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MEETING DOCUMENT

From:	General Secretariat of the Council
To:	Working Party on the Environment
Subject:	Carbon removal certification framework (CRCF): WPE on 28 April 2023 - Presidency Steering note

With a view to the WPE meeting on 28 April on the abovementioned proposal, delegations will find attached a steering note prepared by the Presidency.

Presidency Steering Note: Working Party on the Environment 28 April 2023 – Carbon Removal Certification Framework (CRCF)

The WPE on 31 March made progress in discussions on the proposed Carbon Removal Certification Framework based on the guiding questions prepared by the Presidency. For the meeting on 28 April, the Presidency wishes to focus on a set of provisions contained in articles 1, 2, 4 and 8 where further concretisation and clarity would facilitate advancing on other aspects of the proposal. Where deemed possible, the Presidency has proposed draft amendments to the Commission's text, marked in **bold and underlined**. Delegations are encouraged to provide input based on the draft amended text and/or discussion questions outlined in boxes 1 – 4.

The Presidency intends to return to other provisions of the proposal at a later stage.

Article 1: Subject matter and scope

Policy context of the proposal

During the WPE held on 31 March a majority of delegations supported including language in Article 1 that further clarifies the role of the CRCF in the context of the Union's climate neutrality objective. In this context, several delegations also repeated the importance of highlighting that enhanced carbon removals should not deter efforts to further reduce emissions.

Based on these discussions, the Presidency proposes to include language building on recital 3 in the operative part of the text, linking the CRCF to the Unions' climate neutrality objective as set out in Regulation 2021/1119 (European Climate Law) and underlining enhanced carbon removals as an important complement to emission reductions in recital 3. The Presidency also proposes to recall the composition of the 2030 climate target in a new recital 3a.

Amendments proposed by the Presidency:

Recital 3

(3) The aim of this Regulation is to develop a voluntary Union certification framework for carbon removals, with the view to incentivise the uptake of high-quality carbon removals, in full respect of the biodiversity and the zero-pollution objectives, **as a complement to sustained emission reductions**. It is **thereby** a tool to support the achievement of the Union objectives under the Paris Agreement, notably the goal of collective climate neutrality by 2050 laid down in Regulation (EU) 2021/1119 of the European Parliament and of the Council¹. The Union also committed to generate negative emissions after 2050.

(3a) Regulation (EU) 2021/1119 also sets out a binding Union climate target of a domestic reduction of net greenhouse gas emissions by at least 55% compared to 1990 levels by 2030. In order to ensure that sufficient mitigation efforts are deployed up to 2030, the contribution of net removals to the Union 2030 climate target is limited to 225 million tonnes of CO₂ equivalents.

Article 1 paragraph 3 (new)

3. This regulation is a tool to support the achievement of the Union objectives under the Paris Agreement, notably the goal of collective climate neutrality by 2050 laid down in Regulation (EU) 2021/1119 of the European Parliament and of the Council.

End-use of the carbon removal units

The issue of whether the end use of the certificates should be regulated in the regulations was discussed at the WPE on 31 March. In the discussions, some Member States saw an added value in including language on the end-use of the certificates as a way of enhancing trust and further predictability for market operators. Conversely, other delegations saw a risk that regulating their end use at this stage might have a negative effect on the value of the credits as it could reduce demand if market actors instead purchase other units on the voluntary

¹ Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 ('European Climate Law') (OJ L 243, 9.7.2021, p. 1).

carbon market. One Member State suggested to rather include a list of discouraged end-uses.

The Commission has repeatedly emphasised that the CRCF is first and foremost an MRV tool to increase high-quality carbon removals in the Union and enhance trust. It is also of a voluntary nature, which several Member States have suggested to further clarify.

In accordance with the European Climate Law, the contribution of carbon removals to the achievement of the climate target of reducing net greenhouse gas emissions by at least 55% is limited to 225Mt. The Commission has indicated that the role of removals in the Unions climate policy architecture might develop further in the context of the 2040 climate target.

For the period up to 2030, the Commission has pointed to other binding legislation that would directly or indirectly regulate the potential end-use of the carbon removal units generated and certified under the CRCF. In this context, several Member States have requested further information in particular on the interlinkages between the CRCF and the Green Claims Directive proposal.

Accordingly, the Presidency has invited the Commission to provide further information during the WPE on 28 April on how the end use of the certificates is proposed to be regulated within the framework of the Green Claims Directive. According to the Commissions' proposal, the Directive would apply to all kinds of carbon credits/units on the voluntary market, including those generated under the CRCF.

1. Questions for discussion

- a) Do you consider the Presidency's suggestions in Article 1 and recital 3 and 3a an appropriate way forward?
- b) Based on the discussion on end-use at the WPE on 31 March, to what extent would you agree that strict regulation of the end-use of the certificates in the CRCF at this stage could risk undermining the attractiveness of the units and/or pre-empt the further development of the Union's policy framework as regards carbon removals?
- c) Provided that the use of various forms of carbon credits, including removal units generated under the CRCF, will be regulated in Green Claims Directive, would you support clarifying the link to the Green Claims Directive in the CRCF?

Article 2: Definitions

In the discussions so far, several delegations have suggested that some of the definitions contained in Article 2 should be clarified. Some delegations have also requested further definitions to be added to the list.

For the WPE meeting on 28 April, the Presidency proposes to focus on three definitions that, once clarified, could facilitate identifying a way forward on other provisions of the proposal. The Presidency proposes to return to other definitions in Article 2 at a later stage.

“Carbon Removal”, “Carbon Removal Activity” and “Carbon Farming”

Several Member States have noted that the proposed definition of “*carbon removals*” in Article 2.1(a) differs from that developed by the IPCC. The Commission has explained that the term “*reduction of carbon release from a biogenic carbon pool to the atmosphere*” refers to specific carbon farming practices in line with the scope of net GHG removals under the LULUCF Regulation. These practices include rewetting of drained organic soils but also carbon farming practices on mineral soils that currently act as a source and where carbon farming practices at first reduce emissions but which over time will turn into a carbon sink.

Several delegations have expressed support for incentivizing these types of land-use activities in the framework given their significant climate change mitigation potential, particularly in the case of drained organic soils which are currently a large source of greenhouse gas but where rewetting could significantly reduce these emissions and where these soils, over time, can turn into a sink. Some Member States supported the Commission’s explanation that the proposed definition in the CRCF expands on the IPCC definitions rather than contradicts it.

The Presidency concludes that there is strong support for including land-based activities in the land-use sector that aim to increase removal of CO₂ but which in an initial phase reduce the release of biogenic carbon (e.g. rewetting of peatlands), but that this must be done in a way that is more clearly consistent with the IPCC definition of carbon removal.

Introducing the verbatim IPCC definition of carbon removals is complicated since it does not clearly include activities such as rewetting of drained organic

soils or carbon farming practices on mineral soils that currently act as a source and where the carbon farming practice reduces these emissions.

As an alternative to the original proposal of the Commission, the Presidency therefore proposes to bring the definition of “*carbon removals*” closer to that of the IPCC by deleting the reference to the reduction of carbon release from biogenic carbon pools but leaving it in the definitions of “*carbon removal activity*” and “*carbon farming*”. The reason for this would be further clarified in recital 5. Moreover, clearer definitions of these concepts would also be in line with the intended definition of “*Net carbon removal benefit*” in Article 4(2).

Amendments proposed by the Presidency:

Recital 5

(5) In order to support operators willing to make additional efforts to increase carbon removals in a sustainable way, the Union certification framework should take into account the different types of carbon removal activities, their specificities and related environmental impacts. Therefore, this Regulation should provide clear definitions of carbon removal, carbon removal activities, and other elements of the Union certification framework. **Its scope should include carbon removal activities that enhance carbon storage in geological and terrestrial reservoirs, in long-lasting products and in the marine environment. Carbon removal activities include activities that remove carbon from the atmosphere and store it into a carbon pool. In the case of carbon farming, carbon removal activities also include activities that can turn current carbon sources into carbon sinks over time and therefore, in an initial phase, result in the reduction of carbon release from a carbon pool to the atmosphere.**

Article 2 paragraph 1

(a) ‘carbon removal’ means ~~either~~ the storage of atmospheric or biogenic carbon within geological ~~and carbon pools,~~ biogenic carbon pools **and terrestrial reservoirs,** long-lasting products and materials, and the marine environment, ~~or the reduction of carbon release from a biogenic carbon pool to the atmosphere;~~

(b) ‘carbon removal activity’ means one or more practices or processes carried out by an operator resulting in **a net-carbon removal benefit via** permanent

carbon storage, enhancing carbon capture in a biogenic carbon pool, reducing the release of carbon from a biogenic carbon pool **currently functioning as a carbon source** to the atmosphere, or storing atmospheric or biogenic carbon in long-lasting products or materials;

(h) ‘carbon farming’ means a carbon removal activity related to land management that results in the increase of carbon storage in living biomass, dead organic matter and soils by enhancing carbon capture and/or reducing the release of carbon to the atmosphere;

2. Questions for discussion

- d) To align the definition on carbon removal with the IPCC definition, would it suffice to delete the subordinated clause or the reduction of carbon release from a biogenic carbon pool to the atmosphere”?
- e) Do you see any other options for definitions that are aligned with the IPCC definition of carbon removal but also covers land-based removal activities that, in an initial phase, reduce the release of carbon to the atmosphere from a biogenic carbon pool currently functioning as a carbon source?
- f) Would you see a need to make any further adjustments to the definitions of “carbon farming” or “carbon removal activity” to ensure consistency of the proposal?

Article 4 Quantification and baselines

Baselines –clarifications of the Commission’s proposal

The discussions at the WPE on the 31 March further confirmed the central role of the process of setting baselines. The Presidency concludes that further information from the Commission is necessary for Member States to better understand the intended process and how the calculation of baselines would be done.

Moreover, several delegations have asked questions regarding the relationship between the standardized baselines and activity-based baselines, including the meaning of “where duly justified” in article 4.5.

Subsequently, the Presidency has invited the Commission to present more details about the process of developing baselines, including illustrative examples for activities, such as rewetting, afforestation and agricultural practices. In addition,

the Commission will elaborate further on the difference between standardised baselines and activity-specific baselines based on the questions previously raised by Member States.

Based on the discussions so far, the Presidency proposes the following clarifications to the Commissions text in Article 4.

Amendments proposed by the Presidency:

Article 4, paragraph 4.

4. Carbon removals shall be quantified in a relevant, **conservative**, accurate, complete, consistent, comparable and transparent manner.

Article 4, paragraph 5-7:

5. The **standardised** baseline shall **be highly representative of the** carbon removal performance of comparable activities in similar social, economic, environmental and technological circumstances and take into account the geographical context **and local conditions. The standardised baselines shall be established by the Commission in the certification methodologies set out in the delegated acts adopted pursuant to Article 8.**

6. By way of derogation from paragraph 5, where duly justified **in the applicable certification methodology, including due to lack of data, an operator may use an activity-specific baseline that corresponds to** the individual carbon removal performance of that activity.

7. The **activity-specific** baseline shall be periodically updated **in accordance with the rules laid down in the certification methodologies, set out in the delegated acts adopted pursuant to Article 8.**

Baselines – addressing the specificities of carbon farming removal activities

In the discussions on baselines and also in relation to other matters, several Member States have raised questions regarding the formula set out in article 4(1) and how “CR_{total}” is to be calculated.

As the calculation of the fluxes in the formula in Article 4(1) differs for carbon farming practices compared to permanent carbon storage and carbon storage in products the Presidency proposes to clarify this by converting the formula in Article 4(1) it into two formulas: one for permanent storage and long-lasting carbon storage products and a new, separate formula (Article 4.(1a)) for carbon farming activities. As the calculations for carbon farming practices includes both removals and release of greenhouse gases regulated under Regulation (EU) 2018/841 (LULUCF regulation) a new separate formula for carbon farming is proposed. The new formula for carbon farming would also be in line with the proposed changes to the definition of carbon removals in the context of carbon farming (see above). These changes would have to be reflected in other parts of the text by replacing “carbon removals” by “carbon removals and releases of carbon”, or “carbon removals and releases” or “carbon removals and carbon farming”.

Further, the Presidency proposes to also modify paragraph 4(2) to reflect the changes above. In line with the inclusion of activities such as rewetting, it would be relevant to also include the reduction of N₂O emissions from agricultural soils generated by a rewetting activity in the calculation of the net carbon removal benefit in order to capture the full climate benefit of those carbon farming activities. Such an amendment would be necessary as those emissions are not regulated under the LULUCF regulation.

Amendments proposed by the Presidency:

Article 4 paragraph 1:

1. For permanent carbon storage and carbon storage in products, A a carbon removal activity shall provide a net carbon removal benefit, which shall be quantified using the following formula:

$$\text{Net carbon removal benefit} = \text{CR}_{\text{baseline}} - \text{CR}_{\text{total}} - \text{GHG}_{\text{increase}} > 0$$

where:

- (a) CR_{baseline} is the carbon removals under the baseline;
- (b) CR_{total} is the total carbon removals of the carbon removal activity;
- (c) GHG_{increase} is the increase in direct and indirect greenhouse gas emissions, ~~other than those from biogenic carbon pools in the case of carbon farming,~~ which are due to the implementation of the carbon removal activity.

1a. For carbon farming, a carbon removal activity shall provide a net carbon removal benefit, which shall be quantified using the following formula:

$$\text{Net carbon removal benefit} = \text{CR}_{\text{baseline}} - \text{CR}_{\text{total}} + \text{RC}_{\text{baseline}} - \text{RC}_{\text{total}} - \text{GHG}_{\text{increase}} > 0$$

where:

(a) CR_{baseline} is the carbon removals under the baseline;

(b) CR_{total} is the total carbon removals of the carbon removal activity;

(c) RC_{baseline} is the release of carbon under the baseline;

(d) RC_{total} is the release of carbon under the carbon removal activity;

(e) GHG_{increase} is the increase in direct and indirect greenhouse gas emissions, which are due to the implementation of the carbon removal activity.

Article 4, paragraph 2:

In the case of carbon farming, CR_{baseline} and CR_{total} shall be understood as net greenhouse gas removals or emissions in accordance with the accounting rules laid down in Regulation (EU) 2018/841. The scope of the quantities referred to in paragraph 1a, points (a) to (d), corresponds to the net greenhouse gas removals or emissions included in the scope of Regulation (EU) 2018/841, with the addition of N₂O emissions from drained organic croplands.

3. Questions for discussion

- g) Would you support dividing the formula in Article 4(1) into two separate formulas to clarify that the reduction of emissions would only be relevant in the context of certain carbon farming activities?
- h) In order to capture the full climate benefits of removal activities, such as rewetting of peatlands on drained organic croplands, would you support including in the new Article 4(1a) also the reduction of N₂O from drained organic cropland? Should these in your view be included in the net-reduction formula or be accounted as a co-benefit under article 7?
- i) If you support including a separate baseline calculation for carbon farming, would you see the need for any additional changes to either of the formulas?

Article 8, Annex I Certification methodologies

The development of the carbon removal certification methodologies constitutes a central element of the proposal. Several Member States have recalled the need to ensure an appropriate balance between the level of details set out in the regulation and the level of flexibility in developing the specific methodologies. In this context, some Member States have stated they see a need to ensure the delegated acts remain as technical as possible. The Presidency considers that to achieve an appropriate balance, further discussion and guidance is needed from Member States in relation to Article 8, 16 and Annex I.

In the discussions to date, some Member States have requested further information on the timeline and process for the development of the methodologies and the subsequent delegated acts. The Commission has on several occasions explained that the first set of methodologies could possibly be adopted towards the end of next year and could include bio-CCS, DACCS and some carbon farming activities. These carbon removal activities are more mature and/or are already covered by Union legislation which could form the basis for the methodologies.

Further work would be required for the development of methodologies for a wider set of carbon farming activities, and in particular for carbon storage products. For the latter, several Member States have requested further information from the Commission on what these products could include. In this

context, the Presidency also recalls *inter alia* the envisaged report on carbon storage products under the revised LULUCF regulation and forthcoming delegated acts under the EU ETS Directive.

Moreover, the Commission has stated that the development of baselines, an important component of the methodologies, would for carbon farming activities also assume further advancements in the capacity to monitor and verify the emissions and removals of greenhouse gases in the land use and forestry sectors. Also in this regard, recently adopted and forthcoming EU legislation could be expected to have an impact both on the regulatory context and MRV developments which could be relevant for the development of the delegated acts. Furthermore, also in the context of carbon farming, several Member States have indicated, both in the WPE and in the Standing Committee on Agriculture, that food security and the need to avoid so called land-grabbing for speculative purposes must be duly considered.

In the context of the delegated acts, several Member States have asked questions for clarification on the role of the Expert Group on Carbon Removals and if the role of this group should be further outlined in the regulation. In addition to the information already provided in the WPE, the Presidency has invited the Commission to give a short presentation of the composition and role of the Expert Group.

Subsequently, the Presidency proposes as a first step to include further guidance for the development of the methodologies in the recitals, as well as referring to the work of the Expert Group in Article 8(3).

Amendments proposed by the Presidency

Recital 16, 18a (new)

(16) Farming practices that remove CO₂ from the atmosphere contribute to the climate neutrality objective and should be rewarded, either via the Common Agricultural Policy (CAP) or other public or private initiatives. Specifically, this Regulation should take into account farming practices as referenced in the Communication on Sustainable Carbon Cycles². **When developing certification methodologies in the context of carbon farming, the Commission should take into account the need to minimize negative impacts on food security and to avoid that land is acquired for speculative purposes resulting in negative effects on rural communities. It should also**

² Communication from the Commission, Sustainable Carbon Cycles, COM (2022) 800.

promote those activities that have the largest potential to provide positive co-benefits for biodiversity.

(18a) Given the need to rapidly scale up carbon removal activities in the Union, the Commission should at a first stage prioritise those carbon removal activities that are the most mature or where Union legislation relevant for the development of those methodologies has already been adopted. [The Innovation Fund established under the [ETS Directive] sets out rules relevant for the development of certification methodologies for bioenergy with carbon capture and storage and direct air capture.]

4. Questions for discussion

- j) Do you agree that the order in which the certification methodologies are developed should be further specified in the regulation? If so, could you agree with the Presidency's suggestions as a way forward?
- k) Would you support including a reference to the work of the Expert Group on Carbon Removals in the list in Article 8(3)?
- l) Notwithstanding the question above, do you consider the list in Article 8(3) sufficient, or are there other considerations/elements which could be relevant to include? Do you see a need to further specify the meaning of any of the elements currently included?
- m) Annex I contains a non-exhaustive, minimum list of elements that the Commission shall consider in the development of the methodologies. Do you consider this list sufficient, or are there other elements that could be relevant to include?
- n) Based on the discussions to date, do you see the need for any other changes to article 8 and/or annex I?