

JOINT POSITION PAPER – NATURE RESTORATION LAW

EXECUTIVE SUMMARY

- The undersigned associations represent the largest part of the **non-energy extractive industry** in Europe with members in the 27 EU countries, providing mineral raw materials that are strategically important for the EU's raw materials needs – i.e. used to build Europe's essential infrastructure and other goods, as well as used for a large variety of important purposes such as food supply and medical production. Indeed, the minerals of the non-energy extractive industry are in many ways indispensable for the move to a climate-neutral and sustainable economy.
- Our industries have a track record in **using natural resources in the most efficient and environmentally sustainable way**, and reducing all externalities of extractive, processing, and manufacturing activities to the minimum, in compliance with strict regulatory requirements and robust environmental impact and waste management practices.
- Our sector **welcomes the overarching objectives of the EU Biodiversity Strategy for 2030**. It, therefore, welcomes initiatives to reflect those objectives in clear, applicable, and fair legal instruments. As such, we deem the Nature Restoration Law a positive initiative in its intentions, but somewhat lacking a pragmatic and realistic approach for our sector to unleash its full potential.
- The proposal seems to **not have taken the non-energy extractive sector and its main feature - which is temporary land use and restoration plans – into account**. Mineral raw materials extraction is indeed perfectly compatible with nature protection and restoration. It is by its very nature a temporary activity, which transforms land. As such, this allows managing during and after the operation time with usage-integrated protection mechanisms such as the development of temporary habitats.
- The proposal also contains several **uncertainties or imprecisions**, which disincentivise investments in our sector, such as:
 - the precise criteria used **to assess the state of restoration of an area**;
 - the more concrete implications on **the final total size of the area subjected to restoration**;
 - the fact that the Commission could decide at a later stage to **clarify definitions in delegated Acts**;
 - and the potential **retroactive feature** of the new legal provisions which could interfere with or change existing restoration plans at site level.
- Moreover, this regulation proposal seems to hamper and discourage multi-stakeholder involvement. Experience has rather proven that Biodiversity and nature restoration are best managed locally, needing the flexibility to adapt to local situations. We, therefore, deem that **concrete implication of local stakeholders through the transformation of the legal form into a directive or through the addition of provisions ensuring this in the current regulation is absolutely necessary**.
- We more generally fear that uniform decision-making taken at an EU level, too far removed from local realities and neglecting key stakeholders, **could prevent our sector from**:
 - **playing the decisive roles that it is called upon to play in tomorrow's EU**, i.e. of building **Europe's essential infrastructure adapting to climate change** (and providing the raw materials necessary for green technologies),
 - **enabling a transition to a climate-neutral, pollution-free, and circular economy** and
 - contributing to our **strategic autonomy** by boosting the domestic raw material supply (i.e. in the field of construction, and food security).

I. INTRODUCTION

Together, Aggregates Europe-UEPG, Cerame-Unie, Eurogypsum, Euromines, and EXCA, represent the largest part of the non-energy extractive industry in Europe with members in all 27 EU countries. As such, our mineral raw materials are used to build Europe's essential infrastructure adapting to climate change including homes, power lines, wind turbines, roads, railways, schools, hospitals, offices, commercial buildings, dikes, and dams. Our sectors are key for industry in EU to deliver essential goods and services for the citizens. Our members are committed to supplying essential and strategic mineral raw materials and products which enable Europe's transition to a climate-neutral, pollution free, and circular economy while our industries contribute to Europe's strategic autonomy by an exclusively domestic supply of mineral raw materials.

The European Green Deal and the new EU Industrial Strategy acknowledge that access to resources is a strategic issue both regarding the green and digital transition, as well as from a security viewpoint. The pandemic and the war in Ukraine have pushed international actors to critically assess the origins of supply chains, especially in public safety and strategic sectors. The development of diversified, resilient supply chains of sustainable raw materials is a part of the Commission's proposed EU Recovery Plan. The announced Act on Critical Raw Materials to be issued by 2023 is another relevant step in that direction.

Europe's manufacturing and construction industries are heavily dependent on the non-energy extractive industry for a wide range of essential raw materials. Our associations support the EU Green Deal's objectives and stand ready to support its implementation. In the same vein, our industries are fully committed to sustainable development and have a recognised track record, by the European Commission and environmental NGOs, on actions preserving biodiversity and the environment in general. Therefore, our organisations, as representatives of the extractive industry, welcome the EU's ambitious overarching objectives of the EU Biodiversity Strategy for 2030 and commit to contribute actively in promoting and protecting biodiversity. Extractive industries have demonstrated by practice, and by scientific and political acknowledgement that their activities can be developed in harmony with Nature, particularly in Natura 2000 environments¹.

Quarries and mines indeed offer the opportunity, by the very nature of their activity, to create atypical and pioneering environments, to orientate the use of soils positively and sustainably both from the point of view of biodiversity and carbon sequestration (by transforming, for example, large-scale cultivated areas into grasslands, wetland, or woodlands). They can also contribute to a territorial strategy to regain biodiversity (creation of refuge areas, part of an ecological continuity, etc.). Besides, quarry and mine restoration meets various territorial or social expectations which are important to consider (leisure area, return to full agricultural cultivation or pasture land, etc.) while systematically considering the needs of ecological restoration and opportunities for soil carbon sequestration in response to the challenges of the climate crisis.

In addition to taking biodiversity into account in projects, it is possible to encourage economic activities, and particularly voluntary actors such as extractive industry operators, to adopt a management approach that is both more favourable to the species and habitats to be reclaimed and more consistent with the long-term trajectory of developments through recognised and valued contractual commitments. These commitments could take the form of management plans and environmental recovery plans that go beyond the strict framework of species protection to include "temporary nature" approaches and "CEF" (Continuous Ecological Functionality) measures.

Thus, there is a **huge potential for biodiversity restoration and the promotion of ecosystem services in quarries** that could be key to reach the Biodiversity Strategy for 2030 goals while preserving this important economic activity. Multiple studies report on the **overall net benefit quarries can bring to**

¹ ["EC guidance on undertaking non-energy extractive activities in accordance with Natura 2000 requirements."](#)

biodiversity^{2 & 3}. Often occurring in and around Natura 2000 areas, the extraction process can thus act as core nodes or steppingstones and core habitats linking the Natura 2000 network by restoring biodiversity while maximising the multiplicity of services from C-sequestration to the ecosystem and human health, through temporary nature (see, LIFE in Quarries project – LIFE14 NAT/BE/000364) and through the restoration of sites considering biological stakes. By coordinating their contributions, quarries could act as the backbone of the EU Green Infrastructure network⁴. Restoring biodiversity in quarries could in addition provide local communities with high-value ecosystem services and new opportunities for carbon sinks.

Raw materials extraction is a temporary economic activity, planned over time, to supply necessary resources. The interaction between extractive industries and ecosystems is not only about **restoring land and habitats after operations**, but also **managing ecosystems during the operation time**, with usage-integrated protection mechanisms such as the use of temporary habitats. Quarries have proven to provide a refuge to endangered species.

Site restoration plan results in **turning previously degraded land or natural areas poor in biodiversity into richer biotopes**. This shows the clear potential for nature restoration played by extractive industries. Numerous examples can be found of good practices in nature restoration and biodiversity management in our mineral raw materials extraction sites (quarries and mines). Several European sectors have recently committed to a Species Protection Code of Conduct co-signed with NGO BirdLife and other extractive industries and endorsed by the European Commission⁵.

The ambitious restoration objectives which we commend should now be reflected in clear, applicable, and fair legal instruments, enabling sustainable economic growth and access to essential mineral raw materials in the EU. This needs to be done in a wide perspective, understanding that protection and restoration of nature should not be seen as opponent to land use but as an integrated and necessary part of sustainable land use.

As such, we support the establishment of nature restoration targets, which can be an effective tool to protect our ecosystems and the ecosystem services they provide. Representing a very large part of the European non-energy extractive industry, the signing business associations can significantly and positively contribute to achieving the nature restoration objectives by sharing best practices that are already implemented in restoration plans throughout extraction sites. To unleash their full restoration potential and contribution, our sectors would welcome some clarity about newly introduced key concepts, legal clarity regarding identified issues, and more involvement with local stakeholders when it comes to implementing the future nature restoration provisions.

II. IDENTIFIED CONCERNS & QUESTIONS

We understand the need to work on the Nature restoration topic on a wider scale. Being a sector committed and with experience in nature restoration practices, we have identified some concerns and/or unclarities which need to be addressed for our sector to fully unleash its contribution to the restoration objectives.

² Lemoine G (2015) Les carrières de sable : une opportunité pour les abeilles solitaires. Etablissement Public Foncier Nord-Pas de Calais - UNPG, Paris, France

³ Seleck M et al. (2019) Synthèse des inventaires biologiques des 24 carrières du Life in Quarries. Gembloux, Belgique

⁴ European Commission (2013) Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Green Infrastructure (GI) – Enhancing Europe’s Natural Capital. COM (2013) 249 final. 11

⁵ [Extractive Sector Species Protection Code of Conduct](#).

1/ Legal form of the proposal and room for manoeuvre for local stakeholders

As a sector keen to contribute to nature preservation and restoration, we share the need for action across Europe. The legal nature of the proposal in its current form nevertheless sparks concerns as it seems to **entail an accelerated implementation** without flexibility, merely consulting national and local stakeholders and lacking to fully integrate them into the decision-making process in a timely and constructive manner. In addition to that, **the legally binding targets outlined in Article 4 tackle each Member State independently from how heavily populated they are, the current differences in percentage and quality of protected lands, or what habitats are possible to be developed at the national/regional level.** Given the complexity of biodiversity decision-making in general and nature restoration in particular, we consider it appropriate that the proposal focuses on ensuring that Member States together with the stakeholders analyse the state of their ecosystems and decide which measures to implement in each case, without the European Commission determining the exact actions to be carried out. The Commission's proposal in its current inception does not allow this. That is why we would advocate for **either transforming the legal form into a Directive or foreseeing substantially more concrete bottom-up implications of local stakeholders** when it comes to Member States elaborating their national nature restoration plans.

Another point of concern lies in the possibility granted by this Nature Restoration Law to **clarify undefined legal terms in subsequent delegated acts.** This entails a wobbly and hazardous legal situation, not only delaying the decision to invest in the non-energy extractive sector, but also jeopardizing the efforts undertaken by local companies attempting to implement nature restoration provisions.

2. Scope

Questions arise regarding the scope of application and the extent of the Nature Restoration Law, especially when looking at the provisions in detail:

- The proposal defines a goal in percentage and time, but the legal text refers to **'all ecosystems in need of restoration'**. This creates legal uncertainty on what it means in practice.
- It is legally uncertain how the restoration goals in the current proposal (**>20% nature restoration goal** for 2030) are going to be integrated into the EU Biodiversity Strategy for 2030 (**30% nature protection target**). This directly concerns stakeholders.
- The applicability of the term **'sufficient quality habitats'** in practice is unclear, as many criteria or monitoring techniques still need to be determined and developed & tested.
- The link between the existing Regulation proposal, the Habitats Directive, the Marine Strategy Framework Directive, and the Biodiversity Strategy for 2030 is unclear, as these different instruments have different legal weights and use different legal terms. In addition, the reference to **"areas where habitats listed in Annex I occur"** could have non-negligible ramifications on Member States' and stakeholders' social and economic sustainability. Therefore, a clarification of the continuity of the application of current well-working legislation such as Habitat Directive 92/43/CEE is needed.

Besides, **the difference operated in the proposal between Natura 2000 and non-Natura 2000 sites seems non-existent.** While we understand that Natura 2000 sites are sensitive, the application of the same provisions to non-Natura 2000 areas would be disproportionate. We fear that the generalised application of these targets on a very wide range of areas would prevent and discourage economic activity, particularly when it comes to mineral resource extraction, and result in preventing activities that contribute to climate goals and other societal goals. Such a far-reaching consequence would be unbearable and cannot be the intention of the Commission's proposal. Moreover, this specific point has not been analysed through a proper impact assessment, which would have investigated the details of these socio-economic impacts. Against this background, there is an urgent need to find an appropriate and proportionate approach to that issue.

Our sector also would need legal certainty that **the new provisions contained in the Nature Restoration Law would not be retroactive**. They should indeed not apply to sites that already have a site extraction permit and a restoration plan in place in order not to jeopardise the legal certainty acquired in the permitting process and the company’s liability towards authorities and stakeholders.

3. Need for clear definitions

Our sector crucially needs **legal certainty and regulatory clarity** to plan long-term investments. Therefore, the criteria behind some definitions need to be known beforehand, to be able to determine the impact of the proposed text on the scope.

In that regard, some definitions do not provide a sufficient level of clarity, hence leading to a lack of legal certainty. While we have noted the inclusion of a definition of **lands restored in ‘good condition’** and welcome the thorough analysis of the EU’s habitats and extent of the challenge included in the legislative proposal and its annexes, it must become clear to our sector **through which parameters and/or concrete criteria an area is deemed restored**.

Besides, as long as the ‘habitat area’ concept (Art 4§10) is not defined more clearly and concretely, the socio-economic consequences are uncertain and potentially at risk.

4. Need for EU policy alignment

The European (non-energy) mineral extraction sector is key for both ensuring our **strategic autonomy in raw materials supply** (securing domestic extraction and production) and achieving the ambitious **EU climate objectives** laid out in the European Green Deal. We, therefore, call for the Nature Restoration Law to take more into account our non-energy extractive sector and other economic sectors which can have a contribution to Europe’s strategic ambitions, such as the renewable energy sector. An important part of EU ecosystems (land, sea, and rivers) needs to be accessible for different economic activities to be carried out, while all directly concerned sectors should contribute to mitigate the impacts of their activities through sustainable solutions in collaboration with directly concerned stakeholders.

As such, we welcome the existence of the ex-ante impact assessment but would like to see the economic side of it improved to **determine the effects of the proposal on several relevant economic activities and sectors such as the extractive industry, renewable energy**, etc. This should consider the compilation of **existing legislation on EU businesses and assess EU dependencies on construction and other raw materials and renewable energy needs**, while also assessing the ramifications of a possible increase in imports to the EU of mineral materials and their environmental impacts as the First zero pollution monitoring and outlook report mentioned about the extractive sector⁶.

In this context, as possible under the Habitats Directive’s article 6 (4), it would be reasonable to consider that the imperative reasons of overriding public interest, including those of social and economic nature, will be integrated to the legal framework regarding plans or projects of our industry, to get the optimum status for an adequate role in nature restoration.

Conclusion:

Our sector is committed to contributing to biodiversity net gain, nature protection, and nature restoration. We already implement nature restoration measures in quarrying and mining and are in favour of continuing to do so. In spite of that, it seems that our sector has not fully been considered when elaborating the Nature Restoration Law: some essential elements (such as key definitions or newly introduced concepts as well as methodologies to assess nature restoration concretely) are still unclear and need to be clarified or detailed to allow our sector to contribute to its full potential. We further deem

⁶ [First 'zero pollution' monitoring and outlook](#) ‘Pathways towards cleaner air, water and soil for Europe’, p.7: *“It is therefore important to better consider the environmental impacts of the goods we import and the ‘export of pollution’ outside the EU. This is relevant, for example, for the extraction sector in and outside the EU, considering the importance of critical raw materials to the EU’s goal to increase its open strategic autonomy and accelerate the green transition.”*

the local stakeholders not sufficiently associated in the future elaboration of nature restoration projects and in reaching the outlined ambitious restoration targets.

We strongly recommend a stepwise approach as the best way to develop and implement ambitious goals. On the contrary, unrealistic and unreachable policy goals spark frustration and often lead to setting even more stringent goals in the following revision stages, resulting in demotivation to involve and stimulate the concerned stakeholders. It would be a missed opportunity if our sector would be hindered in contributing to the EU's Nature Restoration objective. Besides, a law that disregards the concerns raised here could very well result in endangering the strategic autonomy of the European Union regarding the availability of certain raw materials. In everyone's interest, we would therefore call upon EU policymakers to address these points of uncertainty, while keeping the main objectives included in the core of this proposal.

III. LIST OF CO-SIGNING ASSOCIATIONS

	<p style="text-align: center;"><u>Aggregates Europe – UEPG</u></p> <p>Since 1987, Aggregates Europe - UEPG represents the European Aggregates Industry in Brussels, with 26 Members in 25 countries. It is by far the largest non-energy extractive industry, covering a demand of 3 billion tonnes of aggregates per year, produced on 26,000 sites by 15,000 companies (mostly SMEs), and employing 200,000 people across Europe.</p>	<p>Dirk Fincke Secretary General secretariat@uepg.eu</p>
	<p style="text-align: center;"><u>Cerame-Unie</u></p> <p>Cerame-Unie represents the European ceramic industry. Our mission is to ensure that the voice of this competitive, dynamic and innovative industry is heard at the EU level. Our membership is drawn from the national ceramics associations and companies across Europe with whom we work to provide solutions to challenges affecting the industry in Europe and globally. The EU Ceramic Industry is a world leader in producing value added, uniquely designed, high quality ceramic products manufactured by flexible and innovative companies, the majority of which are SMEs. The ceramics industry represents an annual production value of around €30 billion, accounting for approximately 25% of the global production, and over 200,000 direct jobs throughout the EU.</p>	<p>Daniela Vigilante Environment and Innovation Director vigilante@cerameunie.eu +32 2 808 38 80</p>
	<p style="text-align: center;"><u>Eurogypsum</u></p> <p>Eurogypsum is a European federation of national associations of producers of gypsum products (i.e. plaster and plasterboard). It is one of the few fully integrated industries (from cradle to cradle) within the construction products field. The companies which mine gypsum also process it and manufacture the value-added products and systems used extensively in construction and other industries. With a turnover of EUR 7 billion, the European gypsum and anhydrite industry operates some 160 factories and 154 quarries and generates employment directly to 28,000 persons and indirectly for 300,000 persons. The gypsum industry provides jobs to 1,100,000 plasterers and plasterboard installers. It trains around 25,000 persons per year across Europe.</p>	<p>Tristan Suffys Secretary General t.suffys@eurogypsum.org +32 491 34 07 90</p>
	<p style="text-align: center;"><u>Euromines:</u></p> <p>Euromines, the European Association of Mining, Metal Ores & Industrial Minerals, represents large and small companies and subsidiaries in Europe and in other parts of the world which provide jobs to more than 350,000 people. Through the activities and operations of these members, more than 42 different metals and minerals are produced. Their sustainable exploitation can increase Europe's supply of mineral resources, help ease imports from third countries usually applying lower environmental, corporate and social standards and foster the socio-economic growth of Europe's Regions. The European mining industry plays a crucial role in the EU ability to nurture sustainable growth including access to and supply of raw materials, providing over 30 million jobs and playing a key role in the development of modern environmentally friendly technologies.</p>	<p>Rolf Kuby Director General kuby@euromines.be +32 473 99 22 64</p>
	<p style="text-align: center;"><u>EXCA</u></p> <p>The European Expanded Clay Association is the European expanded clay association and represents the interests of all major expanded clay producers throughout Europe. Expanded clay is a well-proven, high quality, efficient and durable lightweight aggregate suitable for a wide range of applications in the construction sector. It is a sustainable construction material packed with properties that improve the economic, social and environmental performance of a building or infrastructure over its whole lifetime. With its 11 member companies in 10 countries operating some 11 plants throughout Europe EXCA represents more than 90% of the European industry.</p>	<p>Mara Caboara Secretary General mara.caboara@exca.eu</p>

ANNEX: SUGGESTED AMENDMENTS

For all the above-mentioned reasons, we would like to convey to the decision makers the following comments to the text (proposed additional text is marked underlined):

Amendment 1. Whereas (new)

Text proposed by the Commission	Amendment	Rapporteur's amendments (draft report)
	<p><u>N°(New)</u></p> <p><u>The Raw Materials Initiative adopted in 2008 by the European Commission aimed to reduce dependencies on non-energy raw materials for industrial value chains and societal well-being by diversifying sources of primary raw materials from third countries, strengthening domestic sourcing, and supporting the supply of secondary raw materials through resource efficiency and circularity. A report about mining and the Sustainable Development Goals (adopted by United Nations in 2015) was published in 2016 by UNEP, among other authors, illustrating how mining can contribute to the achievement of these goals. The role of restoration, in activities that can disturb or deteriorate the environment temporarily, has been highlighted in documents such as the “EC guidance on undertaking non-energy extractive activities in accordance with Natura 2000 requirements”⁷ in order to minimise or avoid the potential impacts of extraction activities on nature and biodiversity.</u></p> <p><u>Recent geopolitical developments have emphasised the importance of secure access to domestic raw materials required for essential needs such as infrastructure, food supply and the green transition. To achieve the green and digital transitions, the EU must significantly increase and diversify its critical raw materials supply, strengthen circularity and support research and innovation. In early 2023, the Commission will therefore present a European Critical Raw Materials Act.</u></p>	

⁷ European Commission, Directorate-General for Environment, “[Non-energy mineral extraction and Natura 2000](#)”, Publications Office, 2012.

Justification

According to the mentioned Commission Guidelines on *Non-energy mineral extraction and Natura 2000*, presentation “*Europe’s manufacturing and construction industries are heavily dependent on the non-energy extractive industry for essential raw materials. The economic imperatives are clear: the sector had a turnover of around €49 billion in 2007, and it provided employment for some 287,000 people. Downstream sectors rely on a steady supply of raw materials. These guidelines show how the needs of the extractive industry can be met while avoiding adverse effects on nature and ecosystems. They examine how the potential impacts of extraction activities on nature and biodiversity can be minimised or avoided altogether. They highlight the importance of strategic planning, the appropriate assessment of new developments, and the need for adequate mitigation measures*”.

While the Regulation mentions sectors such as agriculture, forestry, renewable energies, or urban settlements, highlighting the need for resilience of food systems (as in Recital 19), reclaiming of raw materials should be adequately considered due to its vital role in EU development and Green Deal implementation.

Amendment 2. Whereas (new)

Text proposed by the Commission	Amendment	Rapporteur’s amendments (draft report)
	<p><i><u>N°(new) It should be noted that some activities may produce temporary environmental effects that are foreseen to be minimised or mitigated according to national restoration obligations, such as mining & quarrying activities, and that those temporary effects should be considered a non-deterioration of the habitat type if restoration foresees the future recovery of that habitat type.</u></i></p>	

Justification

By means of restoration plans many alterations of habitats can be addressed through the mitigation hierarchy. It is to be highlighted the importance of strategic planning, the appropriate assessment of new developments, and the need for adequate mitigation measures.

The extractive activities are compatible with the objectives of the European Strategy for Biodiversity, and even offer an opportunity for some species’ habitat improvement. The concept of temporary nature should be clarified and addressed in a proportionate way, considering that some temporary nature deterioration may be overcome by restoration activities in the frame of current national legislation in place.

Amendment 3. Article 1, paragraph 2

Text proposed by the Commission	Amendment	Rapporteur's amendments (draft report)
<p>This Regulation establishes a framework within which Member States shall put in place, without delay, effective and area-based restoration measures which together shall cover, by 2030, at least 20 % of the Union's land and sea areas and, by 2050, all ecosystems in need of restoration.</p>	<p>This Regulation establishes a framework within which Member States shall put in place, without delay, effective and area-based restoration measures <i>to achieve good conditions, to re-establish habitat types and to achieve sufficient quality and quantity for ecosystems in need of restoration.</i></p>	<p><i>For that purpose, this Regulation lays down rules which contribute to:</i></p> <p><i>(a) the continuous, long-term and sustained recovery of biodiverse and resilient nature across the Union's land and sea areas through the restoration of ecosystems, their natural ecological processes and their ecological connectivity;</i></p> <p><i>(b) achieving the Union's overarching objectives concerning climate change mitigation and climate change adaptation;</i></p> <p><i>(c) meeting the Union's international commitments.</i></p>
<p>Justification</p> <p><i>It is unclear how this proposed legally binding target relates to the other binding restoration targets of the proposal and how this should be implemented. Many of the measures and goals such as this will be contrary to other newly established EU regulations and targets. Furthermore, the scope of "all ecosystems in need of restoration" is indistinct.</i></p>		

Amendment 4. Article 4, paragraph 1

Text proposed by the Commission	Amendment	Rapporteur's amendments (draft report)
<p>Member States shall put in place the restoration measures that are necessary to improve to good condition areas of habitat types listed in Annex I which are not in good condition. Such measures shall be in place on at least 30 % of the area of each group of habitat types listed in Annex I that is not in good condition, as quantified in the national restoration plan referred to in Article 12, by 2030, on at least 60 % by 2040, and on at least 90 % by 2050.</p>	<p>Member States shall put in place the restoration measures that are necessary to improve to good condition areas of habitat types listed in Annex I which are not in good condition, <i>compatible with human and or economic activities (tourism, renewables, agriculture, forestry, extraction, etc.)</i> Such measures shall be in place on at least 30 % of the area of each group of habitat types listed in Annex I that is not in good condition, as quantified in the national restoration plan referred to in Article 12, by 2030, on</p>	<p>Member States shall put in place the restoration measures that are necessary to improve to good condition areas of habitat types listed in Annex I which are not in good condition. Such measures shall be in place on at least 30 % of the area of each group of habitat types listed in Annex I that is not in good condition, as quantified in the national restoration plan referred to in Article 12, by</p>

	at least 60 % by 2040, and on at least 90 % by 2050, <i>if it is deemed realistic and in line with other sustainable development objectives in the national restoration plan.</i>	2030, on at least 65 % by 2040, and on 100 % by 2050.
Justification		
<i>Member States have the best knowledge about the national restoration needs and should be allowed more flexibility to prioritise restoration needs and make targeted restoration actions where they are most needed and ensure cost-efficiency.</i>		

Amendment 5. Article 4, paragraph 2

Text proposed by the Commission	Amendment	Rapporteur's amendments (draft report)
Member States shall put in place the restoration measures that are necessary to re-establish the habitat types listed in Annex I in areas not covered by those habitat types. Such measures shall be in place on areas representing at least 30 % of the additional overall surface needed to reach the total favourable reference area of each group of habitat types listed in Annex I, as quantified in the national restoration plan referred to in Article 12, by 2030, at least 60 % of that surface by 2040, and 100 % of that surface by 2050.	Member States shall put in place the restoration measures that are necessary <i>and aligned with socioeconomic assessments and/or with societal interests</i> to re-establish the habitat types listed in Annex I in areas not covered by those habitat types. Such measures shall be in place on areas representing at least 30 % of the additional overall surface needed to reach the total favourable reference area of habitat types listed in Annex I, as quantified in the national restoration plan referred to in Article 12, by 2030, at least 60 % of that surface by 2040, and 100 % of that surface by 2050, <i>if it is deemed realistic and in line with other sustainable development objectives in the national restoration plan.</i>	Member States shall put in place the restoration measures that are necessary to re-establish the habitat types listed in Annex I in areas not covered by those habitat types. Such measures shall be in place on areas representing at least 30 % of the additional overall surface needed to reach the total favourable reference area of each group of habitat types listed in Annex I, as quantified in the national restoration plan referred to in Article 12, by 2030, at least 60 % of that surface by 2040, and 100 % of that surface by 2050.
Justification		
<i>Member States have the best knowledge about the national restoration needs and should be allowed more flexibility to prioritise restoration needs and make targeted restoration actions where they are most needed and ensure cost-efficiency. For example, this requirement may entail changing land use from forest to pastureland, with consequences for a Member State's possibility to achieve EU climate targets and adhere to the EU deforestation law.</i>		

Amendment 6. Article 4, paragraph 3

Text proposed by the Commission	Amendment	Rapporteur's amendments (draft report)
<p>Member States shall put in place the restoration measures for the terrestrial, coastal and freshwater habitats of the species listed in Annexes II, IV and V to Directive 92/43/EEC and of the terrestrial, coastal and freshwater habitats of wild birds covered by Directive 2009/147/EC that are necessary to improve the quality and quantity of those habitats, including by re-establishing them, and to enhance connectivity, until sufficient quality and quantity of those habitats is achieved.</p>	<p>Member States shall <i>assess the need for measures beyond those made within article 4.1 and 4.2</i> for restoration measures for the terrestrial, coastal and freshwater habitats of the species listed in Annexes II, IV and V to Directive 92/43/EEC and of the terrestrial, coastal and freshwater habitats of wild birds covered by Directive 2009/147/EC that are necessary to improve the quality and quantity of those habitats, <i>within Natura 2000 sites and other strictly protected areas</i>, including by re-establishing them, and to enhance connectivity, until sufficient quality and quantity of those habitats is achieved.</p>	<p>Member States shall put in place the restoration measures for the terrestrial, coastal and freshwater habitats of the species listed in Annexes II, IV and V to Directive 92/43/EEC <i>and of the diadromous species listed in Annex III to this Regulation</i> and of the terrestrial, coastal and freshwater habitats of wild birds covered by Directive 2009/147/EC that are necessary to improve the quality and quantity of those habitats, including by re-establishing them, and to enhance connectivity, until sufficient quality and quantity of those habitats is achieved.</p>
<p>Justification</p> <p><i>The achievement and impact of this provision is unclear and at the same time, improvement will be achieved following the other restoration obligations of the proposal, e.g. the provisions in Article 4.1 and 4.2. It is essential to keep a cost-efficient approach to nature restoration and to make the regulation clear and predictable. Therefore, this provision should first be targeted to areas where its benefits for biodiversity are maximised to be efficient, namely in the areas designated in the Natura 2000 network and other strict protected areas. The EU mining questions the sufficient quality and quantity, who is to decide when it is sufficient? We see concerns that this could become a huge obligation and almost impossible to reach since more ways can be done to reach sufficiently.</i></p>		

Amendment 7. Article 4, paragraph 4

Text proposed by the Commission	Amendment	Rapporteur's amendments (draft report)
<p>4. The determination of the most suitable areas for restoration measures in accordance with paragraphs 1, 2 and 3 of this Article shall be based on the best available knowledge and the latest scientific evidence of the condition of the habitat types listed in Annex I, measured by the structure and functions which are necessary for</p>	<p>4. The determination <i>by member states (according to article 11 and 12)</i> of the most suitable areas for restoration measures in accordance with paragraphs 1, 2 and 3 of this Article shall be based on the best available knowledge and the latest scientific evidence of the condition of the habitat types listed in Annex I, measured by the structure and functions which are necessary for</p>	<p>4. The determination of the most suitable areas for restoration measures in accordance with paragraphs 1, 2 and 3 of this Article shall be based on the best available knowledge and the latest scientific evidence of the condition of the habitat types listed in Annex I, measured by the structure and</p>

<p>their long-term maintenance including their typical species, as referred to in Article 1(e) of Directive 92/43/EEC, and of the quality and quantity of the habitats of the species referred to in paragraph 3 of this Article. Areas where the habitat types listed in Annex I are in unknown condition shall be considered as not being in good condition.</p>	<p>their long-term maintenance including their typical species, as referred to in Article 1(e) of Directive 92/43/EEC, and of the quality and quantity of the habitats of the species referred to in paragraph 3 of this Article. <i>The determination process shall be open to the participation of directly concerned stakeholders and subject to procedures defined in the national restoration plans.</i></p>	<p>functions which are necessary for their long-term maintenance including their typical species, as referred to in Article 1(e) of Directive 92/43/EEC, and of the quality and quantity of the habitats of the species referred to in paragraph 3 of this Article. Areas where the habitat types listed in Annex I are in unknown condition shall be considered as not being in good condition.</p>
<p><i>Justification</i></p> <p>Selecting areas for restoration measures should be done in the frame of coherent procedures. Participation on the determination of the most suitable areas for restoration measures is vital to guarantee legitimate interests and potential development of European regions and communities. Participation is already considered in the article 12 describing the content of the national restoration plans</p>		

Amendment 8. Article 4, paragraph 6

Text proposed by the Commission	Amendment	Rapporteur's amendments (draft report)
<p>Member States shall ensure that the areas that are subject to restoration measures in accordance with paragraphs 1, 2 and 3 show a continuous improvement in the condition of the habitat types listed in Annex I until good condition is reached, and a continuous improvement of the quality of the habitats of the species referred to in paragraph 3, until the sufficient quality of those habitats is reached. Member States shall ensure that areas in which good condition has been reached, and in which the sufficient quality of the habitats of the species has been reached, do not deteriorate.</p>	<p>Member States shall ensure that the areas that are subject to restoration measures in accordance with paragraphs 1, 2 and 3 <i>and are designated as a Natura 2000</i> show a continuous improvement in the condition of the habitat types listed in Annex I until good condition is reached, and a continuous improvement of the quality of the habitats of the species referred to in paragraph 3, until the sufficient quality of those habitats is reached. Member States shall ensure that areas <i>designated as a Natura 2000 site</i> in which good condition has been reached, and in which the sufficient quality of the habitats of the species has been reached, do not <i>permanently or significantly</i> deteriorate, <i>taking into consideration habitats' and species' naturally occurring variability.</i></p>	<p>Member States shall ensure that the areas that are subject to restoration measures in accordance with paragraphs 1, 2 and 3 show a continuous improvement in the condition of the habitat types listed in Annex I until good condition is reached, and a continuous improvement of the quality of the habitats of the species referred to in paragraph 3, until the sufficient quality of those habitats is reached. Member States shall <i>adopt appropriate and effective measures to</i> ensure that areas in which good condition has been reached, and in which the sufficient quality of the habitats of the species has been reached, do not deteriorate, <i>fully respecting their ecological requirements.</i></p>

Justification

As ecosystems are in constant change and impacted by events outside human control, it should be specified that the deterioration requirement considers habitat's and species' naturally occurring variability. Due to the vagueness of the concept, it risks creating legal uncertainty to avoid legal ambiguity, it should therefore apply to protected areas only.

Amendment 9. Article 4, paragraph 7

Text proposed by the Commission	Amendment	Rapporteur's amendments (draft report)
<p>7. Member States shall ensure that areas where the habitat types listed in Annex I occur do not deteriorate.</p>	<p>7.1 Member States shall ensure that <i>determined relevant</i> areas designated as a <i>Natura 2000</i> site where the habitat types listed in Annex I occur do not permanently or significantly deteriorate, taking into consideration habitats' and species' naturally occurring variability. <i>The determined relevant areas will be defined according to national restoration plans, considering national biodiversity strategies and other socioeconomic strategies, including the consideration of the total resources existing in the areas (and its relevance for the development of the region concerned) as well as transparent national or regional criteria to define "relevant areas where the habitat types listed in Annex I occur"</i>.</p> <p>7.2. <i>In the case of temporary extractive activities, projects with a restoration plan approved according to national laws assessed in terms of recovery of the Annex I habitats selected in the relevant area concerned will be considered not to deteriorate that area.</i></p>	<p>7. Member States shall ensure that areas where the habitat types listed in Annex I occur do not deteriorate.</p>

Justification

The occurrence of listed habitats can be extensive in some countries. The concept of “areas where habitats listed occur” is not defined. A small area with little relevance for that type of habitat could be included, which would lead to disproportionate restriction for countries with a relevant surface of natural landscapes. If not better specified, this requirement would imply that the territory should not be occupied with new activities. New activities are essential for energy transition and economic growth in general. That is why it is important to refer this obligation to “relevant areas”.

As ecosystems are in constant change and are also impacted by events outside human control, it should be specified that the deterioration requirement considers habitat’s and species’ naturally occurring variability. Due to the vagueness of the concept, it risks creating legal uncertainty to avoid legal ambiguity, it should therefore apply to protected areas only.

Application of this restriction (Article 4.7) with current wording would prevent the start of many economic activities This new requirement is not well defined in its terms, which remain highly ambiguous and subject to different interpretations, without a proper justification and without a proper impact assessment, as impact assessment of this proposal has not investigated the detail of these implications.

In the particular case of extractive industries, extraction sites allow the occurrence of many habitats before, during and especially after a specific area is extracted, so that extraction activity is usually compatible with the development of biodiversity by means of restoration plans, temporary habitat creation, and not small transitional areas, where nature can develop, and even get enhanced compared to prior situation.

A deficient application of this article as proposed in the NRL now would create legal uncertainty for the development of any kind of activity.

In some cases, such as mineral resources obtention (which initially could present a temporary and limited deterioration, but usually according to national laws are subject to restoration plans) the restoration activities can develop in parallel to the extraction process and could be obliged to recover the temporarily deteriorated habitat. The proposed Regulation limitation, without the amendment suggested, would not lead to an enhanced environment but to an unnecessary economic lockdown.

Amendment 10. Article 4, paragraph 8

Text proposed by the Commission	Amendment	Rapporteur’s amendments (draft report)
<p>8. Outside Natura 2000 sites, the non-fulfilment of the obligations set out in paragraphs 6 and 7 is justified if it is caused by:</p> <p>(a) force majeure;</p> <p>(b) unavoidable habitat transformations which are directly caused by climate change; or</p>	<p>8. Outside Natura 2000 sites, <i>for the relevant areas determined in the national restoration plans</i> the non-fulfilment of the obligations set out in paragraphs 6 and 7 is justified if it is caused by:</p> <p>(a) force majeure;</p>	<p>8. Outside Natura 2000 sites, the non-fulfilment of the obligations set out in paragraphs 6 and 7 <i>may only be</i> justified if <i>Member States provide compelling evidence that</i> it is caused by:</p> <p>(a) force majeure <u>causing natural disasters</u>;</p> <p>(b) unavoidable habitat transformations which are directly caused by <i>scientifically</i></p>

<p>(c) a project of overriding public interest for which no less damaging alternative solutions are available, to be determined on a case-by-case basis.</p>	<p>(b) unavoidable habitat transformations which are directly caused by climate change; or</p> <p>(c) a project of overriding public interest for which no less damaging alternative solutions are available, to be determined on a case-by-case basis; <i>or</i></p> <p><i>(d) projects supporting climate or green transformation, or of high social or economic importance (in particular for agriculture and food supply, pharmaceutical supply, extraction of raw materials, energy supply) for which no less damaging alternative solutions are available, to be determined on a case-by-case basis in consultation with the responsible nature conservation authorities.</i></p> <p><i>Compensation measures are to be defined and their effectiveness predictable.</i></p>	<p><i>proven impacts of climate change, provided that the Member State concerned adopted adequate mitigation measures; or</i></p> <p>(c) a project of overriding public interest for which no less damaging alternative solutions are available, to be determined on a case-by-case basis, <i>provided that the Member State concerned has adopted adequate compensatory measures.</i></p> <p><i>8 bis (new):</i> <i>Areas for which the derogation referred to in this paragraph is used shall not count towards the fulfilment of the objectives set in paragraphs 1, 2 and 3 of this Article. The use of this derogation</i></p>
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Justification

This obligation would only make sense if it was applied to selected and determined areas according to national plans. Application of these restrictions as worded in the proposal of 22nd June would prevent the start of many economic activities such as mineral resources obtention, renewable energy generation, and many others which are basic for the Green Deal. And this would be done without justification and without a proper impact assessment, as impact assessment of this proposal has not assessed the detail of these implications.

Natura 2000 sites have a strict threshold for when an operation can have a negative impact on natural values within the site. It is disproportionate to have the same strict threshold for areas or habitats that are not designated as a Natura 2000 site and that do not have the same formally recognised high biodiversity values as a Natura 2000 site. The justified non-fulfillment of the obligations set out in paragraphs 6 and 7 should hence be broadened outside Natura 2000 sites to allow Member States to make necessary trade-offs and prioritization between different societal targets. To achieve the green and digital transitions, it is recognised by the commission that the EU must significantly increase and diversify its strategic and critical raw materials supply, which includes enhanced domestic production of metals and minerals, and a Critical Raw Materials Act is consequently now under development. It is crucial to coherent EU legislation that supports and enables EU policy alignment.

Amendment 11. Article 4, paragraph 9

Text proposed by the Commission	Amendment	Rapporteur’s amendments (draft report)
<p>9. For Natura 2000 sites, the non-fulfilment of the obligations set out in paragraphs 6 and 7, is justified if it is caused by:</p> <p>(a) force majeure;</p> <p>(b) unavoidable habitat transformations which are directly caused by climate change: or</p> <p>(c) a plan or project authorised in accordance with Article 6(4) of the Directive 92/43/EEC.</p>	<p>9. For Natura 2000 sites, the non-fulfilment of the obligations set out in paragraphs 6 and 7, is justified if it is caused by:</p> <p>(a) force majeure;</p> <p>(b) unavoidable habitat transformations which are directly caused by climate change: or</p> <p>(c) a plan or project authorised in accordance with Article 6(4) of the Directive 92/43/EEC: <i>imperative reasons of overriding public interest, including those of a social or economic nature</i>’.</p>	<p>9. For Natura 2000 sites, the non-fulfilment of the obligations set out in paragraphs 6 and 7, <i>may only be</i> justified if it is caused by <i>a plan or project authorised in accordance with Article 6(4) of the Directive 92/43/EEC, for a maximum of 5% of the areas covered by the targets in Article 4(1), (2) and (3).</i></p> <p><i>9 bis (new):</i></p> <p><i>Areas for which the derogation referred to in this paragraph is used shall not count towards the fulfilment of the objectives set in paragraphs 1, 2 and 3 of this Article. The use of this derogation shall entail the updating of the quantification of the areas to be restored under Article 12(2), point (a), and in accordance with Article 15, and the returning of any public funds received for the restoration measures.</i></p>

Justification

Clarification of the continuity of the application of current well working legislation such as Habitat Directive 92/43/CEE is needed.

Application of these restrictions as worded in the proposal of 22nd June 2022 would prevent the start of many economic activities such as mineral resources extraction, renewable energy generation, and many others which are necessary for the Green Deal objectives, and that if correctly designed, comply with the requirements of Article 6(3) of the Directive 92/43/EEC, and can be compatible with the integrity of the Natura sites, but would now be facing strict restrictions depending on what is considered as “deteriorate”. In some cases, such as mineral resources extraction projects (which initially could present a limited deterioration, but usually according to national laws are subject to restoration plans) this limitation would not lead to an improved status of the environment but to an unnecessary economic lockdown. And this would be done without justification and without a proper impact assessment, as impact assessment of this proposal has not looked at the detail of these implications. Additionally renewable energy generation would be affected, as well as other sectors of relevance for economy and life quality. In all these cases there are examples of compatibility of these activities in a Natura 2000 site with its objectives.

A deficient application of this article as proposed in June would create legal uncertainty for the development of any kind of activity.

Amendment 12. Article 4, paragraph 10

Text proposed by the Commission	Amendment	Rapporteur’s amendments (draft report)
<p>Member States shall ensure that there is:</p> <p>(a) an increase of habitat area in good condition for habitat types listed in Annex I until at least 90 % is in good condition and until the favourable reference area for each habitat type in each biogeographic region of their territory is reached;</p> <p>(b) an increasing trend towards the sufficient quality and quantity of the terrestrial, coastal and freshwater habitats of the species referred to in Annexes II, IV and V to Directive</p>	<p><i>Delete</i></p> <p><i>Member States shall ensure that there is:</i></p> <p><i>(a) an increase of habitat area in good condition for habitat types listed in Annex I until at least 90 % is in good condition and until the favourable reference area for each habitat type in each biogeographic region of their territory is reached;</i></p> <p><i>(b) an increasing trend towards the sufficient quality and quantity of the terrestrial, coastal and freshwater habitats of the species referred to in Annexes II, IV and V to Directive 92/43/EEC and of the species covered by Directive 2009/147/EC.</i></p>	<p>10. Member States shall ensure that there is:</p> <p>(a) An increase of habitat area in good condition for habitat types listed in Annex I until 100 % by 2050 is in good condition and until the favourable reference area for each habitat type in each biogeographic region of their territory is reached;</p> <p>(b) an increasing trend towards the sufficient quality and quantity of the terrestrial, coastal and freshwater habitats of the species referred to in Annexes II, IV and V to Directive 92/43/EEC and of the species covered by Directive 2009/147/EC.</p>

92/43/EEC and of the species covered by Directive 2009/147/EC.		
Justification		
<p><i>This article overlaps with Articles 4.1-4.3 but adds uncertainty of what is required by Member States to fulfil the restoration targets set out in Article 4.</i></p> <p><i>As long as the meaning of “habitat area” is not defined, the socioeconomic impacts for the member states and the difficulties for the development of the Integrated Climate and Energy National plans are uncertain.</i></p>		

Amendment 13: Article 4 – Paragraph 11 (NEW)

Text proposed by the Commission	Amendment	Rapporteur’s amendments (draft report)
	<p><i>11. The restoration measures referred to paragraphs 1, 2 and 3 of this article shall not apply retroactively to extractive sites which already have an extraction permit and a restoration plan in place.</i></p>	
Justification		
<p><i>The raw material extraction sector would need more certainty that the new provisions contained in the Nature Restoration Law would not be retro-active, i.e. they should not apply to sites which already have a site extraction permit and a restoration plan in place, in order not to jeopardise the legal certainty acquired in the permitting process and the company liability towards authorities and stakeholders.</i></p>		

Amendment 14: Article 5 – Paragraph 11 (NEW)

Text proposed by the Commission	Amendment	Rapporteur’s amendments (draft report)
	<p><i>11. The restoration measures referred to paragraphs 1, 2 and 3 of this article shall not apply retroactively to extractive sites which already have an extraction permit and a restoration plan in place.</i></p>	
Justification		
<p><i>The raw material extraction sector would need more certainty that the new provisions contained in the Nature Restoration Law would not be retro-active, i.e. they should not apply to sites which already have a site extraction permit and a restoration plan in place, in order not to jeopardise the legal certainty acquired in the permitting process and the company liability towards authorities and stakeholders.</i></p>		

Amendment 15. Article 11, paragraph 2. Preparation of the national restoration plans

Text proposed by the Commission	Amendment	Rapporteur's amendments (draft report)
<p>2. Member states shall quantify the area that needs to be restored to reach the restoration targets set out in Articles 4 and 5 taking into account the condition of the habitat types referred to in Articles 4(1), 4(2), 5(1) and 5(2) and the quality and quantity of the habitats of the species referred to in Article 4(3) and Article 5(3) that are present on their territory. The quantification shall be based, amongst others, on the following information:</p> <p>(a) for each habitat type:</p> <p>(i) the total habitat area and a map of its current distribution;</p> <p>(ii) the habitat area not in good condition;</p> <p>(iii) the favourable reference area taking into account the documented losses over at least the last 70 years and the projected changes to environmental conditions due to climate change;</p> <p>(iv) the areas most suitable for the re-establishment of habitat types in view of ongoing and projected changes to environmental conditions due to climate change;</p>	<p>2. Member states shall quantify the area that needs to be restored to reach the restoration targets set out in Articles 4 and 5 taking into account the condition of the habitat types referred to in Articles 4(1), 4(2), 5(1) and 5(2) and the quality and quantity of the habitats of the species referred to in Article 4(3) and Article 5(3) that are present on their territory. The quantification shall be based, amongst others, on the following information:</p> <p>(a) for each habitat type:</p> <p>(i) the total habitat area and a map of its current distribution;</p> <p>(ii) the habitat area not in good condition;</p> <p>(iii) the favourable reference area taking into account the documented losses, <i>gains and nature restoration efforts since the entry into force of the Habitats directive 92/43/EEC over at least the last 70 years</i> and the projected changes to environmental conditions due to climate change;</p> <p>(iv) the areas most suitable for the re-establishment of habitat types in view of ongoing and projected changes to environmental conditions due to climate change; <i>as well as cost-effectiveness and probability of successful restoration</i>;</p> <p>(v) <i>the relevant areas where the habitat types listed in Annex I occur, which shall be determined</i>;</p> <p>(vi) <i>The synergies and discrepancies with other Sustainable Development Goals (SDG's), especially Responsible Consumption and production (SDG12)</i>;</p>	<p>2. Member states shall quantify the area that needs to be restored to reach the restoration targets set out in Articles 4 and 5 taking into account the condition of the habitat types referred to in Articles 4(1), 4(2), 5(1) and 5(2) and the quality and quantity of the habitats of the species referred to in Article 4(3) and Article 5(3) that are present on their territory. The quantification shall be based, amongst others, on the following information:</p> <p>(a) for each habitat type:</p> <p>(i) the total habitat area and a map of its current distribution;</p> <p>(ii) the habitat area not in good condition;</p> <p>(iii) the favourable reference area taking into account the documented losses over at least the last 70 years and the projected changes to environmental conditions due to climate change;</p> <p>(iv) the areas most suitable for the re-establishment of habitat types in view of ongoing and projected changes to environmental conditions due to climate change;</p> <p><i>2a (new). For the restoration measures required under Article 5, Member States shall communicate the information referred to in Article 11(2) of this Regulation and any</i></p>

	<p><i>and climate Action (SDG13); Life On Land (SDG 15);</i></p> <p><i>(vii) The full socioeconomic cost of hindering economic activity and compensating land owners, as well as the cost effectiveness of restoration measures in specific areas</i></p> <p><i>(viii) Historic changes in cultural geography</i></p>	<p><i>information relevant and sufficient for the purpose of Article 11(3) of Regulation (EU) No 1380/2013 to Member States having a direct management interest in the fishery that would be affected by such measures by the first day of the month following 12 months after the date of entry into force of this Regulation.</i></p>
<p style="text-align: center;">Justification</p> <p><i>When establishing the Favourable Reference Area, it is relevant to look at the present trend to verify a positive achievement given today's circumstances. The concept and defining of the various habitat types was established in legislation when the Habitats directive 92/43/EEC came into force and therefore this is a valid starting point, from where Member States can measure progress. Also, the FRA should consider the balancing of various interests, cost-efficiency in nature restoration and socio-economic impacts of not developing these activities in Europe.</i></p> <p><i>Selecting relevant areas where the habitat types listed in Annex I occur is key to obtain a proportionate application of article 4.7 (obligation of not to deteriorate these areas by current or new activities). This will offer legal certainty to economic operators and administration bodies in charge of nature conservation.</i></p> <p><i>Some member states have expressed concerns to use 70 years as reference areas for the NRL provisions. The experience of our sectors shares this concern based on the experience to set the baseline scenario.</i></p>		

Amendment 16. Article 19, paragraph 1

Text proposed by the Commission	Amendment	
<p>The Commission is empowered to adopt delegated acts in accordance with Article 20 to amend Annex I in order to adapt the groups of habitat types.</p>	<p><i>Delete</i></p>	<p>The Commission is empowered to adopt delegated acts in accordance with Article 20 to amend Annex I in order to adapt the groups of habitat types <i>in accordance with the latest scientific evidence.</i></p>
<p style="text-align: center;">Justification</p> <p><i>The information in Annex I is an essential part of the Regulation and must not be amended through delegated acts.</i></p> <p><i>Changing the habitat types is an essential element of the legislation, which could have fundamental effects on the whole legislation with far-reaching consequences. This also limits Member States' possibility to develop restoration measures best suited to their conditions. Any revision should be done via a trilogue negotiation to ensure transparent, and inclusive approach and a more predictable legislative environment.</i></p>		