

# Eurometaux draft response to the ongoing public consultation on the EU Taxonomy Delegated Acts – amendments to make reporting simpler and more cost-effective for companies

As Eurometaux, the non-ferrous metals industry association, we support the EU taxonomy's goal to channel investments towards sustainable economic activities and assist industry in its transition. If well designed, the EU Taxonomy Regulation (EU/2020/852) can incentivize financial flows towards activities aligned with climate and environmental objectives, provided that the criteria are fit for purpose and implementable.

The EU's sustainable finance agenda must acknowledge that European metals production is crucial for the energy transition, EU climate-neutrality goals and security. To achieve this, taxonomy criteria for metals must be usable, proportionate and designed to channel investments towards sustainable mining and refining operations, in line with the objectives of the Critical Raw Materials Act (CRMA), while maintaining the EU Taxonomy's integrity.

In our response to the ongoing public consultation, we will comment on i) Appendix C of the Climate and Environmental Delegated Acts; ii) Disclosures Delegated Act (EU) 2021/2178; iii) Process for developing technical screening criteria; iv) Consideration of multi-metallic recycling.

## 1. Comments on the Appendix C of the Climate and Environmental Delegated Acts

We are glad that edits have been proposed to enhance the usability of Appendix C<sup>1</sup>, as part of the ongoing simplification process. This is especially relevant given that Appendix C has presented longstanding usability and implementation issues.

We would like to comment on the following aspects:

- a) Remove “use of” from the heading: “The activity does not lead to the manufacture, placing on the market or use of”
- b) Use of an ‘hazard-only driven’ vs ‘risk-based’ approach
- c) Recognition of exemptions and scope exclusions in the context of the mentioned existing EU pieces of legislation
- d) Review of criteria to improve their usability and proportionality
- e) Support for proposed option 1 – Deletion of paragraph f) bis

We strongly believe that it is key to address the above-mentioned aspects to ensure that the Do No Significant Harm (DNSH) criteria to pollution prevention and control remain proportionate and usable, while at the same time delivering on their purpose of ensuring that substantial contribution to other environmental objectives does not lead to increased pollution or harm to the health and the environment.

<sup>1</sup> Appendix C lists the generic criteria for determining whether an economic activity causes no significant harm to pollution prevention and control regarding the use and presence of chemicals.



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**DNSH to pollution prevention and control should be based on compliance with existing EU legislation, such as the REACH Regulation, which provides a well developed and implemented framework to assess substances requiring risk management and identify the most appropriate risk management solutions.**

While we understand that 'substantial contribution' usually refers to performance that is better than the industry average, DNSH do not have the same purpose and should not go beyond what is already required under the existing EU legislation. DNSH criteria should be limited to preventing negative trade-off between the substantial contribution and the other environmental objectives and not implicitly demanding additional contribution to the other objectives with their own requirements.

**a) Remove “use of” from the heading: “The activity does not lead to the manufacture, placing on the market or use of”**

The current heading of the Appendix C, which includes the phrase “**use of**” prevents several economic activities from being recognised as aligned due to the use of hazardous substances in their manufacturing processes. This is the case even when these substances are not present in the final products and are used under well-controlled conditions for the workforce in accordance with other existing EU pieces of legislation.

Because of the current wording, even eligible and potentially aligned and strategic industrial activities, such as battery manufacturing, cannot be aligned under the EU taxonomy framework. It is important to highlight that hazardous substances are often used because they provide unique product performances. Substituting (i.e. replacing) these substances, often present in mixtures or in articles, is neither technically nor economically feasible at this stage. In addition, the number of substances used in manufacturing processes is extensive and, besides the significant investments in terms of time and resources required to check those, it can be unclear where the liability exactly stands.

This point has also been highlighted as problematic and challenging to interpret by the experts of the Platform on Sustainable Finance in their [recent report](#), (pag. 103). They propose replacing the opening heading with the following “*the activity does not lead to the manufacture, presence in the final product or output, or placing on the market*”, currently used for paragraphs f) and f) bis. We would support this option.

**Our recommendation:** Remove the reference to “**use of**” in the current heading to ensure that strategic and sustainable activities are recognised under the Taxonomy framework.

**b) Use of an ‘Hazard-only driven’ vs ‘risk-based’ approach**

Reading through the Appendix C, we notice that the text is based on a ‘hazard-only driven’ approach rather than a ‘risk-based’ approach.

A lot of non-ferrous metal or metal compounds, including those used in low carbon applications, have classifiable hazards of some type. Risk management measures exist and are in place to control emissions and exposure and hence avoiding the occurrence of effects associated with these hazardous properties. The presence and use of such substances does not mean ‘harm’ per se.



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The use of these metals and metal compounds is necessary to achieve the technical performance expected by the market and they cannot be substituted (see paragraph above). Their risk management is controlled by compliance with the REACH Regulation (EC) 1907/2006, occupational safety and health (OSH) legislations and/or sector-specific environmental/product legislation. This network of legislations helps to identify where exposure/emissions may occur and address those to ensure they do not pose an unacceptable risk to human health or the environment.

**Our recommendation:** Avoid restrictions and limitations based solely on the hazard classification of a substance and take into account risk control measures and related EU legislation.

### c) Recognition of exemptions in the context of the mentioned EU pieces of legislation

As highlighted in previous cases not only by [industry](#)<sup>2</sup>, but also by the experts of the [Platform on Sustainable Finance](#)<sup>3</sup>, another key concern is that Appendix C refers to several pieces of EU legislation, without recognising the related exemptions accepted and acknowledged in these legislations.

The term ‘exemptions’ as presently understood also includes scope exclusions (e.g. RoHS Article 2) and derogations (e.g. in Annex I of the POPs Regulation (EU) 2019/1021). Exemptions are allowed in specific cases and under detailed conditions, for example for the RoHS Directive (Restriction of Hazardous Substances): i) the availability, practicability and reliability of substitutes; ii) the environmental, health and consumer safety impacts of substitution; iii) the socioeconomic impact of substitution; iv) any potential adverse impacts on innovation<sup>4</sup>.

We consider it counterintuitive and incoherent not to incorporate into the EU Taxonomy Regulation the exemptions (and scope exclusions) that are already present in other implemented EU legislation. Activities covered by these exemptions should be considered as fulfilling the requirements of the Appendix C. Therefore, we support the proposal of the Platform of Sustainable Finance to include in each of the points a) to e) the phrase *"except where exemptions are included in the regulation."*

**Our recommendation:** Consider activities covered by exemptions (including scope exclusions, derogations and other specific exemptions from the requirements) in existing EU legislation referred to in Appendix C, as fulfilling the DNSH criteria of this Appendix and prioritise harmonisation across EU legislation to avoid regulatory uncertainty.

### d) Review of criteria to improve their usability and proportionality

We support the European Commission's decision to review the existing substantial contribution and DNSH criteria, extending beyond Appendix C.

The review should refer back to the original text of the EU Taxonomy Regulation, which prescribes that criteria are developed based on legal clarity, usability and proportionality, meaning not creating an unnecessary administrative

<sup>2</sup> Joint industry letter (02/2025): [https://www.eurometaux.eu/media/qxjniuwp/joint-industry-letter\\_eu-taxonomy-appendix-c\\_february-2025.pdf](https://www.eurometaux.eu/media/qxjniuwp/joint-industry-letter_eu-taxonomy-appendix-c_february-2025.pdf)

<sup>3</sup> Platform on Sustainable Finance draft report: [https://finance.ec.europa.eu/document/download/a3e72e4c-f2fb-4400-b06f-f7f10dc2cd09\\_en?filename=250108-sustainable-finance-platform-draft-taxonomy-report\\_en.pdf](https://finance.ec.europa.eu/document/download/a3e72e4c-f2fb-4400-b06f-f7f10dc2cd09_en?filename=250108-sustainable-finance-platform-draft-taxonomy-report_en.pdf)

<sup>4</sup> [Implementation of the RoHS Directive - European Commission](#). Exclusions from the scope are outlined in Article 2, exemptions according to defined conditions are included in Annex III and IV.



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burden for companies: “To avoid overly burdensome compliance costs on economic operators, the Commission should establish technical screening criteria that provide for sufficient legal clarity, that are practicable and easy to apply, and for which compliance can be verified within reasonable cost-of-compliance boundaries, thereby avoiding unnecessary administrative burden.”<sup>5</sup>

More broadly, we are concerned about the usability and overly ambitious nature of the draft criteria recently put forward by the Platform on Sustainable Finance for climate change mitigation for the mining, smelting and refining of copper, nickel and lithium. While we recognize that these criteria are designed with a future-oriented perspective, it is crucial that they are applicable for investment decisions today.

**Our recommendation:** Review substantial contribution and DNSH criteria swiftly, considering their usability and proportionality, in line with Recital 47 of the EU Taxonomy Regulation.

**e) Support for proposed option 1 – Deletion of paragraph f) bis**

Between the two options proposed, **we support option 1**, which involves the **deletion of paragraph f) bis**. Limiting the reporting and assessment of alternatives to substances that have a harmonized classification under the Classification, Labelling and Packaging (CLP) Regulation would still leave companies with an analysis for a significant number of substances, going beyond what is required by the existing EU chemicals legislation.

Similarly, **we suggest deleting paragraph f)** as it presents interpretation challenges, for terms like “suitable alternative” and “controlled conditions” and has been previously highlighted as problematic for numerous industrial sectors.

Paragraph f) requires the assessment of alternatives for substances on the REACH Candidate List, even when these substances are not regulated under Authorisation or Restriction, or when risk management has been implemented via non-REACH routes (e.g. OSH). Such an analysis is not required under REACH for Candidate List substances. In addition, there are concerns over the verification of this information, which is performed by financial experts, that might not always be familiar with specific chemicals related legislation nor risk management measures to put in place.

In our view, it should be enough to comply with the mentioned chemical safety provisions in order to establish DNSH criteria.

**Our recommendation:** Implement the changes in proposed Option 1 - Deletion of paragraph f) bis and also delete paragraph f).

**2. Comments on the EU Taxonomy Disclosures Delegated Act**

On the horizontal Disclosures Delegated Act, non-ferrous metals companies support the limitation in scope and the aim of the simplification to make the framework more usable.

<sup>5</sup> Recital 47, EU Taxonomy Regulation (EU) 2020/852. [eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32020R0852](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32020R0852)



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We propose considering voluntary EU Taxonomy reporting for all non-financial undertakings falling under the scope of the EU Taxonomy regulation. Non-financial undertakings should be allowed to decide on their EU Taxonomy reporting considering the perspectives of investors and other stakeholders - at least as long as the activities of so many sectors have not yet defined.

We support the introduction of the 10% materiality threshold for assessment of economic activities. However, we recommend clarifying that the materiality thresholds of 10% for each KPI are to be applied separately at the level of each economic activity.

The draft delegated act requires to disclose the turnover, capital expenditure and operational expenditure related to non-material activities separately as non-material. However, as long as data is to be disclosed, it needs to be collected and calculated internally, limiting the benefits of the simplification. In addition, disclosing non-material information is also not in-line with the concept of the CSRD to only disclose material information. We strongly recommend deleting this provision from the delegated act. Non-material amounts of turnover, capital expenditure and operational expenditure should not be reported.

In addition, the OpEx KPI should be eliminated or made voluntary due to its low relevance for the financial market. While companies receive little or no questions from investors, the OpEx indicator requires considerable efforts to collect and disclose the necessary data.

**Our recommendation:** Consider voluntary Taxonomy reporting.

### 3. Process for developing technical screening criteria

In the framework of the review of the EU Taxonomy substantial contribution and DNSH criteria, we request that improvements are made to the current process for developing criteria through the Platform on Sustainable Finance. In particular, to ensure that the process is more inclusive and that criteria are developed in close consultation with the relevant industrial sectors. This is key to ensure the usability of the criteria.

This concern is widely shared among [industry](#)<sup>6</sup>. Alternative processes, such as a leading role for the Joint Research Centre (JRC), should be considered.

**Our recommendation:** Improve the process for the development of technical screening criteria to ensure their usability.

### 4. Consideration of multi-metallic recycling

Finally, in the review, we propose edits to the Environmental Delegated Act (EU) 2023/2486, to allow multi-metallic recycling to become eligible under the EU Taxonomy Framework.

<sup>6</sup> Joint industry letter (02/2025): [https://www.eurometaux.eu/media/qxjniuwp/joint-industry-letter\\_eu-taxonomy-appendix-c\\_february-2025.pdf](https://www.eurometaux.eu/media/qxjniuwp/joint-industry-letter_eu-taxonomy-appendix-c_february-2025.pdf)



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Currently, multi-metallic recycling is not recognized due to specific exclusions in the existing Environmental delegated act. Specifically, metals and metals compounds are left out of the scope of the economic activity 2.4. Treatment of hazardous waste, and the limitation to “mechanical recycling” also excludes them from alignment under the economic activity: 2.7. Sorting and material recovery of non-hazardous waste.

Aligning the multi-metallic recycling activities under the EU Taxonomy would definitely be in line with the objectives of increasing our circular economy leadership and the recycling benchmark in the Critical Raw Materials Act.

**Our recommendation:** The review should make multi-metallic recycling eligible under the EU Taxonomy.

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**About Eurometaux:** Eurometaux is the decisive voice of non-ferrous metals producers and recyclers in Europe. We are an umbrella association representing the interests of the combined non-ferrous metals industry towards EU policy makers. In total the industry employs directly 500,000 people and indirectly more than 3 million across over 900 production facilities, with an annual turnover of €120bn.

[\*\*Eurometaux | European non-ferrous metals association\*\*](#)

