **impact assessments and** appropriate consultations during its preparatory work, including at expert level, ~~and that those consultations be~~

~~conducted~~ in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

Exercise of the delegation (Article 20)

Some Member States have raised concerns that the duration of the delegation in accordance with Article 20(2) overlaps with the deadline for the NRPs, pointing out that amendments to the Annexes may have implications on the restoration measures included in the NRPs and that there is insufficient time for Member States to adapt to such changes in the Annexes.

The Presidency notes that at the WPE on 16 September, the Council Legal Service expressed that Article 20 is drafted in line with the principles and standard clauses laid down in the Common Understanding between the European Parliament, the Council and the Commission on Delegated Acts annexed to the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. Furthermore, the proposed amendments to Article 19 aims to limit the risk of delegated acts causing additional burden on Member States.

To conclude, the Presidency does not propose any amendments to Article 20.

Implementing acts (Article 21)

References to Article 21 on implementing acts are made in Articles 8(2), 12(4), 17(9) and 18(3).

In its steering note for the WPE on 9 January, the Presidency proposed amendments to Article 12(4). The Presidency notes support for those amendments.

Apart from that, several Member States have raised questions regarding Article 17(9) and the option therein for the Commission to develop a

framework for setting the satisfactory levels referred to in Article 11(3). While some Member States have expressed the need for a level playing field as regards the satisfactory levels and to replace the option to adopt such implementing acts with an obligation on the Commission to adopt them, other Member States have stressed the importance of setting these levels nationally to safeguard subsidiarity.

To strike a balance between Member States comments, the Presidency proposes to set a *deadline* before which the Commission *is required to* adopt implementing acts, while at the same time proposing that the framework for setting the satisfactory levels should be *guiding* rather than prescriptive. Similar deadlines for adoption exist in other legislative acts, for example in the Renewable Energy Directive 2018/2001/EU, Article 29(9). The Presidency considers such a deadline for adoption appropriate, as long as the time frame is long enough. The Presidency also proposes an editorial amendment, replacing *develop* by *establish*, to clarify that the framework is to be put in place through the implementing act(s). Against this background, the Presidency proposes the following amendments.

Article 17(9)

9. The Commission may adopt implementing acts to:

(a) specify the methods for monitoring the indicators for agricultural ecosystems listed in Annex IV;

(b) specify the methods for monitoring the indicators for forest ecosystems listed in Annex VI.

9bis. By [2028], the Commission shall adopt implementing acts to

~~(e) establish~~ develop a **guiding** framework for setting the satisfactory levels referred to in Article 11(3).

9ter. Such I implementing acts **pursuant to paragraphs (9) and (9bis)** shall be adopted in accordance with the examination procedure referred to in Article 21(2). Article 11(3)

3. Member States shall set, by 2030 at the latest, satisfactory levels for each of the indicators referred to in Articles 8(1), 9(2)

and 10(2), through an open and effective process and assessment, based on the latest scientific evidence and, ~~if available,~~ the **guiding** framework referred to in Article 17(9**bis**).

For discussion:

- Are you in favour of the amendments to Article 19(1)–(7)?
- ~~With the proposed amendments to Article 19, is it sufficiently clear that the delegation is limited to non-essential elements? Are you in favour of the limitations to the scope of the delegation in new para (8) in Article 19?~~
- ~~If not, how do you propose to further limit the scope of the delegations to non-essential elements? Are you in favour of introducing a requirement for the Commission to carry out impact assessments (new para 8)?~~
- Are you in favour of a *requirement* on the Commission (instead of an option) to adopt implementing acts on a *guiding* framework for setting satisfactory levels and to set a *deadline* for their adoption (Article 17(9bis))?
- Do you find that Article 17(9bis) strikes an appropriate balance between the need for harmonization and the need for adaptation of satisfactory levels to national circumstances?