



Council of the
European Union

Brussels, 23 March 2023
(OR. en)

Interinstitutional File:
2021/0201(COD)

7397/23
ADD 1 REV 1

CODEC 371
CLIMA 129
ENV 240
AGRI 127
FORETS 26
ONU 24

'I/A' ITEM NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee/Council

Subject: Draft REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) 2018/841 as regards the scope, simplifying the reporting and compliance rules, and setting out the targets of the Member States for 2030, and Regulation (EU) 2018/1999 as regards improvement in monitoring, reporting, tracking of progress and review (**first reading**)
- Adoption of the legislative act
= Statements

Statement by Estonia

Estonia as many other countries has increased climate ambition in recent years. Our aim is to achieve climate neutrality by 2050. Estonia is approaching to its net zero target as an opportunity to increase competitiveness and energy independence. Compared to 1990, we have reduced greenhouse gas emissions by 65%, including the LULUCF sector.

The LULUCF negotiations have been complex and tense. Estonia has been supporting the EU wide target (-310 Mt CO₂) and we appreciate the outcome for additional flexibilities and concessions in reaching this target. Nevertheless, Estonia's challenging LULUCF target for 2030 is our main concern.

Despite the challenging nature of the agreement, we acknowledge the urgency of strengthening climate change mitigation measures in all sectors. Among other things, it is essential to maintain carbon sequestration in the LULUCF sector both in the short and long term perspective. However, carbon removals by natural processes are highly uncertain and unpredictable. Therefore, it is important to increase Member States ability to provide the best available information on LULUCF to present transparent inventory. It is not a balanced way forward to rely prevailingly on short-term increase in sinks without thinking of their vulnerability to climate change and annual weather variabilities and the need to maintain healthy biodiversity-rich land sectors that can sequester carbon and provide us with food and materials over a long-term.

Land use sectors will need to undergo important changes in order to meet both climate change and biodiversity targets in the coming decades. These changes will incur social and economic impacts, especially for the companies active in these sectors and the people whose livelihoods depend on them. In order to secure a just transition to net-zero, a just transition mechanism for the LULUCF sector would prove to be useful.

Russia's aggression in Ukraine and its global consequences, particularly the energy crisis, has made it more difficult to reach targets in sectors contributing to energy and resource security.

We are fully convinced that green transition is our best option to reduce greenhouse gas emissions. Still, there is a need to keep solutions realistic and fair for everybody to gain society's support for and participation in the reforms.

Statement by Hungary

Hungary is not able to vote in favor of the final compromise reached on LULUCF, presented to Member States on 9 of December, 2022, therefore, it abstains from its endorsement.

Hungary is committed to the 2030 emission reduction target of 55% and the climate neutrality objective for 2050. On 28 June 2022, Hungary was ready to accept the compromise presented at the Environment Council, including the LULUCF and the highly ambitious -310 Mt Union level target together with the national target, as it found the overall package balanced and fit for purpose.

During the negotiations, Hungary was able to demonstrate flexibilities in order to preserve the fragile balance in LULUCF, however, we believe that the final compromise goes beyond that, by adopting measures, which would make compliance an extremely heavy burden for Member States, and against which Hungary was advocating very vocally from the beginning. Therefore, while appreciating the compromise on some elements of the proposal, we cannot provide our support on others.

First, we are discontent about the introduction of the *governance mechanism* (Article 13c.) within the regulation aggravated by the multiplier of 1.08. We believe, that such instrument is not in line with the sectoral specificities of the LULUCF and does not provide an effective incentive for increasing sinks, but further aggravates the situation for Member States, who are already struggling to reach their ambitious targets.

Second, we truly regret the deletion of Article 10. on *natural disturbances*. This measure could be essential in dealing with unexpected events beyond the control of Member States under the framework of the LULUCF, especially during times, when we are facing the exacerbating effects of climate change.

Third, we have concerns about the significant strengthening of MRV rules and the application of Tier3 methodology. However, Hungary supports in principle improving the tools, which would enable better monitoring and reporting, and is doing its best to improve our own methodology, we believe, that it is already challenging to meet with the requirements of what is adopted in the Council general approach. The measures adopted in the compromise would make it even more challenging for Member States to meet the obligations than the Commission proposal, further increasing the administrative burden and red tape. Member States would need sufficient time and resources, to prepare for such requirements, which is extremely difficult in the case of small Member States with a limited number of experts available.

Finally, we believe that due to the nature of the LULUCF sector and its significant fluctuations, it is not appropriate to assess its *compliance* for one given year, but a longer, at least five-year period should be taken into consideration.

Statement by Poland

Poland strongly opposes the adoption of the revision of the LULUCF Regulation. The target set for Poland of 38.1 million tonnes of CO₂ equivalent by 2030 is unrealistic; moreover, specific targets have been imposed without any discussion or explanation. The fact that some countries, including Poland, are being allocated significantly increased targets for removals while the existing targets for other countries are being lowered makes the Regulation unfair.

The solutions set out in the revision of the LULUCF Regulation do not take account of the geographical diversity of forests in Europe or the age structure of Polish and European forests, nor do they make any allowance for the forecast decline in sink levels. Binding annual targets are not appropriate for the land sector due to its natural instability and the associated uncertainty resulting from possible disruption to forest ecosystems caused by the consequences of climate change. Moreover, the flexibilities offered are insufficient and will not allow the targets to be met.

The solutions adopted in the revision of the LULUCF Regulation place an excessive burden on forests in terms of achieving the climate targets, and at the same time may result in a reduction in timber harvesting, thereby having a negative impact on the labour market in the forest-based sector, which employs around 400 000 people in Poland. This contradicts the objectives of the EU's policy in relation to the bioeconomy, in which wood is an important ecological, sustainable and renewable raw material; moreover, it is dangerous in view of the current geopolitical crisis.

Poland would point out that the LULUCF Regulation should not be amended on an incorrect legal basis. The LULUCF Regulation is part of the EU's 'Fit for 55' package, which – as a whole – aims to make far-reaching changes to Member States' energy mix; consequently, its individual components (including the revision of the LULUCF Regulation) should be dealt with under Article 192(2), point (c), TFEU as the only admissible treaty basis in view of the interference with Member States' energy mix.

In the light of the above, Poland objects to this legislation.

Statement by Slovakia

Forests represent an important part of the land use, land use change and forestry (LULUCF) sector. As highlighted in the Bratislava Ministerial Declaration “The Future We Want: The Forests We Need” , signed by European Ministers responsible for forests at the Eighth FOREST EUROPE Ministerial Conference, forests play a vital role in providing multiple benefits for the environment, economic and social development, and livelihoods in Europe.

Slovakia is convinced that, in order to ensure those multiple benefits of forests, we need to promote and apply a holistic and long-term vision on our forests in line with the relevant international commitments that promote sustainable forest management, including those taken within the framework of the FOREST EUROPE process. Only such an approach will ensure the fulfilment of all forest functions demanded by European citizens, including carbon sequestration, in a balanced and integrated way and in a long run.

Carbon emissions and removals in forests may be and often are a subject to significant short term (inter-annual) as well as long-term fluctuations. Similarly, removals in forests achieved in the past may be released back to the atmosphere in case of natural disasters or during longer natural cycles. Therefore, long-term stability and adaptive capacity of forests and thus long-term stability of carbon stored in forests is a matter of a priority that goes beyond of any specific LULUCF target set for any particular year. This is also what the above mentioned internationally agreed principles for sustainable forest management say, among many other things.

In addition, Slovakia is convinced that long-term fluctuations of carbon emissions and removals in forests influenced by changes in the forest age structure may also have significant effects on the capacities and the ability of the LULUCF sector in some Member States to meet their nationally determined targets in the period before as well as after 2030. Therefore, we are of the view that those effects should be more adequately and specifically taken into account when setting national targets for the period after 2030.

Slovakia is of the view that only by respecting the above mentioned principles we will ensure that our forests and the forest sector can adequately contribute to the overall Union's objective of climate neutrality.

Statement by Finland

Finland endorses the final compromise text provided to the Member States on 9 December 2022.

Finland views that due to the sector specificities, the compliance in LULUCF should be assessed at minimum five year periods and not on one solitary year.

Finland agrees that there is a need for a governance mechanism to secure the LULUCF commitments and targets. However, Finland regrets that a penalty mechanism has been included into the LULUCF Regulation together with the ambitious EU level target of -310 Mt CO₂ eqv. This goes beyond the LULUCF contribution determined in the European Climate Law and the Council General Approach.

The political agreement of the LULUCF Regulation has increased the burden of land use sector reporting and monitoring compared to Commission proposal. Such micro-managing of Member States will force Member States to direct their resources to governance of reporting and monitoring instead of implementation of climate action in land use sector. Finland doubts that this evolution would support results in land use sector climate mitigation.

Statement by Sweden

Sweden has high ambitions for its climate policy and are dedicated to achieving EU climate goals and sees the green transition as an opportunity to increase competitiveness and economic prosperity. Sweden recognises the importance of climate action in all sectors and see the need for a LULUCF-legislation. We strongly support the aim and overall approach of the Fit for 55 package in delivering ambitious goals in the crucial decade up to 2030. Carbon sequestration in the LULUCF sector is important in the long and short term.

During the negotiations, we see that many of our stand points have been taken into account. Nevertheless, the introduction into the agreement on the LULUCF-legislation, at the last stage of negotiations, of a “corrective action mechanism” (Article 13d), linked to the flexibility mechanism (Article 13b) is a matter of concern to Sweden. The corrective action mechanism, as well as the single year target for 2030, is ill-suited in the LULUCF-sector given the general level of uncertainty regarding the accuracy and lag-times of the underpinning scientific data on removals.

We are fully committed to achieving a green transition for Sweden and the EU as a whole.

Statement by Cyprus, Greece, France, Italy, Portugal and Spain

The signatories of this Declaration are fully committed with the greenhouse gas neutrality objective both at EU and at Member States level. We strongly support the aim and overall approach of the Fit for 55 package in delivering ambitious goals in the crucial decade up to 2030.

We recognize the essential role of the Land Use, Land use Change and Forest sector (LULUCF) within the climate instruments.

Therefore, we acknowledge the merit of the Commission’s proposal to establish an ambitious target for the sector and based on clear information from inventory data.

We would like to underline that this Regulation has successfully accommodated several specificities of different Member States.

In the negotiation of this Regulation, we highlighted a specific concern related natural disturbances, particularly those caused by extreme events, of non-anthropogenic origin and beyond human control. They are, by definition, temporary, and geographically located. These are events such as extreme forest fires, reaching far beyond the background level of fires and beyond other disturbances, such as the effects of pests or effects of anthropogenic origin.

Treating natural disturbances as these ones, in the context of the overall flexibility, fails to consider the specificities of Member States and fails to address the extreme events described above. This is so because it places emissions deriving from events that are outside of that control at the same level of emissions from policy options under the control of Member States.

Therefore, we must express our deep disappointment with the exclusion of Article 10 of the agreement.

We believe this decision severely limits Member States ability to achieve their targets. It also introduces a level of uncertainty that is very hard to manage and prepare for. The solution that results from the final agreement fails to provide an adequate solution and risks condemning Member States affected by extreme natural disturbances to their own fate.

We therefore call for a profound reflection that considers the forecasts of the impact of climate change.

As such, we look forward to the proposals the Commission will bring forward in respect to the implementation of the EU Climate Law, most notably the post-2030 framework. These will provide the opportunity to amend the lapse generated by the elimination of Article 10 in this Regulation.

Statement by the Commission

In its report pursuant to Article 45 of Regulation (EU) 2018/1999 on the Governance of the Energy Union and Climate Action, the Commission will also assess aspects related to access to justice in EU Member States, notably as regards Article 10 of that Regulation and take that assessment into account as appropriate in any possible subsequent legislative proposal.
