

CC(14)7910:1-TR/sd

Mr Karl Falkenberg  
Director-General  
DG Environment  
Avenue de Beaulieu 5  
BE-1160 Brussels

Brussels, 23<sup>rd</sup> October 2014

**Re: public consultation on the future EU initiative to prevent net losses of biodiversity and ecosystem services**

Dear Sir,

Copa-Cogeca has taken part in the public consultation on the future EU initiative to prevent net losses of biodiversity and ecosystem services ("No Net Loss initiative"). Please find attached a copy of the Copa-Cogeca response. However, there are some comments which I would like to bring to your attention separately.

Agriculture and forestry are the biggest land managers in the EU and are even major providers of ecosystem services. Yet the positive functions provided by the forestry and agricultural sectors have been completely overlooked in the consultation. On the other hand, in the consultation agriculture has been listed as one of the possible economic sectors with a negative ecological footprint and could thus be included within the scope of a possible future EU No Net Loss initiative. Copa-Cogeca strongly objects this inclusion. Copa-Cogeca also firmly believes that that existing instruments afforded by the Common Agricultural Policy which serve to protect semi-natural areas already carry a great deal of weight, and this protection has been further enhanced by the last reform of the CAP. It is incomprehensible that further measures are being demanded as part of the No Net Loss initiative. This would not be expedient. Copa-Cogeca also categorically rejects the proposal to link the EU Forest Strategy with the No Net Loss initiative.

In many EU Member States there are already legislative frameworks at national level which are comparable with the proposal for a legally-binding No Net Loss initiative – in Germany, for instance. However, these were not nearly as successful as expected. At the same time, the implementation of the No Net Loss initiative on Biodiversity and Ecosystem Services is a relatively new concept at EU level. There are countless unanswered questions, such as the establishment of threshold values for biodiversity losses, the application of activities for which specific national or EU-wide regulations already exist, as well as the safeguarding of proportionality (e.g. concerning biodiversity losses in Natura 2000 areas, which have been dealt with separately), and the estimation and allocation of costs. Even the inevitable influence that an EU-wide No Net Loss initiative would have on land use planning – an area which is clearly not within the EU's remit – is questionable. Copa-Cogeca therefore harbours strong doubts about the effectiveness and feasibility of a mandatory No Net Loss initiative at EU level and rejects it.

Overall, much greater focus should be placed on the EU-wide restriction of soil sealing and fragmentation. Unfortunately, the consultation neglects to mention that it is predominantly agricultural areas in the EU which are lost once and for all to the development of buildings and urban sprawl.

The redrafting of the EIA Directive lead to an enhanced environmental protection and the hierarchy, according to which the prevention of biodiversity losses is a priority, applies. It can therefore be assumed that biodiversity losses will be curbed to a greater extent, and only where they are unavoidable, compensatory measures will be required. However, these are to be chosen depending on the local conditions and the actual biodiversity loss. An EU-wide catalogue of measures should therefore be rejected. However, we consider an exchange of views between the individual Member States, coordinated at EU level within the framework of a voluntary initiative to prevent biodiversity losses, to be promising.

Copa-Cogeca holds a highly critical view on the use of agricultural land for compensatory measures to offset biodiversity losses at another location. In regions where there is a lot of pressure on land resources, agriculture will be affected twice, because agriculture loses land in two ways: once through the intervention and then through the compensatory measure to overcome the biodiversity loss. The result is a Net Net Loss for agriculture. In addition, there is a risk that the loss of productive land will be offset by increasing production on the remaining agricultural land. We therefore consider compensatory measures that are integrated into agriculture, to be much more promising. In line with the principle of subsidiarity, the practical implementation must be left to Member States as they see fit.

A positive consideration of our comments would be well appreciated.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Pekka Pesonen', with a long horizontal stroke extending to the right.

Pekka Pesonen  
Secretary General

Copy: P. Bucella (DG Env), A. Longo (DG Agri), I. Seoane (DG Agri)

Enc: EN(14)7946EN[1]

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

<b>Background Information</b>	
Are you responding to this consultation as an individual or on behalf of an organization? -single choice reply-(compulsory)	As an organisation.
What type of organisation do you represent? -single choice reply-(compulsory)	business: industrial interest group, business association, sectoral association (EU level)
Please indicate the country where your organisation is located. -single choice reply-(compulsory)	Belgium
Please provide the name of your organisation. -open reply-(compulsory)	Copa-Cogeca (European Farmers, European Agri-cooperatives) – EU Transparency Register Number: Copa 44856881231-49, Cogeca 09586631237-74
Please provide your name and title. -open reply-(compulsory)	Tania Runge, Senior Policy Advisor
How well informed do you consider yourself to be about the EU No Net Loss Initiative? -single choice reply-(compulsory)	Fairly well informed
Unless you specify otherwise, your contribution will be published on the Commission's website. Please indicate here if you wish your contribution to be anonymous. (for full information please refer to the Specific Privacy Statement) -single choice reply-(compulsory)	You can publish this contribution as it is.
<b>Scope and Objectives of the future EU No Net Loss initiative.</b>	
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. -single choice reply-(compulsory)	I agree
You are invited to explain your answer to the previous question. -open reply-(optional)	We agree with the NNL initiative as action foreseen in view of ensuring no further loss or degradation of ecosystems and their services, thus contributing to achieve target 2 of the EU biodiversity strategy 2020. But No Net Loss should not apply to activities where there already exist requirements and practices to avoid and minimize effects on biodiversity. We strongly disagree with the pre-selection made. Important drivers like land sealing and fragmentation should be looked at primarily. We do not agree with excluding air or climate change from the scope. Thresholds need to be fixed – unless all human activities are foreseen to be covered by NNL
The future EU initiative on No Net Loss will focus on territory outside the Natura 2000 network.	I agree strongly

-single choice reply-(compulsory)	
You are invited to explain your answer to the previous question. -open reply-(optional)	The NNL needs to be complementary to the existing legislation, including Habitats Directive. But to avoid any misunderstanding Natura 2000 sites should not be excluded from compensation /offsetting measures to take place as there is still huge potential for improvements in site condition. The biggest problem is the practical implementation and not the lack of existing regulation. We question the rationale of NNL initiative going beyond a good practice sharing and practical guidance at EU level.
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? -single choice reply-(compulsory)	The terrestrial environment at first and later the marine environment.
Agriculture -single choice reply-(compulsory)	Not at all important
Built development (public and private) -single choice reply-(compulsory)	Important
Energy infrastructure -single choice reply-(compulsory)	Not very important
Extractive industries -single choice reply-(compulsory)	Important
Fisheries and aquaculture. -single choice reply-(compulsory)	Not at all important
Forestry -single choice reply-(compulsory)	Not at all important
Transport infrastructure -single choice reply-(compulsory)	Not very important
Other sectors (provide details in the question below) -single choice reply-(compulsory)	No opinion
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". -open reply-(optional)	The listed sectors are subject to substantial controls through European regulations when it comes to biodiversity loss. Biodiversity loss very much depends on the activity and its location, not the sector. Building activity leads to soil sealing and and therefore need special attention. In any case overlaps with other rules already established should be avoided. In agriculture cross compliance already sets environmental standards. The subsidiarity principle is to be respected.
The mitigation hierarchy including compensation and offsetting.	
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' -single choice reply-(compulsory)	I disagree
Some stakeholders, while supporting the mitigation hierarchy in principle, are concerned that in practice the steps in the sequence will	No opinion

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. -single choice reply- (compulsory)	
You are invited to provide an explanation of your answer to the previous question. -open reply- (optional)	The answer depends on the scope of the NNL initiative and the type of biodiversity being protected. Also the NNL needs to consider the trades-offs with other ecosystems, including cultural and economic services. NNL is not about protecting the most valuable biodiversity. That has its own protection through Habitats and Birds Directive. Possible compensation should be targeted to most harmful actions in particular regarding urban sprawl which causes soil sealing mainly on productive soils.
How well do you think the mitigation hierarchy is built into existing EU legislation and policies? -single choice reply- (optional)	Very well
Please provide an explanation of your response to the previous question. -open reply- (optional)	These Directives contain powerful requirements to protect the environment and biodiversity. Therefore we believe that there is no need for additional changes to be made. The listed directives contain strict requirements to protect biodiversity and they also include mitigation hierarchy, in particular for the FFH directive art. 4(4) as well as in ELD directive.
<b>The Future EU Initiative on No Net Loss of Biodiversity and Ecosystem Services</b>	
Enhancing the scope and strengthening the implementation of the Environmental Liability Directive. -single choice reply- (optional)	Against the inclusion of this measure as part of the initiative.
Strengthening the EIA Directive and improving its implementation. -single choice reply- (optional)	Against the inclusion of this measure as part of the initiative.
Strengthening the SEA Directive and improving its implementation -single choice reply- (optional)	Against the inclusion of this measure as part of the initiative.
Improving spatial planning in the terrestrial, coastal and marine environments. -single choice reply- (optional)	Neutral
Enhancing the mainstreaming of environmental measures in the CAP so as to better protect semi-natural areas. -single choice reply- (optional)	Strongly against the inclusion of this measure as part of the initiative.
Addressing NNL objectives in the context of the EU Forest Strategy. -single choice reply- (optional)	Strongly against the inclusion of this measure as part of the initiative.
Biodiversity proofing of the EU budget. -single choice reply- (optional)	Strongly against the inclusion of this measure as part of the initiative.
Developing a voluntary EU framework for compensation/ offsetting including technical	Strongly support the inclusion of this measure as part of the initiative.

guidelines and benchmarking good practice. -single choice reply-(optional)	
Developing a legal framework at the EU level for compensation/offsetting including general principles and common standards. -single choice reply-(optional)	Strongly against the inclusion of this measure as part of the initiative.
Promoting the use of market instruments to support the NNL objective including a possible "No Net Loss" label. -single choice reply-(optional)	Neutral
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? -open reply-(optional)	There is no need to further strengthen the EIA and SEA Directives while improving their implementation (and enforcement) could be of importance. Sharing best practice should be in the focus, German has for example a long history of a national compensation legislation, but until today large surfaces are threatened through biodiversity loss as soil sealing continues. Still, there are a number of good examples to be shared and developing guiding principles across the EU could be of real added value.
Take steps to improve the effectiveness of the existing legislation and policies including through better enforcement, increasing awareness and technical guidelines. -single choice reply-(compulsory)	Neutral
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. -single choice reply-(compulsory)	Not desirable to be included
Ensure that policies and actions supported by EU funds respect the principle of No Net Loss and apply the mitigation hierarchy appropriately. -single choice reply-(compulsory)	Not desirable to be included
A framework at EU level to promote the coherent and consistent use of compensation/offsetting, including technical guidance and benchmarking best practice. -single choice reply-(compulsory)	Should not be included
Other measures (see below) -single choice reply-(optional)	Desirable to be included
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. -open reply-(optional)	It is essential that NNL is developed as a voluntary initiative and should mainly focus on raising awareness about soil sealing and land fragmentation.
Addressing the challenges of compensation/offsetting.	
Compensation/offsetting measures can be carried out at, or in close proximity to, the site where the	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

<p>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.</p> <p>-single choice reply-(compulsory)</p>	<p>outcomes for biodiversity and ecosystem services.</p>
<p>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".</p> <p>-single choice reply-(compulsory)</p>	<p>The choice of "like for like" compensation/offsetting vs "trading-up" should be made on a case basis with a view to achieving the best outcomes for biodiversity and ecosystem services.</p>
<p>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'.</p> <p>-single choice reply-(compulsory)</p>	<p>Neutral</p>
<p>Securing the compensation/offset over time and making sure that the compensation/offset is protected and managed appropriately.</p> <p>-single choice reply-(compulsory)</p>	<p>Neutral</p>
<p>Putting in place appropriate measures to monitor the compensation/offset and to enforce compliance with the conditions under which the compensation/offset is established.</p> <p>-single choice reply-(compulsory)</p>	<p>Neutral</p>
<p>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.</p> <p>-single choice reply-(compulsory)</p>	<p>Neutral</p>
<p>In order to provide compensation/offsets you need</p>	<p>No opinion.</p>

<p>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.</p> <p>-single choice reply-(compulsory)</p>	
<p>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. -single choice reply-(optional)</p>	I agree
<p>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. -single choice reply-(optional)</p>	I disagree
<p>For non-threatened/common biodiversity, compensation in the form of payments into a trust fund (fee 'in lieu') could be allowed. -single choice reply-(optional)</p>	I disagree
<p>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. -single choice reply-(optional)</p>	Neutral
<p>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. -single choice reply-(optional)</p>	I agree
<p>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? -open reply-(optional)</p>	<p>For non-threatened/common biodiversity, compensation in the form of payments into a trust fund (fee 'in lieu') could be allowed only in combination with "Compensation/Offsets can take quite a lot of time ...." Without threshold a fee</p>



	payment is unacceptable. Any compensation provision will take time to establish. Requiring it to be in place before starting planned works will have a significant impact on economic activity.
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)? -open reply-(optional)	
Closing questions	
Do you have additional comments that you would like to make concerning the development of the No Net Loss initiative? -open reply-(optional)	In case the Commission considers the current level of environmental protection inadequate the way forward cannot and should not be imposing new regulations and top-down rules. In a situation where MS are not properly implementing even the existing ones this kind of policy can not deliver any added value. In addition the the newly amended Environmental Impact Assessment (EIA) Directive (2014/52/EU) only entered into force on 15 May 2014 and the added value of the modifications still need to assessed before adding an additional layer of requirements. NNL is for many member states a new concept with many issues that still need to be understood. pilots and further work is required before NNLcan be further developed.
Do you have any comments you would like to make concerning the consultation and the questionnaire? -open reply-(optional)	Throughout the consultation the words used could have different meaning depending on the audience, or the meaning is unclear. This will make it difficult for the Commission to draw conclusions from this questionnaire. In addition there are several cases where two different options are combined within one answer. Examples are questions under sector 4 where we could support the better implementation of existing directives etc. but not the enhancing of scope of these directives.
Do you accept to be contacted by the Commission in the event that further details concerning your replies would be helpful? -single choice reply-(compulsory)	Yes