



Council of the European Union
General Secretariat

**Interinstitutional files:
2016/0230 (COD)**

Brussels, 08 May 2017

WK 5235/2017 INIT

LIMITE

**CLIMA
ENV
AGRI
FORETS
ONU**

This is a paper intended for a specific community of recipients. Handling and further distribution are under the sole responsibility of community members.

MEETING DOCUMENT

| | |
|----------|--|
| From: | General Secretariat of the Council |
| To: | Working Party on the Environment |
| Subject: | Non-ETS (LULUCF): WPE on 23 May - DE comments on the Presidency compromise text (ST 8413/17) |

With a view to the WPE meeting on 23 May delegations will find attached comments from Germany on the above.



Council of the
European Union

Brussels, 24 April 2017
(OR. en)

8413/17

LIMITE

CLIMA 99
ENV 373
AGRI 213
FORETS 14
ONU 58
CODEC 628

**Interinstitutional File:
2016/0230 (COD)**

NOTE

| | |
|----------------|--|
| From: | General Secretariat of the Council |
| To: | Delegations |
| No. Cion doc.: | 11494/16 CLIMA 93 ENV 512 AGRI 434 FORETS 35 ONU 88 CODEC 1101 IA 56 - COM(2016) 479 FINAL |
| Subject: | Proposal for a Regulation of the European Parliament and of the Council on the inclusion of greenhouse gas emissions and removals from land use, land use change and forestry into the 2030 climate and energy framework and amending Regulation No 525/2013 of the European Parliament and the Council on a mechanism for monitoring and reporting greenhouse gas emissions and other information relevant to climate change - Presidency compromise text |

Further to the discussion of the above proposal at various Environment Working Party (WPE) meetings, most recently on 27 March 2017, as well as written comments from delegations, please find attached the first Presidency compromise text of the recitals and Articles of this proposal. The text also includes preliminary improvements of a legal/linguistic nature. This document will be discussed at the meeting of the WPE on Tuesday 2 May 2017.

Amendments to the Commission proposal are indicated in **bold and underlined** and deletions by [...].

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the inclusion of greenhouse gas emissions and removals from land use, land use change and forestry into the 2030 climate and energy framework and amending Regulation (EU) No 525/2013 [...]

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,

Having regard to the opinion of the Committee of the Regions²,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) A binding target of at least a 40% domestic reduction in economy-wide greenhouse gas emissions by 2030 compared to 1990 was endorsed in the [...] European Council **conclusions** of 23-24 October 2014 on the 2030 climate and energy policy framework **and this was reconfirmed in its conclusions of 17-18 March 2016**. [...]

¹ OJ C [...], [...], p. [...].

² OJ C [...], [...], p. [...].

- (2) The European Council conclusions of **23-24 October 2014 stated** that the target should be delivered collectively by the Union in the most cost-effective manner possible, with the reductions in the **Union emissions trading system ("EU ETS") laid down in Directive 2003/87/EC of the European Parliament and of the Council**³ and non-ETS sectors amounting to 43% and 30% by 2030 compared to 2005 respectively, with efforts distributed on the basis of relative GDP per capita.
- (3) **This Regulation also forms part of the implementation of the Union commitments under the Paris Agreement⁴ adopted under the United Nations Framework Convention on Climate Change ("UNFCCC") which was ratified on behalf of the Union on 5 October 2016 in accordance with Council Decision (EU) 2016/1841⁵. The commitment of the Union to economy-wide emission reductions is contained in the intended nationally determined contribution submitted in view of the Paris Agreement by the Union and its Member States to the Secretariat of the UNFCCC on 6 March 2015. The Paris Agreement entered into force on 4 November 2016. [...]**
- (4) The Paris Agreement sets out a long-term goal in line with the objective to keep the global temperature increase well below 2°C above pre-industrial levels and to pursue efforts to keep it to 1.5°C above pre-industrial levels. In order to achieve this goal, the Parties should prepare, communicate and maintain successive nationally determined contributions. The Paris Agreement replaces the approach taken under the 1997 Kyoto Protocol which will not be continued beyond 2020. The Paris Agreement also calls for a balance between anthropogenic emissions by sources and removals by sinks of greenhouse gases in the second half of this century, and invites Parties to take action to conserve and enhance, as appropriate, sinks and reservoirs of greenhouse gases, including forests.

³ Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC (OJ L 275 25.10.2003, p. 32).

⁴ **Directive 2003/87/EC of the European Parliament and of the Council establishing a scheme for greenhouse gas emission allowance trading within the Community (OJ L 282, 19.10.2016, p. 4).**

⁵ **Council Decision (EU) 2016/1841 of 5 October 2016 on the conclusion, on behalf of the European Union, of the Paris Agreement adopted under the United Nations Framework Convention on Climate Change (OJ L 282, 19.10.2016, p. 1).**

- (5) The European Council of 23-24 October 2014 [...] acknowledged the multiple objectives of the agriculture and land use sector, with their lower mitigation potential as well as the need to ensure coherence between the Union food security and climate change objectives. The European Council invited the Commission to examine the best means of encouraging the sustainable intensification of food production, while optimising the sector's contribution to greenhouse gas mitigation and sequestration, including through afforestation, and to establish policy on how to include land use, land use change and forestry ('LULUCF') into the 2030 greenhouse gas mitigation framework as soon as technical conditions allow and in any case before 2020.
- (6) The LULUCF sector can contribute to climate change mitigation in several ways, in particular by reducing emissions, and maintaining and enhancing sinks and carbon stocks. In order for measures aiming in particular at increasing carbon sequestration to be effective, the long-term stability and adaptability of carbon pools is essential.
- (7) Decision No 529/2013/EU of the European Parliament and of the Council⁶, as a first step, set out accounting rules applicable to [...] emissions and removals from the LULUCF sector and thereby contributed to policy development towards the inclusion of the LULUCF sector in the Union's emission reduction commitment. This Regulation should build on the existing accounting rules, updating and improving them for the period 2021-2030. It should lay down the obligations of Member States in implementing those accounting rules and the obligation to ensure that the overall LULUCF sector [...] **does not** generate net emissions. It should not lay down any accounting or reporting obligations for private parties.

⁶ Decision No 529/2013/EU of the European Parliament and of the Council of 21 May 2013 on accounting rules on greenhouse gas emissions and removals resulting from activities relating to land use, land-use change and forestry and on information concerning actions relating to those activities (OJ L 165, 18.6.2013, p. 80)

- (8) In order to determine accurate accounts of emissions and removals in accordance with the 2006 Intergovernmental Panel on Climate Change ('IPCC') Guidelines for National Greenhouse Gas Inventories ('IPCC Guidelines'), the annually reported values under Regulation (EU) No 525/2013 **of the European Parliament and of the Council**⁷ for land use categories and the conversion between land use categories should be utilised, thereby streamlining the approaches used under the UNFCCC and the Kyoto Protocol. Land that is converted to another land use category should be considered in transition to that category for the default value of 20 years in the IPCC Guidelines. **Changes in the IPCC Guidelines and other relevant developments under the UNFCCC should be reflected, as appropriate, in reporting requirements under this Regulation.**
- (9) Emissions and removals from forest land depend on a number of natural circumstances, **[...] dynamic age related forests characteristics**, as well as past and present management practices. The use of a base year would not make it possible to reflect those factors and resulting cyclical impacts on emissions and removals or their interannual variation. The relevant accounting rules should instead provide for the use of reference levels to exclude the effects of natural and country-specific characteristics. In the absence of the international review under the UNFCCC and the Kyoto Protocol, a review procedure should be established to ensure transparency and improve the quality of accounting in this category.
- (10) When the Commission [...] **is** assisted by an expert review team in accordance with Commission Decision [...] **of 31 May 2016**⁸ in the review of national forestry accounting **reports**, it should build on the good practice and experience of the expert reviews under the UNFCCC, including as regards participation of national experts and recommendations, and select a sufficient number of experts from the Member States.

⁷ Regulation (EU) No 525/2013 of the European Parliament and of the Council of 21 May 2013 on a mechanism for monitoring and reporting greenhouse gas emissions and for reporting other information at national and Union level relevant to climate change and repealing Decision No 280/2004/EC (OJ L 165, 18.6.2013, p. 13).

⁸ Commission Decision of 31 May 2016 establishing horizontal rules on the creation and operation of Commission expert groups.

- (11) The internationally agreed IPCC Guidelines state that emissions from the combustion of biomass can be accounted as zero in the energy sector with the condition that these emissions are accounted for in the LULUCF sector. In the [...] **Union**, emissions from biomass combustion are accounted as zero pursuant to Article 38 of **Commission Regulation (EU) No 601/2012**⁹ and the provisions set out in Regulation (EU) No 525/2013, hence consistency with the IPCC Guidelines would only be ensured if these emissions [...] **are** covered accurately under this Regulation.
- (12) The increased sustainable use of harvested wood products can substantially limit emissions into and enhance removals of greenhouse gases from the atmosphere. The accounting rules should ensure that Member States accurately reflect in accounts the changes in the harvested wood products pool when they take place, to provide incentives for enhanced use of harvested wood products with long life cycles. The Commission should provide guidance on methodological issues related to the accounting for harvested wood products.
- (13) Natural disturbances, such as wildfires, insect and disease infestations, extreme weather events and geological disturbances that are beyond the control of, and not materially influenced by, a Member State, may result in greenhouse gas emissions of a temporary nature in the LULUCF sector, or may cause the reversal of previous removals. As reversal can also be the result of management decisions, such as decisions to harvest or plant trees, this Regulation should ensure that human-induced reversals of removals are always accurately reflected in LULUCF accounts. Moreover, this Regulation should provide Member States with a limited possibility to exclude emissions resulting from disturbances that are beyond their control from their LULUCF accounts. However, the manner in which Member States apply those provisions should not lead to undue under-accounting.

⁹ Commission Regulation (EU) No 601/2012 of 21 June 2012 on the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC of the European Parliament and of the Council (OJ L 181, 12.7.2012, p. 30).

- (14) Depending on national preferences, Member States should be able to choose adequate national policies for achieving their commitments in LULUCF, including the possibility of compensating emissions from one land category by removals from another land category. They should also be able to cumulate net removals over the period 2021-2030. Trading among Member States should continue as an additional option to help compliance. Following the practice in the second commitment period of the Kyoto Protocol, there should also be a possibility for a Member State to use its overachievement under Regulation [ESR] [...] in order to ensure its compliance with its commitment under this Regulation.
- (15) In order to ensure efficient, transparent and cost-effective reporting and verification of greenhouse gas emissions and removals and of other information necessary to assess compliance with Member States' commitments, reporting requirements should be included in Regulation (EU) No 525/2013 [...], and compliance checks under this Regulation should take those reports into account. Regulation (EU) No. 525/2013 should therefore be amended accordingly.[...]
- (15a) Regulation (EU) No 525/2013 should be amended accordingly.**
- (16) The European Environment Agency should assist the Commission, as appropriate in accordance with its annual work programme, with the system of annual reporting of greenhouse gas emissions and removals, the assessment of information on policies and measures and national projections, the evaluation of planned additional policies and measures, and the compliance checks carried out by the Commission under this Regulation.

- (17) To facilitate data collection and methodology improvement, land use should be inventoried and reported using geographical tracking of each land area, corresponding to national and [...] **Union** data collection systems. The best use shall be made of existing Union and Member State programmes and surveys including the LUCAS Land Use Cover Area frame Survey and the European Earth observation programme Copernicus for data collection. Data management, including sharing for the reporting reuse and dissemination should conform to Directive 2007/2/EC of the European Parliament and of the Council ¹⁰[...].
- (18) In order to provide for the appropriate accounting of transactions under this Regulation, including the use of flexibilities and tracking compliance, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of [...] technical adaptation of definitions, **minimum** values **for the definition of forests**, lists of greenhouse gases and carbon pools, [...] update of reference levels, the accounting of transactions and the revision of methodology and information requirements. [...] The necessary provisions should be contained in a single [...] instrument combining the accounting provisions pursuant to Directive 2003/87/EC, Regulation (EU) No 525/2013, Regulation [ESR] [...] and this Regulation. It is of particular importance that the Commission carry out 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 Inter-institutional 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 have systematic access to meetings of Commission expert groups dealing with the preparation of delegated acts.

¹⁰ Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE) (OJ L 108, 25.4.2007, p. 1).

Comment [JB1]: The preamble should be in line with the relevant operative Article. In the first sentence, the formulation should be adapted to accommodate the new para. 1.

(19) This Regulation should be reviewed as of 2024 and every 5 years thereafter in order to assess its overall functioning. ~~The review should take into account, inter alia, evolving national circumstances and be [...]~~ This review can also be informed by the results of the global stocktake of the Paris Agreement.

(20) Since the objectives of this Regulation, **in particular to set out Member States' commitments on LULUCF in order to meet the greenhouse gas emission reduction target of the Union for the period from 2021 to 2030**, cannot be sufficiently achieved by the Member States but can rather, by reason of its scale and effects be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty of the European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives,

HAVE ADOPTED THIS REGULATION:

Article 1

Subject matter

This Regulation sets out Member States' commitments on land use, land use change and forestry ('LULUCF') that **contribute to** meeting the greenhouse gas emission reduction **target [...]** of the Union for the period from 2021 to 2030, as well as the rules for the accounting of emissions and removals from LULUCF and checking the compliance of Member States with these commitments.

Article 2

Scope

1. This Regulation applies to emissions and removals of the greenhouse gases listed in **Section A** of Annex I [...], as reported pursuant to Article 7 of Regulation (EU) No 525/2013 occurring in any of the following land accounting categories on the territories of Member States during the period from 2021 to 2030:

- (a) afforested land: land use reported as cropland, grassland, wetlands, settlements, and other land converted to forest land;

- (b) deforested land: land use reported as forest land converted to cropland, grassland, wetlands, settlements, and other land;
- (c) managed cropland: land use reported as cropland remaining cropland and grassland, wetland, settlement, other land converted to cropland and cropland converted to wetland, settlement and other land;
- (d) managed grassland: land use reported as grassland remaining grassland and cropland, wetland, settlement, other land converted to grassland and grassland converted to wetland, settlement and other land;
- (e) managed forest land: land use reported as forest land remaining forest land;
- (f) managed wetland: land reported as managed wetland remaining managed wetland, and settlement, other land converted to managed wetland and managed wetland converted to settlement and other land.

~~2. A Member State may [...] include emissions and removals of the greenhouse gases listed in Section A of Annex I as reported pursuant to Article 7 of Regulation (EU) No 525/2013 occurring in the land accounting category managed wetland, [...] (land use reported as wetland remaining wetland, and settlement, other land converted to wetland and wetland converted to settlement and other land), on its territory, in the scope of its commitment pursuant to Article 4 of this Regulation. [...] This Regulation also applies to such emissions and removals included by a Member State.~~

~~3. Where a Member State intends to include managed wetland in accordance with paragraph 2, it shall notify the Commission thereof by 31 December 2020 for the period from 2021 to 2025 and by 31 December 2025 for the period from 2026 to 2030.~~

Article 3

Definitions

1. For the purposes of this Regulation, the following definitions shall apply:

(a') 'emissions' means anthropogenic emissions of greenhouse gases measured as verifiable changes in carbon stocks and non-carbon dioxide greenhouse gas emissions;

(a'') 'removals' means anthropogenic removals of greenhouse gases measured as verifiable changes in carbon stocks;

- (a) 'sink' means any process, activity or mechanism that removes a greenhouse gas, an aerosol, or a precursor to a greenhouse gas from the atmosphere;
- (b) 'source' means any process, activity or mechanism that releases a greenhouse gas, an aerosol or a precursor to a greenhouse gas into the atmosphere;
- (c) 'carbon stock' means the mass of carbon stored in a carbon pool;
- (d) 'carbon pool' means the whole or part of a biogeochemical feature or system within the territory of a Member State within which carbon, any precursor to a greenhouse gas containing carbon or any greenhouse gas containing carbon is stored;
- (e) 'harvested wood product' means any product of wood harvesting that has left a site where wood is harvested;
- (f) 'forest' means an area of land defined by the minimum values for area size, tree crown cover or an equivalent stocking level, and potential tree height at maturity at the place of growth of the trees **as specified for each Member State in Section A of Annex II.** It includes areas with trees, including groups of growing young natural trees, or plantations that have yet to reach the minimum values for tree crown cover or equivalent stocking level or minimum tree height **as specified in Section A of Annex II,** including any area that normally forms part of the forest area but on which there are temporarily no trees as a result of human intervention, such as harvesting, or as a result of natural causes, but which area can be expected to revert to forest;

(fa) 'forest reference level' means **an estimate projection** of the average annual net emissions or removals resulting from managed forest land within the territory of the Member State in the periods from 2021 to 2025 and from 2026 to 2030 based on the criteria set out in this Regulation;

Comment [JB2]: We assume that "emissions" and "removals" as technical terms need no further definition. This definition rather describes "emissions" and "removals" as reported, and not as accounted. However, the terms are used throughout the regulation for accounted emissions and removals. Therefore, this definition is rather misleading than clarifying the meaning of the terms and should be deleted.

Comment [JB3]: An FRL as defined in this Regulation is not an estimate trying to predict the future as precisely as possible. In fact, it describes the effect of the continuation of a certain forest management approach coupled with dynamic age class effects into the future.

(fb) ‘half-life value’ means the number of years it takes for the quantity of carbon stored in a harvested wood products category to decrease to one half of its initial value;

- (g) ‘natural disturbances’ mean any non-anthropogenic events or circumstances that cause significant emissions in forests and the occurrence of which are beyond the control of the relevant Member State, provided the Member State is objectively unable to significantly limit the effect of the events or circumstances, even after their occurrence, on emissions;
- (h) ‘instantaneous oxidation’ means an accounting method that assumes that the release into the atmosphere of the entire quantity of carbon stored in harvested wood products occurs at the time of harvest.

2. The Commission [...] **is** empowered to adopt delegated acts in accordance with Article 14, to **amend or delete** the definitions **contained in paragraph 1, or add new definitions therein, in order to adapt** paragraph 1 to scientific developments or technical progress and to ensure consistency between those definitions and any changes to relevant definitions in the 2006 IPCC Guidelines for National Greenhouse Gas Inventories ('IPCC Guidelines').

Article 4

Commitments

Comment [JB4]: Article 4 is still under scrutiny.

For the period from 2021 to 2025 and from 2026 to 2030, taking into account the flexibilities provided for in Article 11, each Member State shall ensure that emissions do not exceed removals, calculated as the sum of total emissions and removals on their territory in the land accounting categories referred to in Article 2 combined, as accounted in accordance with this Regulation.

Article 5

General accounting rules

1. Each Member State shall prepare and maintain accounts that accurately reflect the emissions and removals resulting from the land accounting categories referred to in Article 2. Member States shall ensure the accuracy, completeness, consistency, comparability and transparency

of their accounts and of other data provided under this Regulation. Member States shall denote emissions by a positive sign (+) and removals by a negative sign (-).

2. Member States shall prevent any double counting of emissions or removals, in particular by [...] **ensuring that emissions and removals are not accounted under more than one land accounting category.**
3. Member States shall transition forest land, cropland, grassland, wetland, settlements and other land from the category of such land converted to another type of land to the category of such land remaining the same type of land after 20 years from the date of conversion.
4. Member States shall include in their accounts for each land accounting category any change in the carbon stock of the carbon pools listed in **Section B** of Annex I [...]. Member States may choose not to include in their accounts changes in carbon stocks for carbon pools where the carbon pool is not a source, except for above-ground biomass and harvested wood products on managed forest land.
5. Member States shall maintain a complete and accurate record of all data used in preparing their accounts.
6. The Commission [...] **is** empowered to adopt delegated acts in accordance with Article 14 to amend Annex I in order to reflect changes in the IPCC Guidelines.

Article 6

Accounting for afforested land and deforested land

1. Member States shall account for emissions and removals resulting from afforested land and deforested land, as the total emissions and removals for each of the years in the periods from 2021 to 2025 and from 2026 to 2030.
2. ~~By derogation from the requirement to apply the default value established in Article 5(3), a Member State may transition cropland, grassland, wetland, settlements and other land from the category of such land converted to forest land to the category of forest land remaining forest land after 30 years from the date of conversion, if duly scientifically justified in line with IPCC Guidelines.~~

Comment [JB5]: It is our understanding that derogations are only possible in case there is a compelling scientific reason for this, as outlined by the IPCC guidelines. There is no need to include a rule on this in the EU rules. In our view, transition periods over 30 years would not be justifiable.

3. In calculations for emissions and removals on afforested land and deforested land, each Member State shall determine the forest area using the [...] **parameters** [...] specified in **Section A** of Annex II.

Article 7

Accounting for managed cropland, managed grassland and managed wetland

1. Member States shall account for emissions and removals resulting from managed cropland calculated as emissions and removals in the periods from 2021 to 2025 and from 2026 to 2030 minus the value obtained by multiplying by five the Member State's average annual emissions and removals resulting from managed cropland in its base period **from** 2005 **to** 2007.
2. Member States shall account for emissions and removals resulting from managed grassland calculated as emissions and removals in the periods from 2021 to 2025 and from 2026 to 2030 minus the value obtained by multiplying by five the Member State's average annual emissions and removals resulting from managed grassland in its base period **from** 2005 **to** 2007.
3. ~~[...]~~ **moved to Article 2(3) Member States shall account for emissions and removals resulting from managed wetland calculated as emissions and removals in the periods from 2021 to 2025 and from 2026 to 2030 minus the value obtained by multiplying by five the Member State's average annual emissions and removals resulting from managed wetland in its base period 2005-2007.**
4. ~~Member States that [...] include managed wetland [...] in accordance with Article 2 shall account for emissions and removals resulting from managed wetland, calculated as emissions and removals in the periods from 2021 to 2025 and/or from 2026 to 2030 minus the value obtained by multiplying by five the Member State's average annual emissions and removals resulting from managed wetland in its base period **from** 2005 **to** 2007.~~

Article 8

Accounting for managed forest land

1. Member States shall account for emissions and removals resulting from managed forest land, calculated as emissions and removals in the periods from 2021 to 2025 and from 2026 to 2030 minus the value obtained by multiplying by five its forest reference level **as specified in Section B of Annex II**. *[moved to Article 3(1)(fa)]*

2. Where the result of the calculation referred to in paragraph 1 is negative in relation **to a Member State** forest reference level, **the** Member State **concerned** shall include in its managed forest land accounts total net removals of no more than the equivalent of [3,5] % of the [...] emissions **of that Member State** in its base year or period as specified in Annex III, multiplied by five.
3. Member States shall determine the new forest reference level based on the criteria set out in **Section A of** Annex IV [...]. They shall submit to the Commission a national forestry accounting [...] **report**, including a new forest reference level, by 31 December 2018 for the period from 2021 to 2025 and by 30 June 2023 for the period **from** 2026 **to** 2030.

The national forestry accounting **report** [...] shall contain all the elements listed in **Section B of** Annex IV [...], and include a proposed new forest reference level based on the continuation of [...] forest management practice and intensity, as documented between **2000-2009** [...] **with regard to dynamic age related forests characteristics** in national forests, expressed in tonnes of CO₂ equivalent per year. **For determining the forest reference level, a constant ratio between solid and energy use of forest biomass as documented between 2000-2009 shall be assumed. Member States may submit a reasoned request for derogation from the base period 2000-2009 in case this is absolutely necessary for reasons of data availability, such as the timing of forest inventories.**

Comment [JB6]: We clarified this formulation compared to earlier versions.

[...]

4. Member States shall demonstrate consistency between the methods and data used to [...] **determine** the **new** forest reference level in the national forestry accounting **report** and those used in the reporting for managed forest land. At the latest at the end of the period from 2021 to 2025 or from 2026 to 2030, a Member State shall submit to the Commission a technical correction of its **forest** reference level, if necessary to ensure consistency.
5. The Commission, **assisted by experts from Member States**, shall review the national forestry accounting **reports** and technical corrections and assess the extent to which the proposed new or corrected forest reference levels have been determined in accordance with the principles and requirements set out in paragraphs 3 and 4 **of this Article** as well as Article 5(1). To the extent that this is required in order to ensure compliance with the principles and requirements set out in paragraphs 3 and 4 **of this Article** as well as Article 5(1), the Commission may [...] **update** the proposed new or corrected forest reference levels.

6. Based on the national forestry accounting reports or the technical corrections submitted, the Commission shall, adopt delegated acts in accordance with Article 14 to amend Section B of Annex II [...] in the light of the review carried out pursuant to paragraph 5 of this Article, in order to update Member State forest reference levels [...].
7. The Commission shall adopt a separate delegated act in respect of the update of each Member State forest reference level.

Article 9

Accounting for harvested wood products

1. In accounts pursuant to Article 6(1) and 8(1) relating to harvested wood products, Member States shall reflect emissions and removals resulting from changes in the pool of harvested wood products falling within the following categories using the first order decay function, the methodologies and the default half-life values specified in Annex V:
- (a) paper;
 - (b) wood panels;
 - (c) sawn wood.

2. Member States may supplement these categories with information on bark, provided that the available data is transparent and verifiable.

Comment [JB7]: We do not consider this addition very useful. Alternatively, it should be clear that this information refers to material wood use only.

Article 10

Accounting for natural disturbances

1. At the end of the periods from 2021 to 2025 and from 2026 to 2030, Member States may exclude from their accounts for afforested land and managed forest land greenhouse gas emissions resulting from natural disturbances exceeding the average emissions caused by natural disturbances in the period from 2001 to 2020, excluding statistical outliers ('background level') calculated in accordance with this Article and Annex VI.
2. Where a Member State applies paragraph 1, it shall:

a) submit to the Commission information on the background level for each land accounting category determined in paragraph 1 and on the data and methodologies used in accordance with Annex VI, **and**

b) [...] exclude from accounting until 2030 all subsequent removals on the land affected by natural disturbances.

- 3.** The Commission [...] **is** empowered to adopt delegated acts in accordance with Article 14 to **amend Annex VI in order to** revise the methodology and information requirements in **that** Annex [...] to reflect changes in the IPCC Guidelines.

Article 11

Flexibilities

1. Where total emissions exceed removals in a Member State and that Member **State has chosen to use its flexibility and has requested to** delete annual emission allocations under Regulation [ESR], this quantity shall be taken into account for the Member State's compliance with its commitment pursuant to Article 4 **of this Regulation**.
2. To the extent that total removals exceed emissions in a Member State and after subtraction of any quantity taken into account under Article 7 of Regulation [ESR], that Member State may transfer the remaining quantity to another Member State. The transferred quantity shall be taken into account when assessing the receiving Member State's compliance with its commitment pursuant to Article 4 **of this Regulation**.
3. To the extent that total removals exceed emissions in a Member State in the period from 2021 to 2025, and after subtraction of any quantity taken into account under Article 7 of Regulation [ESR] [...] or transferred to another Member State pursuant to paragraph 2 **of this Article**, that Member State may bank the remaining quantity to the period **from** 2026 **to** 2030.
4. In order to avoid double counting, the quantity of net removals taken into account under Article 7 of Regulation [ESR] [...] shall be subtracted from that Member State's quantity available for transfer to another Member State or banking pursuant to paragraphs 2 **and** 3 **of this Article**.
5. If a Member State is not in compliance with the monitoring requirements laid down in **point (da) of** Article 7(1) [...] of Regulation (EU) No 525/2013, the Central Administrator

designated under Article 20 of Directive 2003/87/EC ("the Central Administrator") shall temporarily prohibit that Member State from transferring or banking pursuant to paragraphs 2 **and 3 of this Article.**

Article 12

Compliance check

1. [...] **By 15 March** 2027 and **by 15 March** 2032, Member States shall submit to the Commission a compliance report containing the balance of total [...] emissions and removals respectively for the period **from** 2021 **to** 2025 [...] **and from** 2026 **to** 2030, **respectively**, on each of the land accounting categories specified in Article 2, using the accounting rules laid down in this Regulation.
2. The Commission shall carry out a comprehensive review of the compliance reports for the purpose of assessing compliance with Article 4.
3. The European Environment Agency shall assist the Commission in the implementation of the monitoring and compliance framework under this Article, in accordance with its annual work programme.

Article 13

Registry

1. The Commission shall [...] **adopt ~~delegated implementing~~ acts in accordance with Article 14a of this Regulation to supplement this Regulation in order to** record the quantity of emissions and removals for each land accounting category in each Member State and ensure the accurate accounting in the exercise of the flexibilities pursuant to Article 11 **of this Regulation through** the Union Registry established pursuant to Article 10 of Regulation (EU) No 525/2013.
- 1a.** The Central Administrator shall conduct an automated check on each transaction under this Regulation and, where necessary, block transactions to ensure **that** there are no irregularities. This information shall be accessible to the public.
2. [...]

Article 14

Exercise of delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Articles 3(2), 5(6), 8(6), and 10(3) ~~and 13(1)~~ shall be conferred on the Commission for a period of [] years from ... [date of entry into force of this Regulation]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the []-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period. [...]
3. The delegation of powers referred to in [...] Articles 3(2), 5(6), 8(6), and 10(3) and 13(1) may be revoked at any time by the European Parliament or by the Council. A decision [...] to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before the adoption of a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Inter-institutional Agreement of 13 April 2016 on Better Law-Making [...].
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to [...] Articles 3(2), 5(6), 8(6), and 10(3) and 13(1) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 14a

Committee Procedure

1. The Commission shall be assisted by a Climate Change Committee. That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Formatted: Left

Formatted: Font: Bold, Not Italic, Underline

Article 15

Review

1. The provisions of this Regulation shall be kept under review in the light of international developments and efforts undertaken to achieve the long-term objectives of the Paris Agreement.

2. The Commission shall report to the European Parliament and to the Council by 28 February 2024 and every five years thereafter on the operation of this Regulation, its contribution to the the Union's [...] overall 2030 greenhouse gas emission reduction target and its contribution to the goals of the Paris Agreement, and may make proposals if appropriate.

Comment [KI I 68]: We welcome the amendment by the Presidency. However, the text should be formulated more clearly. The ambition level of the LULUCF regulation should be assessed by the Commission in light of the provisions of the Paris Agreement and the facilitative dialogue in 2018. The LULUCF Regulation and the ESR should be harmonised in this regard.

Article 16

Amendments to Regulation (EU) No 525/2013

Regulation (EU) No 525/2013 [...] is hereby amended as follows:

(1) Article 7(1) is amended as follows:

(a) the following point [...] is inserted:

"(da) [...] **as of** 2023, their emissions and removals covered by Article 2 of Regulation [LULUCF] [...] in accordance with the methodologies specified in Annex IIIa to this Regulation;

(b) the following subparagraph is added:

"A Member State may request derogation from point (da) **of the first subparagraph** to apply a different methodology than specified in Annex IIIa if the methodology improvement required could not be achieved in time for the improvement to be taken into account in the greenhouse gas inventories of the period from 2021 to 2030, or the cost of the methodology improvement would be disproportionately high compared to the benefits of applying such methodology to improve accounting for emissions and removals due to the low significance of the emissions and removals from the carbon pools concerned. Member States wishing to benefit from the derogation shall submit a reasoned request to the Commission by 31 December 2020, indicating the timeline by when the methodology improvement could be implemented and/or the alternative methodology proposed, and an assessment of the potential impacts on the accuracy of accounting. The Commission may request additional information to be submitted within a reasonable time period specified. Where the Commission considers that the request is justified, it shall grant the derogation. If the request is rejected, the Commission shall give reasons for its decision."

(2) In Article 13(1)(c), the following point [...] is added:

"(ix) as [...] **of** 2023, information on national policies and measures implemented towards meeting their obligations under Regulation [LULUCF] and information on planned additional national policies and measures envisaged with a view to limiting greenhouse gas emissions or enhancing sinks beyond their commitments under that Regulation;"

(3) In Article 14(1), the following point is inserted:

"(bb) as [...] **of** 2023, total greenhouse gas projections and separate estimates for the projected greenhouse gas emissions and removals covered by Regulation [LULUCF]",

(4) The following Annex IIIa is inserted:

"Annex IIIa

Methodologies for monitoring and reporting referred to in point (da) of Article 7 (1)

Approach 3: Geographically-explicit land-use conversion data in accordance with the 2006 IPCC Guidelines for National Greenhouse Gas Inventories.

Tier 1 methodology [...] in accordance with the 2006 IPCC guidelines for National Greenhouse Gas Inventories.

For emissions and removals for a carbon pool that accounts for at least 25-30% of emissions or removals in a source or sink category which is prioritised within a Member State's national inventory system because its estimate has a significant influence on a country's total inventory of greenhouse gases in terms of the absolute level of emissions and removals, the trend in emissions and removals, or the uncertainty in emissions and removals in the land-use categories, at least Tier 2 methodology [...] in accordance with the 2006 IPCC Guidelines for National Greenhouse Gas Inventories.

Member States are encouraged to apply Tier 3 methodology [...], in accordance with the 2006 IPCC Guidelines for National Greenhouse Gas Inventories. "

Article 17

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the European Parliament
The President*

*For the Council
The President*