

**From:** CAB VON DER LEYEN ARCHIVES  
**Sent:** mercredi 31 mars 2021 10:10  
**To:** CAB VON DER LEYEN ARCHIVES  
**Subject:** FW: Remarks on the updated draft Delegated Act Taxonomy Regulation  
**Attachments:** Taxonomy DA remarks Eickhout-Giegold.pdf

---

**From:** EICKHOUT Bas <[REDACTED]@europarl.europa.eu>  
**Sent:** Wednesday, March 24, 2021 9:50 AM  
**To:** VON DER LEYEN Ursula (CAB-VON DER LEYEN) <[REDACTED]@ec.europa.eu>;  
TIMMERMANS Frans (CAB-TIMMERMANS) <[REDACTED]@ec.europa.eu>; DOMBROVSKIS Valdis  
(CAB-DOMBROVSKIS) <[REDACTED]@ec.europa.eu>; MCGUINNESS Mairead  
<[REDACTED]@fm.europarl.europa.eu>  
**Cc:** GIEGOLD Sven (EP) <[REDACTED]@europarl.europa.eu>; EICKHOUT Bas (EP)  
<[REDACTED]@europarl.europa.eu>  
**Subject:** Remarks on the updated draft Delegated Act Taxonomy Regulation

Dear President von der Leyen, dear Vice-President Dombrovskis, dear Vice-President Timmermans, dear Commissioner McGuinness,

With great concern we have taken note of the updated draft delegated act for the Taxonomy Regulation. The proposals are severely weakening the previous draft act, which itself already deviated from the extensive science-based advice that the Commission has received by the Technical Expert Group. If the Commission continues to pursue the lowest common denominator of member states and private interests rather than what is needed to shift investment towards a climate neutral economy, the ambitions of the Commission in the field of sustainable finance will fail. We call on the Commission to substantially improve the technical screening criteria before adopting its final delegated act to avoid a rejection by the European Parliament and to avoid any further reputational damage to the taxonomy as a credible tool for sustainable investment.

In December 2020 we have sent detailed comments to the draft delegated acts of the Commission.  
<http://extranet.greens-efa-service.eu/public/media/file/1/6699>

After a first preliminary and non-exhaustive analysis of the updated proposal for the delegated act, it appears that our demands for bringing the technical screening criteria in line with the spirit of the Taxonomy Regulation, based on the TEG recommendations and in line with the EU's climate objectives for 2030 and 2050, have not been taken into account.

Most importantly, we deplore the introduction of new categories of fossil gas investments to be considered as substantially contributing to climate mitigation. This is a severe threat to the credibility of the EU's framework for sustainable investments and is incompatible with Article 10 of the taxonomy regulation which requires avoiding a lock-in of carbon intensive assets.

Throughout the delegated act "low-carbon gases" lack a legal definition. In the absence of a clear meaning, the concept risks opening loopholes for fossil gas investments to be unduly considered sustainable.

Also, our key demand to not consider the use of whole trees and food and feed crops for energy as a substantial contribution to climate mitigation, was not addressed in the updated proposal for the delegated act.

The distinction between transitional activities and already sustainable activities is blurred in several economic activities. This will make disclosure of taxonomy aligned activities more difficult and less clear. Moreover, for some activities like electricity generation from gas, bioenergy, biofuels in transport and cogeneration of heat/cool and power from gas, the Commission has classified these activities as fully sustainable instead of transitional.

For the generic criteria for DNSH to protection and restoration of biodiversity, although an impact assessment is required, it is insufficiently clear which criteria are used to determine whether an impact assessment gives sufficient guarantees that significant harm is avoided.

Finally we reiterate our previous concern that throughout the delegated act a general declining ceiling of greenhouse gas intensity towards net zero for economic activities is lacking from the proposal.

In the attachment you can find some more specific remarks to the updated draft Delegated Acts.

We look forward to exchange further on these matters.

Yours sincerely,

Bas Eickhout, MEP, co-rapporteur of the Taxonomy Regulation  
Sven Giegold, MEP, ECON-coordinator Greens/EFA

## **Preliminary and non-exhaustive specific remarks on technical screening criteria for climate mitigation and adaptation per economic activity**

### **Agriculture**

Given that we had serious concerns on lacking criteria related to the reduce of pesticides use in growing of crops and limitation of livestock density in livestock production, we support the proposal to not include agriculture in the taxonomy at this stage.

### **Forestry**

Logging operations and forest management should not qualify if they reduce forests' carbon sink function overall. Compared to the previous draft, national legislation seems to be taken even more as a benchmark rather following a true "substantial contribution" logic. This risks defining current unsustainable forest management practices as sustainable.

The Climate benefit analysis must prove that there is a balance of GHG and removal at 30 years instead of 20 years. This increases the problem of a long "carbon debt" associated with wood production for biomass. Forest holdings under 25ha are not required to perform a climate benefit analysis anymore. Most forests are small. Afforestation made on farms will be on small surfaces, so this derogation might create a huge gap.

The DNSH criteria are weakened in relation to fertiliser use: "The activity minimises the use of fertilisers and does not use manure" instead of "The activity does not use fertilisers". Also there seems to be no mention of soil biodiversity anymore.

### **Manufacturing**

#### *Energy efficiency equipment for buildings*

In our reaction to the previous draft delegated act, we called for U values to be set at more ambitious levels. Instead the new draft delegated act increases the level for windows.

#### *Manufacture of other low carbon technologies*

This category remains unclear and too broad to be listed as a separate economic activity and therefore risks including activities which are not sustainable. It should be removed.

#### *Cement*

We requested that the draft Delegated Act should follow the advice from the Technical Expert Group (TEG) to exclude burning refuse-derived fuel (RDF) in cement plants in the DNSH criteria for pollution prevention and control. This is still not the case in the latest proposal.

#### *Manufacture of plastics in primary form*

Our concerns related to burning refuse-derived fuel have not been taken into account.

### **Energy**

#### *Hydropower*

As in the previous draft, small hydropower (<10MW) which have little benefit in terms of electricity generation compared to their detrimental impact on biodiversity and hydromorphology, can still be considered substantially sustainable. Also the GHG thresholds are far above the global median values both in the substantial contribution and DNSH of the adaptation DA.

#### *Electricity generation from bioenergy*

The updated proposal still implies that burning whole trees and crops to produce energy would be considered sustainable under the taxonomy, which is harmful, rather than beneficial to the EU's environmental objectives. This is reflected in the Commission's biodiversity strategy 2030 which

states that “the use of whole trees and food and feed crops for energy production – whether produced in the EU or imported – should be minimised”.

#### Cogeneration of heat/cool from gaseous and liquid fuels

This activity is no longer classified as transitional activities despite the fact that could include the use of fossil fuels and emit up to 100gCO<sub>2</sub>e per kWh of energy output. This is in contradiction of article 10 of the Taxonomy Regulation which would only such an activity as a transitional activity provided that the conditions of article 10.2 are met.

Replacement of existing combined heat/cool and power facilities using solid or liquid fossil fuels or replacement of existing separate heat facilities using solid or liquid fossil fuels or replacement of existing separate power facilities using solid or liquid fossil fuels with high-efficiency combined heat/cool and power facilities using gaseous and liquid fuels

and

Replacement of heating/cooling facilities using solid or liquid fossil fuels by heating/cooling facilities using gaseous and liquid fuels in efficient district heating and cooling

These new categories of activities are unacceptable and a serious threat to the entire credibility of the taxonomy. Allowing power facilities with natural gas with emissions above 100g/CO<sub>2</sub>/kwh is not compatible with a transition to carbon neutrality. Investments into new plants with significant emissions until 2025 can lead to a lock-in of carbon-intensive assets, considering the economic lifetime of those assets and is therefore in violation of Article 10.2 (c) of the Taxonomy Regulation.

The conditions linked to gas plants are insufficient to avoid harmful investments from being considered sustainable. It is unclear how “no economical low-carbon alternatives” will be operationalised in condition (e). A “just transition” is supposed to move away from dependency on fossil fuels and is therefore not a valid justification for gas investments.

#### Hydrogen

Our previous remarks were not taken into account: the concepts of “low-carbon gas” and “blending” remain insufficiency defined and not restricted to use that is compatible with a path towards climate neutrality given the importance that fossil gas currently plays in these techniques. Hydrogen should only be promoted if derived 100% from additional renewable sources and used where no other alternatives exist. The updated proposal has increased the emission threshold making it even easier to use fossil-fuel generated electricity for the production of hydrogen. The overall result could be that investments promoted by the taxonomy do not have an overall positive contribution for climate mitigation.

#### **Transport**

We need more time to study the updated proposal but currently do not see that our remarks related to passenger vehicles and low carbon airport infrastructure have been taken into account. In the activity “Sea and coastal water transport”, emission thresholds have been weakened.

#### **Renovation of Buildings**

It remains a major flaw that the Taxonomy does not go beyond requirements in the legislation which is already outdated in itself (2010) and needs update in the light of achieving climate targets.

#### **Data processing, hosting and related activities**

Section 8.1.: Criteria 3 refers to “The global warming potential (GWP) of refrigerants used in the data centre cooling system does not exceed 675” referencing the most recent version of the European Code of Conduct on Data Centre Energy Efficiency. Existing law is insufficient to achieve carbon neutrality. The taxonomy should go further.