

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

Due to technical problems with the pdf version not appearing properly, the survey will be prolonged until the 17 October. All answers having already been submitted are still valid and do not have to be resent.

Biodiversity is the variability among living organisms. It includes diversity within species, between species and of ecosystems. Protecting biodiversity is important for its intrinsic values but it is also linked to human well-being. Healthy, resilient and productive ecosystems provide many benefits (also called ecosystem services) to human society such as food, timber, fuel, clean water, clean air, natural flood protection, carbon storage and recreational opportunities. In the EU, as in many other parts of the world and despite legislation and policies dedicated to environmental protection, biodiversity continues to decline. The main causes of biodiversity loss are changes in land-use, over-exploitation of natural resources, pollution, invasive alien species and climate change.

In 2011 the European Commission adopted the EU strategy for Biodiversity to 2020. One of the 20 actions included in the Strategy is 'to ensure no net loss of biodiversity and ecosystem services' and part of this action requires the European Commission 'to carry out further work with a view to proposing by 2015 an initiative to ensure there is no net loss of ecosystems and their services-----'.

The purpose of the present consultation is to gather views about the future initiative to be proposed by the Commission.

Please note that the birds and habitats directives which provide the basis for the Natura 2000 network and constitute the legislative core of EU biodiversity policy, are currently the subject of a Fitness check exercise within the framework of the Commission's REFIT programme, which will include its own dedicated public consultation procedure. Consequently, issues relating to these directives are not part of the present consultation.

The Commission has also announced its intention to come forward, in 2015, with a Communication on Land as Resource. In the preparation of this policy statement it is also foreseen that the Commission will carry out a dedicated public consultation.

1. Background Information

Background information on the respondent.

2. Scope and Objectives of the future EU No Net Loss initiative.

2.1. The future EU initiative on No Net Loss will cover the following causes of biodiversity loss: land-use change, over-exploitation of natural resources and diffuse pollution to water and soil.

***** (compulsory)

- I agree strongly
- I agree
- Neutral
- I disagree
- I disagree strongly
- No opinion

2.2. You are invited to explain your answer to the previous question.

(optional) (maximum 750 characters)

We consider that some important activities are missing in the list. There are other important main drivers of biodiversity loss such as: building development, transport infrastructure, air pollution, energy development.

Even though all activities having a significant negative impact on biodiversity could be included in the EU initiative on No Net Loss, we recommend a prioritization of the activities that may have a significant negative impact on biodiversity.

As the national contexts are not uniform in all Europe and it is not always realistic to tackle all the activities at the same time, prioritisation should depend on:

- how the activity is addressed in the existing legislation and how efficiently it is implemented
- the significance of the impacts when conducting the activity

2.3. The future EU initiative on No Net Loss will focus on territory outside the Natura 2000 network. ***** (compulsory)

- I agree strongly
- I agree
- neutral
- I disagree
- I disagree strongly
- No opinion.

2.4. You are invited to explain your answer to the previous question.

(optional) (maximum 500 characters)

We consider the Birds and Habitats Directives as an efficient legal framework for the conservation of biodiversity. While the article 6 of the Habitat directive is setting the frame for

the assessment of activities and avoidance of any significant impacts in the Natura 2000 network, implementation of such NNL principles is less efficient outside the network. Though the implementation of the Birds and Habitats Directives should be improved concerning NNL, we consider important to focus the NNL principles outside Natura 2000. It would be then possible to improve the coherence between the network and its surrounding areas while avoiding the situation where the only preserved biodiversity is found within Natura 2000.

2.5. Do you think that the future EU initiative on No Net Loss should, in the first instance, cover the terrestrial environment and subsequently be extended to cover the marine environment, or should the initiative cover, from the start, both the terrestrial and the marine environment? * (compulsory)

- The terrestrial environment at first and later the marine environment.
- The terrestrial environment AND the marine environment from the start.

2.6. What is your opinion concerning the importance of including the following economic sectors within the scope of the future EU NNL initiative?

There are a number of economic sectors that have a large biodiversity footprint. The questions in this block of the questionnaire are intended to provide feedback concerning the importance of including each of the identified sectors within the scope of the future NNL initiative.

	Very important	Important	Not very important	Not at all important	No opinion
2.6.1. Agriculture * (compulsory)	<input type="radio"/>				
2.6.2. Built development (public and private) * (compulsory)	<input type="radio"/>				
2.6.3. Energy infrastructure * (compulsory)	<input type="radio"/>				
2.6.4. Extractive industries * (compulsory)	<input type="radio"/>				
2.6.5. Fisheries and aquaculture. * (compulsory)	<input type="radio"/>				
2.6.6. Forestry * (compulsory)	<input type="radio"/>				
2.6.7. Transport infrastructure * (compulsory)	<input type="radio"/>				
2.6.8. Other sectors (provide details in the question below) * (compulsory)	<input type="radio"/>				

2.7. You are invited to explain your answers to the previous question including the identification of sectors that you had in mind if you indicated that "other sectors" were "very important" or "important". (optional) (maximum 500 characters)

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The FACE Secretariat would like the National Hunting Associations to reply to this question based on the situation in their country.

BITTE KOPIEREN SIE DIES NICHT IN DER ÖFFENTLICHE BEFRAGUNG

Das FACE Sekretariat würde gerne, dass die nationalen Verbände diese Frage basierend auf der Situation in ihrem Land beantworten.

VEUILLEZ NE PAS COPIER CECI DANS LA CONSULTATION PUBLIQUE

Le secrétariat de la FACE souhaiterait que les Associations Nationales de Chasse répondent personnellement à cette question sur base de la situation au niveau national.

3. The mitigation hierarchy including compensation and offsetting.

The term 'mitigation hierarchy' refers to a systematic, step-wise intervention logic that is routinely applied in the case of actions that are expected to damage biodiversity and/or ecosystem services. The first step in the sequence is AVOIDANCE-can the damage be avoided e.g. by either not carrying out the action or carrying out the action somewhere else? The next step in the sequence is REDUCTION, and at this stage the emphasis is on reducing the damage as much as possible both at the design stage and during implementation. Once the action has been carried out, in some cases, it may be possible to do RESTORATION work e.g. if an underground pipeline is to be installed, this will cause damage when heavy machinery is brought on site and also when the excavation and construction work takes place. However, when the work is completed and the construction machinery is removed, the site can be restored. Finally, if, despite all best efforts to avoid, reduce and restore, there is still residual damage, this damage should be compensated/offset.

In summary the mitigation hierarchy includes the following steps:

AVOIDANCE -> REDUCTION -> RESTORATION -> COMPENSATION/OFFSETTING

The steps in the hierarchy should be addressed in sequence and steps should not be omitted.

3.1. What is your opinion concerning the following statement- 'the correct application of the mitigation hierarchy is essential if No Net Loss of biodiversity and ecosystem services is to be achieved' * (compulsory)

- I agree strongly
- I agree
- Neutral
- I disagree
- I disagree strongly
- No opinion.

3.2. Some stakeholders, while supporting the mitigation hierarchy in principle, are concerned that in practice the steps in the sequence will not be respected and that efforts to avoid, reduce and restore will be put aside in favour of compensation/offsetting.

In your opinion, should the future EU initiative on No Net Loss of biodiversity and ecosystem services, address compensation/offsetting OR should this be excluded. * (compulsory)

- The future EU initiative should include compensation/offsetting.
- The future EU initiative should not include compensation/offsetting.
- The future EU initiative should include compensation/offsetting on condition that strict measures and robust safeguards are in place to avoid abuses.
- No opinion

3.3. You are invited to provide an explanation of your answer to the previous question. (optional)(maximum 500 characters)

The future initiative should not only focus on policy measures for offsetting while gaps have been identified concerning the previous steps of the mitigation hierarchy.

In order to avoid the misinterpretation that NNL can be achieved only through compensation and offsetting measures, the initiative should ensure that the mitigation hierarchy is strictly followed when planning and implementing projects with the avoidance and minimisation of impacts to be applied at first stage. However, as residual impacts may remain after applying the mitigation hierarchy, it is also necessary to set a strict frame for offsetting and compensation measures. Important care should be taken when establishing rules for those measures so that they do not cause the opposite effects.

3.4. How well do you think the mitigation hierarchy is built into existing EU legislation and policies? (optional)

- Very well
- Quite well
- Neutral
- Not very well
- Not at all well
- No opinion.

3.5. Please provide an explanation of your response to the previous question. (optional) (maximum 500 characters)

Some principles of the mitigation hierarchy such as the avoidance, the implementation of preventive or alternative measures, etc. are outlined in different pieces of the legislation (EIA Directive, SEA Directive, EL Directive,...). Furthermore, the article 6 of the Habitats Directive is representing well the NNL initiative and more specifically the avoidance step. It seems that more clarity should be brought about the definitions of the preventive or alternative measures, and the principles of the mitigation hierarchy. However, we consider that NNL principles are already well represented in EU legislation/policies and that the principal issue now is to implement them correctly.

4. The Future EU Initiative on No Net Loss of Biodiversity and Ecosystem Services

4.1. THE QUESTIONS INCLUDED IN THE FOLLOWING BLOCK ARE ALL OPTIONAL. The report by IEEP on policy options for an EU No Net Loss initiative (chapter 5) identifies over 30 individual measures that could potentially be included in the future EU NNL initiative. Where several measures are closely linked these have been bundled together into a discrete group. There are 11 such groups in the IEEP report.

Please note: i) that measures concerning possible improvements to the implementation of the habitats and birds directives are not included here as these directives are currently the subject of a Fitness check in the context pf the Commission's REFIT programme which will itself have a dedicated public consultation procedure; ii) similarly, measures linked to the protection of soil are not included. The Commission has recently withdrawn its proposal for a Directive on soil protection and is currently reviewing the future policy options in this area.

	Strongly support the inclusion of this measure as part of the initiative.	Support the inclusion of this measure as part of the initiative.	Neutral	Against the inclusion of this measure as part of the initiative.	Strongly against the inclusion of this measure as part of the initiative.	No opinion.
4.1.1. Enhancing the scope and strengthening the implementation of the Environmental Liability Directive. (optional)	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
4.1.2. Strengthening the EIA Directive and improving its implementation. (optional)	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
4.1.3. Strengthening the SEA Directive and improving its implementation (optional)	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
4.1.4. Improving spatial planning in the terrestrial, coastal and marine environments. (optional)	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
4.1.5. Enhancing the mainstreaming of environmental measures in the CAP so as to better protect semi-natural areas. (optional)	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
4.1.6. Addressing NNL objectives in the context of the EU Forest Strategy. (optional)	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
4.1.7. Biodiversity proofing of the EU budget. (optional)	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
4.1.8. Developing a voluntary EU framework for compensation/ offsetting including technical guidelines and benchmarking good practice. (optional)	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
4.1.9. Developing a legal framework at the EU level for compensation/offsetting including general principles and common standards. (optional)	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

4.1.10. Promoting the use of market instruments to support the NNL objective including a possible "No Net Loss" label. (optional)

4.2. Can you suggest other measures in addition to those identified in the previous question that would be important to include in the future EU NNL initiative? (optional)

With a new legal framework, there is often a risk of bringing difficulties and potential incoherence with the rest of the environmental legislation. Furthermore, as NNL measures are already tackled in several EU Directives and is well represented in the Birds and Habitats Directives, a new legal framework is not seen as necessary.

We would be then in favour of a NNL initiative that would harmonise the existing environmental texts. As the mitigation hierarchy is not always clearly outlined, the NNL initiative could emphasize the efficient implementation of the Habitats and Birds Directives that are following the principles of the hierarchy. The initiative should also focus on how improving the implementation and follow-up of the other legal frameworks which deals with the NNL principles.

If it is decided to develop of a new legal framework on NNL, there should be mandatory requirements of implementing the mitigation hierarchy FIRST and provide accurate guidance for compensation/offsetting measures. After having provided concrete proves of the implementation of the hierarchy, it should be an obligation to offset the residual impacts. If done on voluntary basis, those impacts might not always be compensated. Finally, we also consider important to include technical guidelines and benchmarking good practice.

4.3. Policy Options: In the following series of questions we are seeking your opinion on the general character of the future EU initiative on No Net Loss. Below you will find a series of different policy objectives and for each of them you are requested to indicate your views concerning its inclusion in the future EU NNL initiative.

Essential to be included Desirable to be included Neutral Not desirable to be included Should not be included No opinion

4.3.1. Take steps to improve the effectiveness of the existing legislation and policies including through better enforcement, increasing awareness and technical guidelines. * (compulsory)

4.3.2. Reviewing and where appropriate revising existing pieces of environmental legislation to ensure that the principle of No Net Loss of Biodiversity and Ecosystems is respected and that the mitigation hierarchy is properly integrated. * (compulsory)

4.3.3. Ensure that policies and actions supported by EU funds respect the principle of No Net Loss and apply the mitigation hierarchy appropriately. * (compulsory)

4.3.4. A framework at EU level to promote the coherent and consistent use of compensation/offsetting, including technical guidance and benchmarking best practice.

* (compulsory)

4.3.5. Other measures (see below)

i (optional)

<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

4.4. If, in answering the previous question, you indicated that "other measures" were either "essential to be included" OR "desirable to be included" you are invited to provide further details regarding what those measures are. (optional) (maximum 500 characters)

As said in 4.2, we consider as first importance to develop a NNL initiative that would harmonise the existing environmental texts and emphasize the importance and implementation of the mitigation hierarchy through the existing legal and texts and more specifically the Habitats and Birds Directives. The initiative should also focus on how improving the implementation and follow-up of the other current legal frameworks.

As the NNL principles are already tackled in the Birds and Habitats Directives and other legal texts, we do not see the necessity of revising the existing legislation implying a long and complex process.

Finally, as said before, if it is decided to develop a new legal framework on NNL, this should not only focus on the compensation/offsetting principles because there is a risk of missing the objectives of the whole mitigation hierarchy. The new framework should therefore focus on the implementation of the whole hierarchy providing also accurate guidance on compensation/offsetting.

5. Addressing the challenges of compensation/offsetting.

Compensation/offsetting is the last step in the mitigation hierarchy. For the purposes of the present questionnaire the term "compensation" and the term "offsetting" will be regarded as synonymous and will be understood to mean actions taken to address residual impacts on biodiversity and ecosystem services which remain after the other steps in the mitigation hierarchy have been applied and with the objective of achieving No Net Loss of biodiversity and ecosystem services. Compensation/offsetting is an essential part of the mitigation hierarchy but effective implementation can be very challenging. In this section we seek to get opinions regarding some of the key issues.

5.1. Compensation/offsetting measures can be carried out at, or in close proximity to, the site where the damage took place. This is so called "on site" compensation/offsetting. In some cases compensation/offsetting is done at another location, away from the site where the damage occurred. This is so called "off-site" compensation/offsetting. We would like to get your opinion regarding "on-site" vs "off-site" compensation/offsetting.

*** (compulsory)**

- Compensation/offsetting should always be on-site unless there are exceptional circumstances that would justify another approach.
- Compensation/offsetting on site is always the preferred option but offsite compensation/offsetting can be considered if there is convincing evidence that this would present a better outcome for biodiversity and ecosystem services.
- The choice of on-site vs offsite compensation/offsetting should be made on a case by case basis with a view to achieving the best outcomes for biodiversity and ecosystem services.
- No opinion

5.2. Compensation/Offsetting can be designed to replace the biodiversity and the ecosystem services that are lost with the same kind of biodiversity and the same ecosystem services. This type of compensation/offsetting is referred to as "like for like". In other cases, the biodiversity and/or ecosystem services that are lost, are replaced with biodiversity of a higher value and/or critical/priority ecosystem services although in such cases the area of land dedicated to the compensation/offset may be less than the area of the land where the damage occurred. This type of compensation/offsetting is referred to as "trading up". We would like to get your opinion concerning "like for like" vs "trading up". *** (compulsory)**

- "Like for like" compensation/offsetting is always to be carried out unless there are exceptional circumstances that would justify another approach.
- "Like for like" compensation/ offsetting is always the preferred approach but "trading up" can be considered if there is convincing evidence that this would provide a better outcome for biodiversity and ecosystem services.
- The choice of "like for like" compensation/offsetting vs "trading-up" should be made on a case basis with a view to achieving the best outcomes for biodiversity and ecosystem services.
- No opinion.

5.3. There are a number of issues relating to compensation/ offsetting that can have a significant impact on the success of the compensation/offset in terms of conserving biodiversity and ecosystem services. In the following questions we would like to get your opinion regarding these issues.

	Very important	Important	Neutral	Not important	Not important at all	No opinion
5.3.1. Making sure that the compensation/offset is additional and that it represents a gain in biodiversity and/or ecosystem services that would not have happened without the compensation/offset. This is known as 'additionality'.* (compulsory)	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
5.3.2. Securing the compensation/offset over time and making sure that the compensation/offset is protected and managed appropriately.* (compulsory)	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
5.3.3. Putting in place appropriate measures to monitor the compensation/offset and to enforce compliance with the conditions under which the compensation/offset is established.* (compulsory)	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
5.3.4. The possibility of using compensation/offsetting measures strategically (e.g. pooling compensation/offsetting obligations linked to several different projects) in the framework of co-ordinated spatial planning in order to optimize the outcomes for biodiversity and ecosystem services.* (compulsory)	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

5.4. In order to provide compensation/offsets you need to understand what is going to be lost in terms of biodiversity and ecosystem services and you need to assess what will be gained by the compensation/offset. In this way you can make sure that the gain represented by the compensation/offset is at least equivalent to what is going to be lost. In this question we are asking for your opinion on how to assess losses and how to assess the value of the compensation/offset. * (compulsory)

- An expert assessment of the losses in terms of biodiversity and ecosystem services and the gains in biodiversity and ecosystem services represented by the compensation/offset.
- A standardized assessment using a checklist.
- The type of assessment that is appropriate should be determined in a flexible manner taking into account the complexity, the scale and the type of biodiversity and ecosystem services that are likely to be affected.
- No opinion.

5.5. THE QUESTIONS INCLUDED IN THE FOLLOWING BLOCK ARE ALL OPTIONAL.

The final report of the contract "Policy Options for an EU No Net Loss Initiative" contains a number of recommendations relating to compensation/ offsetting. In the following series of questions we are seeking opinions concerning these recommendations.

	I agree strongly	I agree	Neutral	I disagree	I disagree strongly	No opinion.
5.5.1. There should be a proportionate approach to metrics, with more streamlined procedures and simpler baseline studies and metrics for impacts that are low level, or which only affect widespread biodiversity and non-critical ecosystem services, but detailed, full assessments and metrics for more significant impacts. (optional)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
5.5.2. Compensation/Offsets should preferably be in place before the impact occurs, but if this is not possible, the issue of time preferences can be integrated into the metrics which are used to discount future benefits. (optional)	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
5.5.3. For non-threatened/common biodiversity, compensation in the form of payments into a trust fund (fee 'in lieu') could be allowed. (optional)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
5.5.4. In relation to the location of compensation/offsets which take place off-site, "service areas" could be designated on a bio-geographic basis in which compensation/offsets could be implemented. (optional)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
5.5.5. Compensation/Offsets can take quite a lot of time and resources to implement and therefore it may not be appropriate to require compensation/offsetting in cases where the impacts on biodiversity and/or ecosystem services are comparatively trivial and for this reason a threshold could be applied such that impacts below the threshold would not be subject to compensation/offsetting. (optional)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

5.6. Are there any other issues concerning compensation/offsetting that are not covered by the preceding questions in this section and which you consider should be taken into account? (optional)(maximum 500 characters)

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Le secrétariat de la FACE souhaiterait que les Associations Nationales de Chasse répondent personnellement à cette question sur base de la situation au niveau national.

5.7. Which national (voluntary or mandatory) measures on compensation/offsets are you aware of and how effective are they (excluding national measures transposing the requirements of the Habitats Directive and the Environmental Liability Directive)? (optional)

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6. Closing questions

6.1. Do you have additional comments that you would like to make concerning the development of the No Net Loss initiative? (optional) (maximum 750 characters)

Concerning questions 5.4, we would be in favor of a standardized checklist assessment process as it seems to be the most transparent way to proceed. However, when developing the method, care should be taken that there is no feature missing and that it leads to a complete inventory of biodiversity and ecosystem services at risk. For example, when assessing species, both common and threatened species should be considered. Furthermore, as the situation can differ from an area to another, the standardized method should leave some scope for flexibility taking into account the various factors at local level.

6.2. Do you have any comments you would like to make concerning the consultation and the questionnaire? (optional) (maximum 500 characters)

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6.3. Do you accept to be contacted by the Commission in the event that further details concerning your replies would be helpful? * (compulsory)

- Yes
- No

Background documents

Final report of the service contract "Policy Options for an EU No Net Loss Initiative.":
<http://ec.europa.eu/environment/nature/biodiversity/nnl/pdf/Policy%20Options.pdf>

Annexes to the final report of the service contract "Policy Options for an EU No Net Loss Initiative.":
http://ec.europa.eu/environment/nature/biodiversity/nnl/pdf/Policy%20Options_annex.pdf

Documents produced by the expert Working Group on No Net Loss.:

- http://ec.europa.eu/environment/nature/biodiversity/nnl/pdf/Subgroup_NNL_Scope_Objectives.pdf
- http://ec.europa.eu/environment/nature/biodiversity/nnl/pdf/NNL_Operational_Principles.pdf
- http://ec.europa.eu/environment/nature/biodiversity/nnl/pdf/NNL_Glossary.pdf