

**COPA AND COGECA'S DRAFT FEEDBACK ON THE  
on Draft Delegated act supplementing Regulation (EU)2020/852 by  
establishing the technical screening criteria for determining the  
conditions under which an economic activity qualifies as contributing  
substantially to climate change mitigation or climate change adaptation**

Copa and Cogeca represent 22 million farmers and their family members as well as 22,000 cooperatives that provide to 446 million EU citizens with safe, nutritious, high-quality, sustainable, and affordable food every day. Farmers, forest owners and their cooperatives are the first to feel the impact of climate change and mobilising more investments could make a difference on how they will face this increasing challenge in the future. In addition, this will help in showing their strong commitment to the Paris Agreement and contributing to the Sustainable Development Goals.

**General remarks**

Copa and Cogeca acknowledge the importance and the efforts made by the EU institutions in mobilising the necessary capital to deliver on the policy objectives of the European Green Deal to have a more sustainable and climate resilient economy, whilst respecting international commitments as is the case of the Paris Agreement. Sustainability with its three pillars has for long been central and reflected in the Union project, the Treaty on European Union and the Treaty of the Functioning of the European Union (TFEU). This is also stressed in the Regulation (EU) 2019/2088 on the establishment of a framework to facilitate sustainable investment.

The agri-food and forestry sector, now more than ever, needs to be able to count on incentives and investments towards more sustainable production methods and adaptation measures, smarter technologies and businesses. Ensuring access to finance is of paramount importance and imperative, especially under the new circumstance created by the COVID19 pandemic where agriculture and forestry need to recover from the current crisis while continuing their transition towards a more resource efficient and competitive economy.

In this process it is important to take stock and recognise the work done by farmers and their cooperatives to improve the sustainability in agriculture and forestry.

Farms and cooperatives clearly perceive that the Commission is using a delegated act, that has the role to supplement certain non-essential elements of a legislative act, to regulate issues of high importance and to determine whether or not an economic activity is sustainable or does significant harm to the environment.

## **A disproportionate approach**

The Regulation 2020/852 on the establishment of a framework to facilitate sustainable investment applies to measures adopted by Member States or by the Union that set out requirements for financial market participants or issuers in respect of financial products or corporate bonds that are made available as environmentally sustainable, as well as to financial market participants that make available financial products and to undertakings under the scope of the Non-Financial Reporting Directive. However, we witness a strong and disproportionate approach on the agricultural and forestry sector which is certainly not the main beneficiary from the financial products<sup>1</sup> on which the regulation focuses on.

Indeed, the agri-food and forestry sector had been at the centre of the entire debate and legislative process since the beginning. This is demonstrated by the specific sectorial recommendations that are already part of the 2018 Final Report released by the High-Level Expert Group on Sustainable Finance<sup>2</sup>.

The Technical Expert Group (TEG) had placed a strong focus on agricultural and forestry activities in its early feedback report<sup>3</sup>, which contained a first set of climate change mitigation activities and their technical screening criteria.

In addition, agricultural and forest economic activities are explicated and addressed in the taxonomy and in the Final Report<sup>4</sup> of the TEG and its technical annexes<sup>5</sup>, which certainly acknowledge the potential for significant climate change mitigation and adaptation, but also propose recommendations that do not reflect the important sustainable economic activities of our sectors.

These recommendations drafted by the TEG, which are *de facto* translated into regulatory measures by the delegated act, represent not only a challenge from the usability point of view for MS and agriculture and forestry sector but also an unprecedented attempt to put criteria into force that set a new policy in parallel with the Common Agricultural Policy (CAP) and its provisions in regards of conditionality and greening requirements.

Copa and Cogeca consider that a disproportionate approach had been used to set specific targets for these sectors without a prior comprehensive impact assessment for the sectors impacted.

That said, Copa and Cogeca would like to stress their concerns about aspects of form and substance of the draft Delegated Act.

## **Concerns on the form and procedure**

Copa and Cogeca underline that the recommendations that are included into the delegated act derive from the work of the TEG which lacked technical and legislative knowledge of the agriculture and forestry sector.

---

<sup>1</sup> Portfolio managed in accordance with mandates given by clients on a discretionary client-by-client basis where such portfolios include one or more financial instruments; an alternative investment fund (AIF); an Insurance Based Investment Product (IBIP); a pension product; a pension scheme; a Collective Investment in Transferable Securities (UCITS) a Pan-European Personal Pensions (PEPP).

<sup>2</sup> Final Report 2018 from the High-Level Expert Group on Sustainable Finance, 2018 European Commission, page 90  
[https://ec.europa.eu/info/sites/info/files/180131-sustainable-finance-final-report\\_en.pdf](https://ec.europa.eu/info/sites/info/files/180131-sustainable-finance-final-report_en.pdf)

<sup>3</sup> Technical expert group on sustainable finance subgroup: taxonomy Progress Report  
[https://ec.europa.eu/info/sites/info/files/business\\_economy\\_euro/banking\\_and\\_finance/documents/sustainable-finance-teg-subgroup-taxonomy-progress-report\\_en.pdf](https://ec.europa.eu/info/sites/info/files/business_economy_euro/banking_and_finance/documents/sustainable-finance-teg-subgroup-taxonomy-progress-report_en.pdf)

<sup>4</sup> Taxonomy: Final report of the Technical Expert Group on Sustainable Finance, March 2020  
[https://ec.europa.eu/info/sites/info/files/business\\_economy\\_euro/banking\\_and\\_finance/documents/200309-sustainable-finance-teg-final-report-taxonomy\\_en.pdf](https://ec.europa.eu/info/sites/info/files/business_economy_euro/banking_and_finance/documents/200309-sustainable-finance-teg-final-report-taxonomy_en.pdf)

<sup>5</sup> Technical annex to the TEG final report on the EU taxonomy, March 2020  
[https://ec.europa.eu/info/sites/info/files/business\\_economy\\_euro/banking\\_and\\_finance/documents/200309-sustainable-finance-teg-final-report-taxonomy-annexes\\_en.pdf](https://ec.europa.eu/info/sites/info/files/business_economy_euro/banking_and_finance/documents/200309-sustainable-finance-teg-final-report-taxonomy-annexes_en.pdf)

We also regret that the same level of lack of representivity is witnessed in the newly created advisory body, the Platform for Sustainable Finance.

The lack of agricultural sector representivity within the TEG and the Platform which should be composed of experts from the and public sector to assist the Commission in the preparation of delegated acts, and therefore under examination, is certainly unacceptable from but, also detrimental for a correct legislative formulation of the delegated act *de quo* and the ones will follow.

The same applies for the consultation with the Member States to which the Delegated act was presented for the first time on 25 November in the expert group on sustainable finance (that has in addition only an advisory role) with the possibility to send comments to such a complex file by 4 December (offering them only five days for consultation).

The Regulation 2020/852 clearly states that when developing the technical screening criteria, it is of particular importance that the Commission carry out appropriate consultations in line with the Better Regulation Agenda and that the process for the establishment and update of the technical screening criteria should involve “relevant stakeholders” and should build on the advice of experts who have proven knowledge and experience in the “relevant areas”. The four weeks period for consultation on such complex file is unacceptable especially considering that the document is not available in all EU languages.

The same regulation, which is intended to be supplemented by the delegated act, also states that when establishing and updating the technical screening criteria the Commission should take into account “relevant Union law”.

Considering that the relevance of our sector representativity and sectorial regulations had been not considered, we will call on the European Parliament and the Council to object ex art 290 TFEU.

### **Concerns on the substance of the draft delegated act**

Sustainable economic activities are already defined in sectorial regulations and must not be redefined for sustainable investment purposes.

The technical screening criteria must be in line and compatible with existing measures in the CAP, REDII and Sustainable Forest Management.

In this context, the **conditionality measures under the CAP** must automatically and *de facto* be considered as economic activities that ‘substantially contribute’ to climate change adaptation and mitigation as they address and comply with the environmental sustainability CAP specific objectives . It must be recognised that the current conditionality measures and ecosystem services within the current CAP as well as the enhanced conditionality and climate and environmental measures in the future CAP are *de facto* contributing to climate change mitigation and adaptation.

It is important to note that agriculture and forestry have already made extensive efforts to achieve sustainability. Much of this work is anchored in the Common Agricultural Policy (CAP) and its provisions on conditionality and ecological requirements and will be reflected even more strongly with the new orientation of the CAP. On forestry, the SFM definitions, principles and detailed criteria have been agreed as part of the Forest Europe process, which is under continuous development, and are already an integral part of national legislations and voluntary certification systems.

The ongoing CAP reform between the enhanced conditionality and the specific environmental and climate measures provides for stricter requirements in favour of the environment and climate. It is important to guarantee that the Commission is not developing, in parallel with the CAP, new policies and criteria that would represent a secondary stricter level of conditionality

requirements resulting from the delegated act imposed on farmers and foresters to secure the eligibility to access to finance for their much needed investments.

Any additional and stricter provisions than those already in place under the CAP, with criteria that will be impossible to be used and request for the use data that are not available, as well as the proposed farm sustainability plans and annual reporting and targets, are simply unacceptable. The existing reporting system in place for CAP must be used.

For example, in Annex I under the do not significant (**DNSH**) on **point 5 on Pollution prevention** and control it is requested that farms use only plant protection products that are authorised under Article 24 of Regulation (EU) 2018/848 on organic production. This implies that only organic farms are considered sustainable and can be eligible under sustainable finance.

Farmers and agri-cooperatives have always supported the science-based risk assessment approach adopted by EFSA and we will keep doing it in the future. EFSA's assessment on active substances for PPPs always aims to guarantee the utmost protection of human, animal and environmental health. However, Copa and Cogeca have been lately noticing a widespread distrust in the science-based control system at EU level. We envision a European Union where all different plausible scenarios have been considered and carefully analysed. We also recognise the difficulties faced by risk managers at the moment of weighing the many scientific, societal, economic, political and cultural inputs needed to reach a final decision on crop protection. Nevertheless, we also would keep insisting to the European Commission to fully apply risk-based assessments for active substances instead of hazard-based assessments ('cut-off criteria').

**The criteria introduced with the delegated act cannot be applied retroactively** to production where such a criterion has not previously existed.

The technical evaluation criteria should take into account the **different natural conditions in the Member States** and their impact on the agricultural practices applied in the region.

Article 191 TFEU states that Union policy shall take into account the **diversity of situations in the various regions of the Union**. In preparing its policy on the environment, the Union shall take account environmental conditions in the various regions of the Union, the economic and social development of the Union as a whole and the balanced development of its regions.

The technical evaluation criteria should take into account **the different natural conditions in the Member States** and impact of the natural conditions on the agricultural practices applied in the region. The criteria set out in the proposal do not take into account some geographical conditions, for example, the importance of grassland production in some geographies.

Regarding the **soil management** the delegate act states that mechanical weeding with inversion tillage between rows shall not be used. Copa and Cogeca underlines that this provision may increase the use of pesticides and lead to a conflict with DNSH-targets.

As regards the **forestry sector**, the screening criteria have to take into account sustainable forest management practices and must not undermine the role forests play in the bioeconomy. In this respect, the scope of the taxonomy has to be enlarged to include "enabling" activities involving long-lived and harvested wood products. The taxonomy at this point does not go far enough, because it focuses only on "greening of" activities, to protect and enhance forest carbon stocks and sinks. Sustainable finance in forestry must not restrict itself to conservation practices. It is crucial for forest owners and a sustainable bioeconomy that the sustainable investment framework follows an approach that enables a diverse use of forests and wood products, and takes into account social and economic sustainability.

Regarding the Forest management plan included in the Annex I in Point 1.5, 1.6 and 1.7, the preparation and management of such plans is very complex and costly, especially for small forest owners – therefore, reference to national laws should be sufficient (especially since EU regulations on forestry undermine national subsidiarity and are undesirable).

In the Point 1.7, the proof of a „net CO<sub>2</sub> balance or saving/reduction“ over 20 years is practically impossible in small forests (too expensive) and generally doubtful; the value fluctuates between individual models and the increase in temperature causes increased transformation activity (this means more humus depletion and thus CO<sub>2</sub> production in the soil).

In the Point 4.8, 4.20, 4.24, the criterion of 80% GHG-reduction goes beyond the RED II (80% reduction applies in RED II for new plants from 2026).

The Point 4.13 which includes the exclusion of “food-and-feed-crops” should be changed to “high-ILUC-risk” feedstock.

In Point 7.1, in the case of new buildings, there is only talk of “efficiency”, but it would be important and right to also consider the building material or the insulation material. An efficient building made of concrete and insulated with Styrofoam still causes huge amounts of CO<sub>2</sub> emissions.

With regards to point 1.4 of annex II, we would like to underline that in order to the adaption to the climate change, a conversion of the forests takes place to mixed forests. This requires a higher proportion of hardwood and thus a higher thinning effort. The economic utilization of “whole trees” for the production of bioenergy proves to be necessary, since neither the paper nor the panel industry uses hardwood in adequate quantities. Even the furniture industry is already supplied with sufficient hardwoods. In this respect, it seems more than questionable if “whole trees” should not be used for bio-energy production.

With regards to the **bio-energy** economic activities, the criteria for determining the conditions under which an economic activity is to be qualified as contributing substantially to climate change mitigation or climate change adaptation are impractical, unworkable and, above all, require a disproportionate amount of effort.

Partially criteria go beyond existing regulations or stipulate stricter limit values. These criteria are to be rejected as market-distorting in principle; these criteria hinder and prevent biomass projects and thus promote the further expansion or reduce the reduction of fossil energy and raw material use.

The fossil comparator is a “house number” and scientifically proven too low.

The „do no significant harm“-criteria are not clearly defined and the criteria are chosen arbitrarily. Required verification and documentation of the plans are disproportionately bureaucratic and cost-intensive.

Economic activities that use bioenergy in accordance with RED II sustainability and GHG emission savings criteria are environmentally sustainable activities according to article 10.1. Taxonomy Regulation. These technologies are low-carbon and therefore not a transitional activity. Therefore, the reference to a “transitional” activity should be deleted in delegated acts.

Bioenergy in that delegated acts must remain aligned with the RED II sustainability and greenhouse gas savings criteria. The Renewable Energy Directive has only recently been amended, implementation at national level is still ongoing. There is a risk of market distortion if the taxonomy anticipates strict requirements.

We call the Commission to align the provisions of the annex of the delegated regulation on the existing legislation RED II for manufacture of bioenergy.

Food and feed crop feedstocks that are used in non-food sector support the transition towards bioeconomy by substituting fossil fuels by renewable raw materials, sustainably produced in the EU according to the CAP and its cross-compliance and environmental and climatic provisions. Therefore, there are not reason to exclude them from manufacture of organic chemicals and plastics.

Regarding the **necessary disclosures** the Taxonomy Regulation introduces a new requirement for companies that already are required to provide a non-financial disclosures under the Non-Financial reporting Directive. They have to include a description how their

activities are associated with Taxonomy-aligned activities. Copa and Cogeca note that the delegated act needs to clarify what this means in practice, combined with the Taxonomy Regulation's references to life-cycle considerations. Copa and Cogeca underline that the possible economic impact on the whole food chain must be carefully assessed.

The Delegated act introduces, a farm sustainability management plan is being proposed for the agricultural sector. This tool can only be useful if it is part of CAP measures and CAP reporting with a clear monitoring, reporting and verification workload at farm level to demonstrate compliance with a sustainable agriculture. Farms have already many requirements within the CAP system. The technical evaluation criteria for agriculture should take into account the EU's common agricultural policy without generating new administrative burden. The technical evaluation criteria should be suitable for farms of all sizes, without any significant increase in administrative costs. An intelligent GHG threshold is pivotal. Farmers that have already reduced emissions from production will find it harder to reduce them further than farmers who have not yet taken any steps to reduce emissions. It is therefore necessary to develop a system that assesses GHG emissions with the aim of achieving a common climate efficiency goal and not simply comparing them to emissions from a specific year in the past. This will ensure that first movers are rewarded, not punished.

However, with regard to the Measures the holding's climate baseline, i.e. its average performance in terms of GHG emissions and carbon sequestration in the five years prior to the start of the that should be included into the Farm Sustainability plan Copa and Cogeca stresses that the draft Regulation quantitative GHG thresholds are not mentioned, the baseline is also not needed because such a calculation would therefore be difficult for individual farms.

Regarding the yearly record of the agricultural holding's climate performance, these record should solely include information on the deployment of management practices; The other elements should not be mentioned because are linked to GHG thresholds, which are not mentioned in Delegated Act criteria.

Copa and Cogeca while considering that economic activities have to be audited and reported, also stresses that the administrative and economic burden of a proper audit however is disproportionate compared to the benefit a farmer gets from the financial products that are under the scope of the regulation 2020/852. In any case a substantial contribution to an even more sustainable agriculture will only be achieved if there is a clear economic incentive for farmers and cooperatives. This incentive must be market driven and respect the basic characteristics of agriculture (nature and biological processes) that cannot be completely controlled.

In addition to these comments, Copa and Cogeca also underline that as indirect effect there is an obvious risk of **carbon leakage to third countries** in the short and mid-term if investment are hindered by the defined criteria and therefore rise even further.

**SPECIFIC REMARKS**

Draft annex 1	Proposed amendment
<p><b>1. AGRICULTURE [AND FORESTRY]</b></p> <p><b>2. Establishment of a Farm Sustainability Plan</b></p>	
<p><b>(b)measures the holding's climate baseline, i.e. its average performance in</b></p>	<p><del><b>(b) Measures the holding's climate baseline, i.e. its average performance</b></del></p>

<p><b>terms of GHG emissions and carbon sequestration in the five years prior to the start of the project;</b></p>	<p><del><b>in terms of GHG emissions and carbon sequestration in the five years prior to the start of the project;</b></del></p>
<p><b>4. Farm records</b></p>	
<p>The agricultural holding keeps a yearly record of its climate performance, including:</p> <p>(a) information on the deployment of management practices;</p> <p><b>(b) information on GHG emissions and removals that:</b></p> <p><b>(i) is based on best available data;</b></p> <p><b>(ii) is consistent with the 2019 Refinement to the 2006 IPCC Guidelines for National Greenhouse Gas Inventories, including the good practices regarding the consistency between Agriculture, Forestry and Other Land Uses (‘AFOLU’) projects or activities and IPCC inventory guidelines<sup>4</sup>.</b></p>	<p>The agricultural holding keeps a yearly record of its climate performance, including:</p> <p>(a) information on the deployment of management practices;</p> <p><del><b>(b) information on GHG emissions and removals that:</b></del></p> <p><del><b>(i) is based on best available data;</b></del></p> <p><del><b>(ii) is consistent with the 2019 Refinement to the 2006 IPCC Guidelines for National Greenhouse Gas Inventories, including the good practices regarding the consistency between Agriculture, Forestry and Other Land Uses (‘AFOLU’) projects or activities and IPCC inventory guidelines<sup>4</sup>.</b></del></p>

<b>Appendix A</b> <b>Growing of non-perennial crops: essential management practices</b>	
<b>Crop Management</b>	
<p>The holding puts in place a crop rotation system on arable land in order to increase soil carbon sequestration; reduce pesticide and fertiliser needs; and reduce N<sub>2</sub>O emissions. The crop rotation system includes at least a five-crop rotation, including at least one legume or a green manure. Cover and catch crops are sown using a locally appropriate species mixture. The living plant coverage of the farm is at least 75% and bare soil is avoided. When rice is cultivated on the farm holding, measures are in place to minimise emissions of methane emissions from rice cultivation, which may include shallow flooding, mid-season drying events, off-season straw.</p>	<p>The holding puts in place a crop rotation system on arable land in order to increase soil carbon sequestration; reduce pesticide and fertiliser needs; and reduce N<sub>2</sub>O emissions. The crop rotation system includes at least a five-crop rotation, including at least one legume or a green manure. Cover and catch crops are sown using a locally appropriate species mixture. The living plant coverage of the farm is at least 75% <i>if feasible in local climatic conditions</i> and bare soil is avoided. When rice is cultivated on the farm holding, measures are in place to minimise emissions of methane emissions from rice cultivation, which may include shallow flooding, mid-season drying events, off-season straw.</p>
<b>Appendix A</b> <b>Growing of non-perennial crops: essential management practices</b>	
<b>Soil management</b>	
<p>The Farm Sustainability Plan describes soil management and cropping practices deployed in non-perennial crop production in order to protect and improve soil health and organic matter content. Practices are chosen and applied with appropriate care given to key, site-specific soil threats, including soil erosion from wind and water, loss of organic matter, salinisation, compaction, soil acidification, with the objective to prevent, minimise or mitigate the effect of the relevant soil degradation.</p> <p>The following practices are not used:</p> <ul style="list-style-type: none"> <li><b>(a) practices that disturb histosols and organic soils;</b></li> <li><b>(b) artificially lowering water tables on histosols and organic soils;</b></li> <li><b>(c) mechanical weeding with inversion tillage between rows;</b></li> </ul>	<p>The Farm Sustainability Plan describes soil management and cropping practices deployed in non-perennial crop production in order to protect and improve soil health and organic matter content. Practices are chosen and applied with appropriate care given to key, site-specific soil threats, including soil erosion from wind and water, loss of organic matter, salinisation, compaction, soil acidification, with the objective to prevent, minimise or mitigate the effect of the relevant soil degradation.</p> <p>The following practices are not used:</p> <ul style="list-style-type: none"> <li><del><b>(a) practices that disturb histosols and organic soils;</b></del></li> <li><del><b>(b) artificially lowering water tables on histosols and organic soils;</b></del></li> <li><del><b>(c) mechanical weeding with</b></del></li> </ul>

(d) burning of crop residues (except where an exemption has been granted for plant health reasons). <sup>6</sup>	<del>inversion tillage between rows;</del> (d) burning of crop residues (except where an exemption has been granted for plant health reasons). <sup>7</sup>
<b>3 MANUFACTURING</b>	
<b>3.13. Manufacture of organic basic chemicals</b>	
<b>Food or feed crops are not used as bio-based feedstock for the manufacture of organic basic chemicals.</b>	<del>Food or feed crops are not used as bio-based feedstock for the manufacture of organic basic chemicals</del>
<b>3.16. Manufacture of plastics in primary form</b>	
<b>Food or feed crops are not used as bio-based feedstock for the manufacture of plastic in primary form.</b>	<del>Food or feed crops are not used as bio-based feedstock for the manufacture of plastic in primary form.</del>
<b>4.8. Electricity generation from bioenergy</b>	
2. The greenhouse gas emission savings from the use of biomass are <b>at least 80 %</b> in relation to the GHG saving methodology and the relative fossil fuel comparator set out in Annex VI to Directive (EU) 2018/2001.	2. The greenhouse gas emission savings from the use of biomass <b>are fulfilling the criteria of article 29) point 10 for electricity</b> in relation to the GHG saving methodology and the relative fossil fuel comparator set out in Annex VI to Directive (EU) 2018/2001.
3. Where the installations rely on anaerobic digestion of organic material, <b>the production of the digestate meets the criteria in Sections 5.6 and criteria 1 and 2 of Section 5.7 of this Annex, as applicable.</b>	3. Where the installations rely on anaerobic digestion of sludge or bio-waste, <del>the production of the digestate meets the criteria in Sections 5.6 and criteria 1 and 2 of Section 5.7 of this Annex, as applicable.</del> <b>Sections 5.6 and Section 5.7 of this Annex are applicable.</b>
<b>4 Energy</b>	
<b>4.13 Manufacture of biogas and biofuels for use in transport</b>	

<sup>6</sup> In accordance with GAEC 6 of Annex II to Regulation (EU) No 1306/2013.

<sup>7</sup> In accordance with GAEC 6 of Annex II to Regulation (EU) No 1306/2013.

<p>Description of the activity</p> <p>Manufacture of biogas or biofuels for use in transport.</p> <p>The activity is classified under NACE code D35.21 in accordance with the statistical classification of economic activities established by Regulation (EC) No 1893/2006.</p> <p><b>The activity is a transitional activity as referred to in Article 10(2) of Regulation (EU) 2020/852 where it complies with the technical screening criteria set out in this Section.</b></p>	<p>Description of the activity</p> <p>Manufacture of biogas or biofuels for use in transport.</p> <p>The activity is classified under NACE code D35.21 in accordance with the statistical classification of economic activities established by Regulation (EC) No 1893/2006.</p> <p><del><b>The activity is a transitional activity as referred to in Article 10(2) of Regulation (EU) 2020/852 where it complies with the technical screening criteria set out in this Section.</b></del></p>
<p><b>“Food and feed crops are not used in the activity for the manufacture of biofuels for use in transport”.</b></p>	<p><del><b>“Food and feed crops are not used in the activity for the manufacture of biofuels for use in transport”.</b></del></p>
<p>3. Where the installations rely on anaerobic digestion of organic material, <b>the production of the digestate meets the criteria in Sections 5.6 and criteria 1 and 2 of Section 5.7 of this Annex, as applicable.</b></p>	<p>3. Where the installations rely on anaerobic digestion of sludge or bio-waste, <del><b>the production of the digestate meets the criteria in Sections 5.6 and criteria 1 and 2 of Section 5.7 of this Annex, as applicable</b></del> <i>Sections 5.6 and Section 5.7 of this Annex are applicable.</i></p>
	<p><i>(4) Points 1 and 2 do not apply to electricity generation installations with a total rated thermal input below 2 MW and using gaseous biomass fuels</i></p>
<p><b>DNSH -5 : For biogas production, a gas-tight cover on the digestate storage is applied.</b></p>	<p><del><b>For biogas production, a gas-tight cover on the digestate storage is applied</b></del></p>
<p>Where the manufacture of biogas relies on anaerobic digestion of organic material, <b>the production of the digestate meets the criteria in Sections 5.6 and criteria 1 and 2 of Section 5.7 of this Annex, as applicable.</b></p>	<p>3. Where the installations rely on anaerobic digestion of sludge or bio-waste, <del><b>the production of the digestate meets the criteria in Sections 5.6 and criteria 1 and 2 of Section 5.7 of this Annex, as applicable.</b></del> <i>Sections 5.6 and Section 5.7 of this Annex are applicable.</i></p>

<b>4.14. Transmission and distribution networks for renewable and low-carbon gases</b>	
<p>1. The activity consists in one of the following:</p> <p>(a) construction or operation of new transmission and distribution networks dedicated to hydrogen or other low-carbon gases;</p> <p>(b) conversion/repurposing of existing natural gas networks to 100 % hydrogen and retrofit of gas transmission and distribution networks, where the main purpose is the integration of hydrogen and other low-carbon gases, including any gas transmission or distribution network activity, which enables the network to increase the blend of hydrogen or other low carbon gasses in the gas system;</p>	<p>1. The activity consists in one of the following:</p> <p>(a) construction or operation of new transmission and distribution networks dedicated to hydrogen or including other low-carbon gases <b>such as biogas/biométhane.;</b></p> <p>(b) conversion/repurposing of existing natural gas networks to 100 % hydrogen and retrofit of gas transmission and distribution networks, where the main purpose is the integration of hydrogen and other low-carbon gases <b>such as biogas/biomethane</b> , including any gas transmission or distribution network activity, which enables the network to increase the blend of hydrogen or other low carbon gasses in the gas system;</p>
<b>4.20. Cogeneration of heat/cool and power from bioenergy</b>	
<p>2. The greenhouse gas emission savings from the use of biomass in cogeneration installations are <b>at least 80 %</b> in relation to the GHG emission saving methodology and fossil fuel comparator set out in Annex VI to Directive (EU) 2018/2001.</p>	<p>2. The greenhouse gas emission savings from the use of biomass <b>are fulfilling the criteria of article 29) point 10 for electricity</b> in relation to the GHG saving methodology and the relative fossil fuel comparator set out in Annex VI to Directive (EU) 2018/2001.</p>
<p>3. Where the installations rely on anaerobic digestion of organic material, <b>the production of the digestate meets the criteria in Sections 5.6 and criteria 1 and 2 of Section 5.7 of this Annex, as applicable.</b></p>	<p>3. Where the installations rely on anaerobic digestion of sludge or bio-waste, <b>the production of the digestate meets the criteria in Sections 5.6 and criteria 1 and 2 of Section 5.7 of this Annex, as applicable. Sections 5.6 and Section 5.7 of this Annex are applicable.</b></p>
<b>4.24. Production of heat/cool from bioenergy</b>	
<p>2. The greenhouse gas emission savings from the use of biomass in cogeneration installations are <b>at least 80 %</b> in relation to the GHG emission saving methodology and fossil fuel comparator set out in Annex VI to</p>	<p>2. The greenhouse gas emission savings from the use of biomass <b>are fulfilling the criteria of article 29) point 10 for electricity</b> in relation to the GHG saving methodology and the relative fossil fuel comparator set out in Annex VI to Directive</p>

Directive (EU) 2018/2001.	(EU) 2018/2001.
3. Where the installations rely on anaerobic digestion of organic material, <b>the production of the digestate meets the criteria in Sections 5.6 and criteria 1 and 2 of Section 5.7 of this Annex, as applicable.</b>	3. Where the installations rely on anaerobic digestion of sludge or bio-waste, <del>the production of the digestate meets the criteria in Sections 5.6 and criteria 1 and 2 of Section 5.7 of this Annex, as applicable.</del> <i>Sections 5.6 and Section 5.7 of this Annex are applicable.</i>
	<i>(4) Points 1 and 2 do not apply to anaerobic digestion installation with a total rated thermal input below 2 MW and using gaseous biomass fuels</i>
<b>5 WATER SUPPLY, SEWERAGE, WASTE MANAGEMENT AND REMEDIATION</b>	
<b>5.7. Anaerobic digestion of bio-waste</b>	
5. In the dedicated bio-waste treatment plants, bio-waste constitutes at least 90 % of the input feedstock, measured in weight, as an annual average, and the share of other input material is less than or equal to 10 % of the input feedstock. <b>Such other input material may not include food or feed crops</b>	In the dedicated bio-waste treatment plants, bio-waste constitutes at least 90 % of the input feedstock, measured in weight, as an annual average, and the share of other input material is less than or equal to 10 % of the input feedstock. <del>Such other input material may not include food or feed crops</del>
<b>Draft Annex II</b>	
<b>1. AGRICULTURE AND FORESTRY</b>	
<b>1.4 Afforestation</b>	
(6) Protection and restoration of biodiversity and ecosystems  <b>The use of whole tree stems for bioenergy is avoided, especially where viable, unsubsidised markets exist for their use in carbon-retaining materials or products, except where it has been authorised at the national or regional levels in exceptional circumstances, including for phytosanitary reasons or to reduce fire risks, in accordance with</b>	(6) Protection and restoration of biodiversity and ecosystems  <del>The use of whole tree stems for bioenergy is avoided, especially where viable, unsubsidised markets exist for their use in carbon-retaining materials or products, except where it has been authorised at the national or regional levels in exceptional circumstances, including for phytosanitary reasons or to reduce fire risks, in accordance with</del>

<p><b>applicable law.</b></p>	<p><b>applicable law-</b></p> <p>The economic utilization of “whole trees” for the production of bioenergy proves to be necessary, since neither the paper nor the panel industry uses hardwood in adequate quantities. Even the furniture industry is already supplied with sufficient hardwoods. In this respect, it seems more than questionable if “whole trees” should not be used for bio-energy production.</p>
<p><b>6 “Protection and restoration of biodiversity and ecosystems” in the “Do not significant harm”-criterion</b></p>	
<p><b>The use of whole tree stems for bio-energy is avoided, especially where viable, unsubsidised markets exist for their use in carbon-retaining materials or products, except where it has been authorised at the national or regional levels in exceptional circumstances, including for phytosanitary reasons or to reduce fire risks, in accordance with applicable law.</b></p>	<p><del><b>The use of whole tree stems for bio-energy is avoided, especially where viable, unsubsidised markets exist for their use in carbon-retaining materials or products, except where it has been authorised at the national or regional levels in exceptional circumstances, including for phytosanitary reasons or to reduce fire risks, in accordance with applicable law.”</b></del></p>