

# Joint Civil Society Organisations' Analysis and Recommendations:

## Draft Taxonomy Delegated Act (DA) on the four remaining environmental objectives and the climate mitigation and adaptation objectives

May, 2023

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## 1. Introduction and disclaimer

This document reflects the collective analysis of a large network of CSOs and think tanks working on the EU Taxonomy. The main objective of this document is to provide the civil society's analysis and recommendations related to the draft Delegated Act published by the EU Commission on 5th of April 2023 and subject of a [public consultation](#). On the basis of this analysis, we provide a summary of the main issues (section 2) and a scorecard, activity by activity, summarising the assessment (section 3). In section 4, the tables to assess the

criteria activity by activity are structured in the same way as the feedback template provided by the Commission, with a few *additional questions*. The recommendations of the Platform on Sustainable Finance published in [March 2022](#) and [October 2022](#) were used systematically as a reference.

**This document is not a statement of position by the organisations and experts who have contributed.** It does not commit organisations or experts to the views expressed by others. Experts can comment on the sections they have analysed but should not be understood to be endorsing comments made in other sections. Several experts have provided contact information for the section(s) they analysed and are pleased to be contacted for further discussion about their area.

## 2. Summary of the main issues

### **Generally, our CSOs welcome:**

- The fact that the six objectives of the EU taxonomy are covered, not only climate change.
- The fact that the draft DA adequately reflects the Platform's technical recommendations or, in a few cases, improves it, leading to a green score for several activities in our assessment.

### **However we have major concerns with the four following issues:**

- 1. We provided a red score (see section 3) for the following activities whose criteria are not science-based:**
  - **Inland passenger/freight water transport:** Instead of maintaining a zero tailpipe emissions standard, a technical loophole has been introduced in the draft DA, which labels as "green" ships still running on fossil fuels for an indefinite period.
  - **Aviation activities:** The draft DA confuses current best-in-class energy-efficient technologies, which are fossil-based, with the adequate technology to decarbonise aviation. The draft DA criteria do not put aviation on the path towards achieving climate neutrality by 2050. For instance, allowing leasing companies to sell used aircraft to other companies will cause the global fleet to expand and cause additional emissions.
  - **Manufacturing of plastic packaging goods (circular economy objective).**

- **Conservation, including restoration, of habitats, ecosystems and species** (biodiversity objective): See point 2 below.

The criteria for these activities need to be substantially improved by the Commission.

2. **The introduction of biodiversity offsets in the activity 'Conservation, including restoration, of habitats, ecosystems and species' (Biodiversity objective) is a major concern and should be removed.** The March 2022 report from the Platform provided experts' guidance on how to define technical screening criteria, comprising a clear commitment to and transparent rationale for excluding offsets in general (part A of the report) and very specifically for the Conservation activity: "5.2 *The conservation activity is not implemented with the purpose of offsetting the impact of another economic activity.*" By definition, offsetting is only compensating significant harm elsewhere and thus cannot represent a substantial contribution. We do not see any arguments put forward by the Commission that would justify deviating from the Platform's guidance. The Commission should exclude biodiversity offsets from the scope of any definition of "substantial contribution" in general and for this activity in particular.
3. **Many critical activities have been left out from the draft DA compared to the Platform's proposal and we recommend the rapid introduction of these activities in the DA,** in particular:
  - **Pollution prevention objective:** Manufacture of chemicals / of chemical products / Finishing of textiles / Tanning of leather.
  - **Circular economy objective:** Manufacture, repair, refurbishment and resale of wearing apparel / Manufacture, remanufacture and reselling of footwear and leather goods / Design, manufacture, remanufacture, and reselling of furniture / Manufacture of food products and beverages.
  - **Biodiversity objective:** Manufacture of food products and beverages / Environmental refurbishment of facilities that produce electricity from hydropower / Forestry / Agriculture / Fishing<sup>1</sup>.
4. **Maintain Appendix C with no weakening.** All activities relevant to pollution that are included in the draft DA have DNSH criteria referring to the existing Appendix C. It is extremely important for the protection of human health and the environment from pollution that the criteria (g) is preserved to include substances meeting the

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<sup>1</sup> In particular, the agriculture and fishing criteria proposed by the Platform are robust. However, if the Commission is not prepared to fully align with the Platform proposal, we would prefer there to be no Delegated Act on agriculture and fishing than a greenwashed one. Accordingly, we would have to publicly oppose such a Delegated Act and consider every appropriate action to challenge it.

criteria to be a Substance of Very High Concern. Any weakening of this would significantly reduce the relevance of the EU taxonomy for pollution. Therefore, we strongly urge the Commission to keep this criterion unchanged, as well as all references to the Appendix C.

**Finally, we have concerns on the following generic issues:**

5. A substantial contribution criterion should not be equivalent to a Do No Significant (DNSH) criterion for the same issue. Environmentally-wise it is not consistent that substantial contribution equals to DNSH.
6. Anything which just meets a "legal" standard (e.g. in ETS or RED) is highly unlikely to be sufficient for a substantial contribution criteria.
7. Wherever the DA waters down the numerical recommendations of the Platform, the Commission's justification needs to be clear; in most cases it is not.
8. Wherever an "industry pathway" is used as a technical reference, it should be noted that this is highly unlikely to require a "significant contribution" (almost by definition as an entire industry is committed to it).
9. There is a need to cross-reference substantial contribution criteria in activities where "taxonomy shopping" is possible, to ensure a level playing field in terms of environmental benefits.
10. Wherever an activity may be associated with significant environmental impacts along its value chain (notably outside the EU), it cannot be defined as "significantly contributing" to any of the six taxonomy objectives without ensuring that these impacts are avoided through adequate DNSH criteria<sup>2</sup>.
11. Small "technical loopholes" can create enormous environmental damage, as the risk of "reverse engineering" of the taxonomy to find loopholes is already on-going. For example, this is the case with shipping criteria.

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<sup>2</sup> For example, construction of new buildings (circular economy objective): The construction of new buildings involves materials linked to deforestation, yet not providing additional DNSH criteria on top of 'Appendix D' which is too generic to capture major environmental risks such as deforestation. As long as Appendix D itself is not tightened, additional DNSH criteria that safeguard against deforestation through entire supply chains have to be included for this activity.

### 3. Scoreboard activity by activity

This section provides a score (green, orange and red) which is an overall summary of our assessment of the technical screening criteria in the draft DA.

**Green:** good criteria

**Orange:** criteria need improvement

**Red:** problematic criteria, require significant changes (or exclusion from the EU taxonomy).

Activity	Score
<b>ANNEX I - Water and marine resources</b>	
<b>1. Manufacturing</b>	
1.1 Manufacture, installation and associated services for leakage control technologies enabling leakage reduction and prevention in water supply systems	
<b>2. Water supply, sewerage, waste management and remediation activities</b>	
2.1. Water supply	
2.2. Urban Waste Water Treatment	
2.3. Sustainable urban drainage systems (SUDS)	
<b>3. Disaster risk management</b>	
3.1. Nature-based solutions for flood and drought risk prevention and protection	
<b>4. Information and communication</b>	
4.1. Provision of IT/OT data-driven solutions for leakage reduction	
<b>ANNEX II - Circular economy</b>	
<b>1. Manufacturing</b>	
1.1. Manufacture of plastic packaging goods	
1.2. Manufacture of electrical and electronic equipment	
<b>2. Water supply, sewerage, waste management and remediation activities</b>	
2.1. Phosphorus recovery from waste water	
2.2. Production of alternative water resources for purposes other than human consumption	
2.3. Collection and transport of non-hazardous and hazardous waste	
2.4. Treatment of hazardous waste	
2.5. Recovery of bio-waste by anaerobic digestion or composting	
2.6. Depollution and dismantling of end-of-life products	
2.7. Sorting and material recovery of non-hazardous waste	
<b>3. Construction and real estate activities</b>	
3.1. Construction of new buildings	
3.2. Renovation of existing buildings	
3.3. Demolition and wrecking of buildings and other structures	
3.4. Maintenance of roads and motorways	
3.5. Use of concrete in civil engineering	
<b>4. Information and communication</b>	
4.1. Provision of IT/OT data-driven solutions and software	
<b>5. Services</b>	

5.1. Repair, refurbishment and remanufacturing	
5.2. Sale of spare parts	
5.3. Preparation for re-use of end-of-life products and product components	
5.4. Sale of second-hand goods	
5.5. Product-as-a-service and other circular use- and result-oriented service models	
5.6. Marketplace for the trade of second-hand goods for reuse	
<b>ANNEX III - Pollution</b>	
<b>1. Manufacturing</b>	
1.1. Manufacture of active pharmaceutical ingredients (API) or drug substances	
1.2. Manufacture of pharmaceutical products	
<b>2. Water supply, sewerage, waste management and remediation activities</b>	
2.1. Collection and transport of hazardous waste	
2.2. Treatment of hazardous waste	
2.3. Remediation of legally non-conforming landfills and abandoned or illegal waste dumps	
2.4. Remediation of contaminated sites and areas	
<b>ANNEX IV - Biodiversity</b>	
<b>1. Environmental protection and restoration activities</b>	
1.1. Conservation, including restoration, of habitats, ecosystems and species	
<b>2. Accommodation activities</b>	
2.1. Hotels, holiday, camping grounds and similar accommodation	
<b>ANNEX I - Climate change mitigation</b>	
3.3 Manufacture of low carbon technologies for transport	
3.18 Manufacture of automotive and mobility components	
3.19 Manufacture of rail constituents	
3.20 Manufacture, installation, and servicing of high, medium and low voltage electrical equipment for electrical transmission and distribution that result in or enable substantial contribution to climate change mitigation	
3.21 Manufacturing of aircraft	
6.7 Inland passenger water transport	
6.8 Inland freight water transport	
6.9 Retrofitting of inland water passenger and freight transport	
6.10 Sea and coastal freight water transport, vessels for port operations and auxiliary activities	
6.11 Sea and coastal passenger water transport	
6.12 Retrofitting of sea and coastal freight and passenger water transport	
6.14 Infrastructure for rail transport	
6.16 Infrastructure enabling low carbon water transport	
6.17 Infrastructure enabling low carbon airport infrastructure	
6.18 Leasing of aircraft	
6.19 Passenger and freight air transport	
6.20 Air transportation ground handling operations	
<b>ANNEX II - Climate change adaptation</b>	
5.13 Desalination	
7.8 Civil engineering	
8.4 Software enabling climate risk management	
9.4 Consultancy for climate risk management	
14.1 Emergency services	
14.2 Flood risk prevention and protection infrastructure	

## 4. Analysis of the draft DA activity by activity for the four remaining environmental objectives

(The list below is exhaustive, but CSOs provided an assessment for some activities only)

### **ANNEX I - Water and marine resources**

#### **1. Manufacturing**

1.1 Manufacture, installation and associated services for leakage control technologies enabling leakage reduction and prevention in water supply systems

#### **2. Water supply, sewerage, waste management and remediation activities**

2.1. Water supply

2.2. Urban Waste Water Treatment

2.3. Sustainable urban drainage systems (SUDS)

#### **3. Disaster risk management**

3.1. Nature-based solutions for flood and drought risk prevention and protection

#### **4. Information and communication**

4.1. Provision of IT/OT data-driven solutions for leakage reduction

### **ANNEX II - Circular economy**

#### **1. Manufacturing**

1.1. Manufacture of plastic packaging goods

1.2. Manufacture of electrical and electronic equipment

#### **2. Water supply, sewerage, waste management and remediation activities**

2.1. Phosphorus recovery from waste water

2.2. Production of alternative water resources for purposes other than human consumption

2.3. Collection and transport of non-hazardous and hazardous waste

2.4. Treatment of hazardous waste

2.5. Recovery of bio-waste by anaerobic digestion or composting

2.6. Depollution and dismantling of end-of-life products

2.7. Sorting and material recovery of non-hazardous waste

#### **3. Construction and real estate activities**

3.1. Construction of new buildings

3.2. Renovation of existing buildings

3.3. Demolition and wrecking of buildings and other structures

3.4. Maintenance of roads and motorways

3.5. Use of concrete in civil engineering

#### **4. Information and communication**

4.1. Provision of IT/OT data-driven solutions and software

## 5. Services

- 5.1. Repair, refurbishment and remanufacturing
- 5.2. Sale of spare parts
- 5.3. Preparation for re-use of end-of-life products and product components
- 5.4. Sale of second-hand goods
- 5.5. Product-as-a-service and other circular use- and result-oriented service models
- 5.6. Marketplace for the trade of second-hand goods for reuse

## ANNEX III - Pollution

### 1. Manufacturing

- 1.1. Manufacture of active pharmaceutical ingredients (API) or drug substances
- 1.2. Manufacture of pharmaceutical products

### 2. Water supply, sewerage, waste management and remediation activities

- 2.1. Collection and transport of hazardous waste
- 2.2. Treatment of hazardous waste
- 2.3. Remediation of legally non-conforming landfills and abandoned or illegal waste dumps
- 2.4. Remediation of contaminated sites and areas

## ANNEX IV - Biodiversity

### 1. Environmental protection and restoration activities

- 1.1. Conservation, including restoration, of habitats, ecosystems and species

### 2. Accommodation activities

- 2.1. Hotels, holiday, camping grounds and similar accommodation

## ANNEX I - Water and marine resources

### 3. Disaster risk management

- 3.1. Nature-based solutions for flood and drought risk prevention and protection

<i>Are the Commission's draft criteria consistent with the EU Platform's recommendations?</i>
Yes
<i>Are the Commission's draft criteria consistent with the Taxonomy Regulation - particularly Art. 10.2 on transition activities (for climate mitigation only) and Art. 19 on requirements for technical screening criteria?</i>
Yes



<b>GENERAL COMMENT (incl. comments on corrections of technical mistakes in Climate Delegated Act and Article 8 Delegated Act):</b>
This section is good.
<b>COMMENT ON THE ACTIVITY DESCRIPTION:</b>
<b>COMMENT ON THE ACTIVITY SUBSTANTIAL CONTRIBUTION CRITERIA:</b>
The reference to EU Biodiversity Strategy for 2030 has been removed in the Draft DA, while the Platform made reference to it. The EU Biodiversity Strategy for 2030 is important in this context since it makes reference to restoration of floodplains and wetlands, as well as 25 000 km of free flowing rivers, which are all important nature-based solutions for flood prevention.
<b>COMMENT ON THE ACTIVITY DO NO SIGNIFICANT HARM CRITERIA:</b>
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## ANNEX II - Circular economy

### 1. Manufacturing

#### 1.1. Manufacture of plastic packaging goods

<b><i>Are the Commission's draft criteria consistent with the EU Platform's recommendations?</i></b>
No
<b><i>Are the Commission's draft criteria consistent with the Taxonomy Regulation - particularly Art. 10.2 on transition activities (for climate mitigation only) and Art. 19 on requirements for technical screening criteria?</i></b>
It is not clear why the mere fact of being made out of biobased feedstock would make a packaging product contribute substantially to the circular economy, since growing crops or cutting down forests is not inherently circular. In fact, producing biobased feedstock can be intensely linear and may increase the use of natural resources (such as water and soil), increase the amount of hazardous chemicals used and released to the environment (such as pesticides and fertilisers) and increase the incineration of waste if the packaging produced is single-use.
<b>GENERAL COMMENT (incl. comments on corrections of technical mistakes in Climate Delegated Act and Article 8 Delegated Act):</b>

<b>COMMENT ON THE ACTIVITY DESCRIPTION:</b>
<p>General comments regarding the use of circular feedstock: We strongly support the inclusion of the following requirements Regarding recycled content:</p> <ul style="list-style-type: none"> <li>• being based only on post-consumer waste;</li> <li>• having recycled content claims being based on batch-level mass balance methodology;</li> <li>• having lower GHG emission of recycled plastic compared to virgin plastic;</li> <li>• minimum material conversion rate of chemical recycling of at least the rate of existing mechanical recycling technologies for that material.</li> </ul> <p>WWF-Norway: On <b>1.b</b>, we are critical to the “65% of chemically recycled material”. Quoting WWF-DE’s input to the “The proposed quotas should refer exclusively to recyclates from mechanical recycling. To achieve high-grade recyclates, mechanical recycling needs to be further strengthened. Open questions with regard to chemical recycling need to be answered before the role of this technology in the process of reaching these targets is determined (e.g. environmental benefits, energy consumption, greenhouse gas emissions, material losses, toxicological aspects and economic feasibility).”</p>
<b>COMMENT ON THE ACTIVITY SUBSTANTIAL CONTRIBUTION CRITERIA:</b>
<p>We recommend referring to the recycled content methodology to be used in the section of “Use of circular feedstock: at least 65% of the packaging product by weight consists of mechanically recycled post-consumer material for non-contact sensitive packaging and at least 50% for contact sensitive packaging, <b>with claims on recycled content made using a batch-level mass balance method. For chemical recycling technologies the material conversion rate should be at least the rate of existing mechanical recycling technologies for that material.</b> ”</p> <p>The platform recommendation was significantly watered down, from 85% to 65% and to 50% in the case of FCM.</p>
<b>COMMENT ON THE ACTIVITY DO NO SIGNIFICANT HARM CRITERIA:</b>
<p>For the Climate change mitigation DNSH criteria, it should not be enough to say that the GHG emissions from the lifecycle are “lower” than those made of virgin fossil feedstock. The lifecycle of single-use plastic packaging is incredibly intensive. If the lifecycle of the packaging is 1g CO2e lower than virgin fossil-based plastic, does that make it not significantly harmful? There needs to be a quantitative threshold.</p> <p>Single-use plastic packaging is the largest source of plastic waste in the EU and much of that plastic does not get recycled. If plastic is incinerated, it releases GHG, which has noxious effects not just on climate but on ocean health too, via acidification.. In addition, a significant share of the plastic packaging that is placed in the market escapes collection systems and ends up in the environment, where it causes adverse effects to ecosystems both on land and in the ocean. The DNSH criteria needs quantitative requirements on collection and recycling of the packaging.</p> <p>Reclaim Finance: While plastic made from fossil fuels should ultimately be phased out, this necessity does not seem to be taken into account in the DNSH for climate mitigation.</p>
<p><b>Contact details:</b>  Janek Vahk, Zero Waste Europe. <a href="mailto:janek@zerowasteurope.eu">janek@zerowasteurope.eu</a>  Tatiana Luján, ClientEarth, <a href="mailto:tlujan@clientearth.org">tlujan@clientearth.org</a>  Stefano Esposito WWF Norway <a href="mailto:sesposito@wwf.no">sesposito@wwf.no</a></p>

## 1.2. Manufacture of electrical and electronic equipment

<b>Are the Commission's draft criteria consistent with the EU Platform's recommendations?</b>
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<b>Are the Commission's draft criteria consistent with the Taxonomy Regulation - particularly Art. 10.2 on transition activities (for climate mitigation only) and Art. 19 on requirements for technical screening criteria?</b>
<b>GENERAL COMMENT (incl. comments on corrections of technical mistakes in Climate Delegated Act and Article 8 Delegated Act):</b>
The recyclability part does not, contrary to the plastic packaging, mention that it should be recyclable "at scale": this creates risks for chemical recycling greenwashing. The reference in 2.6.2 states that it should "demonstrate proactive substitution of hazardous substances", which is good in principle but too vague: it is hard to see how it could be used in practice. It also weirdly refers to Annex XIV in REACH (2.6.2) which is weaker than Appendix C (g). Without a strong Appendix C the pollution aspect is weak.
<b>COMMENT ON THE ACTIVITY DESCRIPTION:</b>
<b>COMMENT ON THE ACTIVITY SUBSTANTIAL CONTRIBUTION CRITERIA:</b>
<b>COMMENT ON THE ACTIVITY DO NO SIGNIFICANT HARM CRITERIA:</b>
<b>Contact details:</b> Theresa Kjell, ChemSec, <a href="mailto:theresa@chemsec.org">theresa@chemsec.org</a>

## 2. Water supply, sewerage, waste management and remediation activities

### 2.3. Collection and transport of non-hazardous and hazardous waste

<b>Are the Commission's draft criteria consistent with the EU Platform's recommendations?</b>
Yes. The proposed criteria is actually better as it states that separate collection should be mainly done via door-to-door collections.
<b>Are the Commission's draft criteria consistent with the Taxonomy Regulation - particularly Art. 10.2 on transition activities (for climate mitigation only) and Art. 19 on requirements for technical screening criteria?</b>
Yes.

<b>GENERAL COMMENT (incl. comments on corrections of technical mistakes in Climate Delegated Act and Article 8 Delegated Act):</b>
This section is good as it sets out strict criteria for collection that ensure high quality and quantity of collected waste. It makes it clear that separate collections should be mainly promoted via door-to-door collection or supervised collection points. The supervised collection points would apply for areas such rural ones, which with dispersed housing cannot afford a door-to-door collection, but may keep some 'concentration points' while keeping the principle of responsibility for specific containers.
<b>COMMENT ON THE ACTIVITY DESCRIPTION:</b>
<b>COMMENT ON THE ACTIVITY SUBSTANTIAL CONTRIBUTION CRITERIA:</b>
New progressive wording is added: the activity carries out municipal solid waste collection mainly via door-to-door collection schemes or supervised collection points to ensure a high level of separate collection and low rates of contamination.
<b>COMMENT ON THE ACTIVITY DO NO SIGNIFICANT HARM CRITERIA:</b>
<b>Contact details:</b> Janek Vahk, Zero Waste Europe. <a href="mailto:janek@zerowasteurope.eu">janek@zerowasteurope.eu</a>

## 2.5. Recovery of bio-waste by anaerobic digestion or composting

<b><i>Are the Commission's draft criteria consistent with the EU Platform's recommendations?</i></b>
Yes
<b><i>Are the Commission's draft criteria consistent with the Taxonomy Regulation - particularly Art. 10.2 on transition activities (for climate mitigation only) and Art. 19 on requirements for technical screening criteria?</i></b>
Yes
<b>GENERAL COMMENT (incl. comments on corrections of technical mistakes in Climate Delegated Act and Article 8 Delegated Act):</b>
This section is good.
<b>COMMENT ON THE ACTIVITY DESCRIPTION:</b>

<b>COMMENT ON THE ACTIVITY SUBSTANTIAL CONTRIBUTION CRITERIA:</b>
It adds the obligation to use compostable biodegradable bags if these are used for the collection. It recommends composting of digestate after anaerobic digestion.
<b>COMMENT ON THE ACTIVITY DO NO SIGNIFICANT HARM CRITERIA:</b>
<b>Contact details:</b> Janek Vahk, Zero Waste Europe. <a href="mailto:janek@zerowasteurope.eu">janek@zerowasteurope.eu</a>

## 2.7. Sorting and material recovery of non-hazardous waste

<b><i>Are the Commission's draft criteria consistent with the EU Platform's recommendations?</i></b>
Yes, but it goes beyond (see comment on the activity substantial contribution criteria).
<b><i>Are the Commission's draft criteria consistent with the Taxonomy Regulation - particularly Art. 10.2 on transition activities (for climate mitigation only) and Art. 19 on requirements for technical screening criteria?</i></b>
Yes
<b>GENERAL COMMENT (incl. comments on corrections of technical mistakes in Climate Delegated Act and Article 8 Delegated Act):</b>
This section is good.
<b>COMMENT ON THE ACTIVITY DESCRIPTION:</b>
It is amended to make it clear that RDF production is ineligible.
<b>COMMENT ON THE ACTIVITY SUBSTANTIAL CONTRIBUTION CRITERIA:</b>
<p>The draft DA adds the eligibility of feedstock originating from non hazardous waste fractions from sorting mixed waste, from areas complying with separate collection obligations.</p> <p>It also adds wording from the climate taxonomy requiring that any activity converts at least 50 %, in terms of weight, of the processed separately collected non-hazardous waste into secondary raw materials that are suitable for the substitution of primary raw materials in production processes.</p> <p>We recommend specifying that the 'defined quality' of mixed waste sorting system is defined in terms of minimum sorting performance for at least for the following materials:</p> <p>Efficiency of sorting into streams achieves:  For plastics: &gt; 70%, with non-target materials contributing no more than 10%;  For steel: &gt;80%, with non-target materials contributing no more than 4%;  For aluminum: &gt;60%, with non-target materials contributing no more than 6%.</p>

<b>COMMENT ON THE ACTIVITY DO NO SIGNIFICANT HARM CRITERIA:</b>
<b>Contact details:</b> Janek Vahk, Zero Waste Europe. <a href="mailto:janek@zerowasteurope.eu">janek@zerowasteurope.eu</a>

### 3. Construction and real estate activities

#### 3.1. Construction of new buildings

<b>Are the Commission's draft criteria consistent with the EU Platform's recommendations?</b>
No (see comment on the activity substantial contribution criteria).
<b>Are the Commission's draft criteria consistent with the Taxonomy Regulation - particularly Art. 10.2 on transition activities (for climate mitigation only) and Art. 19 on requirements for technical screening criteria?</b>
<b>GENERAL COMMENT (incl. comments on corrections of technical mistakes in Climate Delegated Act and Article 8 Delegated Act):</b>
Lack of conditionality between the building new construction and renovating what's currently available. From a sufficiency and circularity point of view, it makes a massive difference and the criteria do not reflect well enough that renovation is a more circular approach than building new in the first place. At the highest levels of circularity, we promote reuse of existing buildings, structures, and building elements as much as possible to the extent that we should always be renovating rather than building new. Although we may not have a specific geographical reference to suggest, we could begin by suggesting the eligibility of new construction is dependent on a lack of feasibility for client or societal needs to be met by the use of existing buildings and/or purchase + renovation within a reasonable geographical radius or reference point.  The pollution aspect is only covered by the reference to Appendix C. If this Appendix is weakened, not much remains so it is critical to preserve Appendix C (g).
<b>COMMENT ON THE ACTIVITY DESCRIPTION:</b>
<b>COMMENT ON THE ACTIVITY SUBSTANTIAL CONTRIBUTION CRITERIA:</b>
Criterion 2: Lack of transparency. The Platform's recommendation required the results of the building's life cycle assessment to be made publicly available. The draft DA significantly reduces the transparency by stating that this information is to be disclosed to investors and clients on demand. Third party verification would no longer be possible.  Criterion 4 has been significantly watered down. The Platforms recommendations planned for 50% of the building material (by weight or surface area) to be a combination of re-used, recycled and responsibly sourced, renewable material. The draft DA only imposes primary raw material limits on the 3 heaviest material categories used in the building. For most of the materials the allowed primary raw material percentage is way above 50%. Therefore, there is much less incentive to use re-used or recycled

building material.

Criterion 5 has been cut completely. It is not covered by the DNSH criteria for Pollution Prevention and Control. "Components and materials used in the construction do not contain asbestos nor substances of very high concern as identified on the list of substances subject to authorisation set out in Annex XIV to Regulation (EC) No 1907/2006 of the European Parliament and of the Council unless authorised or exempted for the specific use through the appropriate processes in REACH." This is setting the baseline for future re-use of building material. Therefore, non-toxic building materials are crucial. This criterion should absolutely be reinstated.

The original platform recommendations set minimum criteria for certain forms of circularity, going down the entire hierarchy. Now the Commission propose the opposite, limits to use of primary raw materials, where the rest are replaced by secondary raw materials. While the Commission did include reuse of the structure and building elements as a way of achieving the limits proposed, the terminology and emphasis on secondary raw materials risks deprioritising building and product reuse as criteria can be met with new constructions with materials using recycled content in new products, which is not the prioritisation we'd like to see in this taxonomy criteria. Recommendation is to revert back to the platform approach which promotes circularity at different levels and with higher ambition.

- Material specific criteria: To supplement the overall limits, material fraction specific criteria has been proposed. I would say the concrete criteria in particular (which is also supplemented by concrete specific proposals under 3.4) is not ambitious enough. It may be that material specific criteria is a useful supplement to the original approach, but I believe this is an 'either/or' type choice. Therefore, again the recommendation should be to revert back to the original approach, and complemented by material/product criteria elsewhere.
- Preparation for reuse and recycling: In both cases the level of ambition has dropped from 90% down to 70% despite strong justification from the platform with reference to 79% already being the norm. The bar should be raised back up to 90%.

**COMMENT ON THE ACTIVITY DO NO SIGNIFICANT HARM CRITERIA:**

Positive that they exclude buildings on arable land and forest areas, irrespective of their biodiversity value. They exclude buildings that are used for fossil fuels-related activities, but not offices.

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### 3.2. Renovation of existing buildings

***Are the Commission's draft criteria consistent with the EU Platform's recommendations?***

No (see comment on the activity substantial contribution criteria).

***Are the Commission's draft criteria consistent with the Taxonomy Regulation - particularly Art. 10.2 on transition activities (for climate mitigation only) and Art. 19 on requirements for technical screening criteria?***

**GENERAL COMMENT (incl. comments on corrections of technical mistakes in Climate Delegated Act and Article 8 Delegated Act):**

It is surprising that for Renovation the substantial contribution criterion for circularity is "At least 70% (by weight) of the

non-hazardous construction and demolition waste generated on the construction site is prepared for re-use or recycling” while the DNSH level for renovation in the substantial contribution criteria for mitigation is already 70% in this area. The substantial contribution criteria for circularity should not be equal to the DNSH criteria for mitigation.

**COMMENT ON THE ACTIVITY DESCRIPTION:**

**COMMENT ON THE ACTIVITY SUBSTANTIAL CONTRIBUTION CRITERIA:**

Criterion 2: Lack of transparency. The Platform's recommendation required the results of the building's life cycle assessment to be made publicly available. The draft DA significantly reduces the transparency by stating that this information is to be disclosed to investors and clients on demand. Third party verification would no longer be possible.

Criterion 4 has been significantly watered down. The Platforms recommendations planned for 50% of the building material (by weight or surface area) to be a combination of re-used, recycled and responsibly sourced, renewable material. The Commissions draft now only imposes primary raw material limits on the 3 heaviest material categories used in the building. Critics argued that 50% of reused, recycled and/or renewable material requirement from the Platform would most likely have resulted in only the heaviest materials being reused/recycled since it was not material-specific. This means that some of the most critical material in the buildings (e.g. wires) would most likely be sourced from primary raw material. Therefore, a material-specific approach is positive. The thresholds are too high. For most of the materials the allowed primary raw material percentage is way above 50% and it is even much higher for renovations.

Therefore, there is much less incentive to use reused or recycled building material. It is hard to understand why there is so much more primary raw material allowed for renovations with for example up to 85% of brick or glass. The limit should be the same as for new buildings.

Criterion 5 has been cut completely. It is not covered by the DNSH criteria for Pollution Prevention and Control. “Components and materials used in the construction do not contain asbestos nor substances of very high concern as identified on the list of substances subject to authorisation set out in Annex XIV to Regulation (EC) No 1907/2006 of the European Parliament and of the Council unless authorised or exempted for the specific use through the appropriate processes in REACH.”

We are now setting the baseline for future reused of building material. Therefore, non-toxic building materials are crucial. This criterion should absolutely be reinstated.

Criterion 8 requiring energy efficiency standards and a reduction in primary energy demand for the renovation building has been cut completely from the Platform's draft. It sets the objective for a useful renovation and defines what should actually be accomplished. The standard is essential to meet the EU's energy performance objective. It is in line with the EU's Fit for 55 strategy and should absolutely be reinstated.

**COMMENT ON THE ACTIVITY DO NO SIGNIFICANT HARM CRITERIA:**

Reclaim Finance: The DNSH climate mitigation criteria set for the renovation of buildings does not include any minimal objective regarding the energy performance of renovated buildings. However, such criteria are essential to meet the energy performance objectives of the EU. They are therefore set for new buildings in the draft DA. Concretely, a criteria should be added to ensure taxonomy-aligned renovations significantly contribute to reach the zero emission building target of the EU and ensure that renovated buildings reach at least the energy class C (level could be discussed, tied to EPBD discussion).

Climate Strategy: Consistently, need for a DNSH criterion worded in such a way to “ensure that energy saving has been considered in the context of the renovation activity, and that risks of building falling out of compliance with minimum performance standards in the context of the recast EPBD (2023) are contemplated in the renovation.”

In addition, given that the DNSH for circularity in the renovation activity (climate mitigation objective) is equal to the substantial contribution for the circularity objective (70% recycling or reuse) then logic dictates that the 30% PED should be the DNSH for climate mitigation in the renovation activity for the circular economy objective.

**Contact details:**

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Peter Sweatman, Climate Strategy [info@climatestrategy.com](mailto:info@climatestrategy.com)  
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### 3.3. Demolition and wrecking of buildings and other structures

<b><i>Are the Commission's draft criteria consistent with the EU Platform's recommendations?</i></b>
<b><i>Are the Commission's draft criteria consistent with the Taxonomy Regulation - particularly Art. 10.2 on transition activities (for climate mitigation only) and Art. 19 on requirements for technical screening criteria?</i></b>
<b>GENERAL COMMENT (incl. comments on corrections of technical mistakes in Climate Delegated Act and Article 8 Delegated Act):</b>
<b>COMMENT ON THE ACTIVITY DESCRIPTION:</b>
<b>COMMENT ON THE ACTIVITY SUBSTANTIAL CONTRIBUTION CRITERIA:</b>
It is positive that reasons for not complying with Criterion 1 cannot be financial reasons, and that a pre-demolition audit is required.
<b>COMMENT ON THE ACTIVITY DO NO SIGNIFICANT HARM CRITERIA:</b>
<b>Contact details:</b> Vedran Kordic, WWF European Policy Office, <a href="mailto:vkordic@wwf.eu">vkordic@wwf.eu</a>

### 3.5. Use of concrete in civil engineering

<b><i>Are the Commission's draft criteria consistent with the EU Platform's recommendations?</i></b>
<b><i>Are the Commission's draft criteria consistent with the Taxonomy Regulation - particularly Art. 10.2 on transition activities (for climate mitigation only) and Art. 19 on requirements for technical screening criteria?</i></b>

**GENERAL COMMENT (incl. comments on corrections of technical mistakes in Climate Delegated Act and Article 8 Delegated Act):**

This new, very specific criteria appears to have been developed quickly in the background without an opinion from the platform, and outside of the relevant TG.

**COMMENT ON THE ACTIVITY DESCRIPTION:**

**COMMENT ON THE ACTIVITY SUBSTANTIAL CONTRIBUTION CRITERIA:**

- **Circularity:** There is a limit to primary raw materials of 70% which for green criteria could be increased substantially. Also, a nominal value of 2.5 times the distance between the construction to production site has been set without any real reference or further contextualisation: at what distance do transport emissions = GHG emissions reduction per tonne, and what is the average distance. To make it simple, I think we can remove this because there are also GHG limits further below, and transport is accounted for in EPDs to logically to decarb you would factor that in, meaning this is just a barrier to circularity by eliminating potentially longer supply chains without a substantiated justification.

**COMMENT ON THE ACTIVITY DO NO SIGNIFICANT HARM CRITERIA:**

- **Climate mitigation GHG limits:** I am not sure if these are in the existing climate change mitigation DA, but I don't think any criteria was put forward (?). In any case, the concrete mitigation criteria is too linked with the use of clinker and the use of cement. Moreover, the values are referred to as median values in the footnotes. This is unacceptable, it should be at the concrete level, and where cement is used then there is a limit. Both limits should be more stringent.
- **Biodiversity:** There needs to be a reference to raw material extraction, but due to the title of this section it is more about the activity in the sector, but I think as there are links elsewhere we can justify this reference as being relevant to CE.

**Contact details:**

Mathilde Crepy, ECOS, [mathilde.crepy@ecostandard.org](mailto:mathilde.crepy@ecostandard.org)

## ANNEX IV - Biodiversity

### 1. Environmental protection and restoration activities

#### 1.1. Conservation, including restoration, of habitats, ecosystems and species

*Are the Commission's draft criteria consistent with the EU Platform's recommendations?*

No

*Are the Commission's draft criteria consistent with the Taxonomy Regulation - particularly Art. 10.2 on transition activities (for climate mitigation only) and Art. 19 on requirements for technical screening criteria?*

<b>GENERAL COMMENT (incl. comments on corrections of technical mistakes in Climate Delegated Act and Article 8 Delegated Act):</b>
<b>COMMENT ON THE ACTIVITY DESCRIPTION:</b>
<b>COMMENT ON THE ACTIVITY SUBSTANTIAL CONTRIBUTION CRITERIA:</b>
<p>The Commission extended the period of revision of restoration and conservation plans (Management plans in protected areas) while the Platform's recommendation was to revise them every 5 years (which is also a common practice).</p> <p>In the draft DA, there is no reference to Environmental Impact Assessment (EIA) in activity 1.1. while the Platform makes specific reference that the restoration activities need to undergo an EIA. This is problematic as it leaves out a system of checks and balances when intervening in sensitive ecosystems.</p> <p>But the main issue by far is related to the introduction of biodiversity offsets by the Commission. The Platform's proposal published in March 2022 has a very clear and explicit exclusion of any offsets: "5.2 <i>The conservation activity is not implemented with the purpose of offsetting the impact of another economic activity.</i>" (see page 537, <a href="https://finance.ec.europa.eu/system/files/2022-03/220330-sustainable-finance-platform-finance-report-remaining-environmental-objectives-taxonomy-annex_en.pdf">https://finance.ec.europa.eu/system/files/2022-03/220330-sustainable-finance-platform-finance-report-remaining-environmental-objectives-taxonomy-annex_en.pdf</a>).</p> <p>This was modified in the draft DA with the word <b>only</b> which was added which is the draft DA: "6.1. <i>The conservation activity does not <u>only</u> serve the purpose of offsetting the impact of another economic activity</i>".</p> <p>Part A of the methodological report of the Platform in March 2022 (Technical Working Group – Methodological report, p. 62-68.) provided the Platform's experts' consensus on how to define technical screening criteria, comprising a clear commitment to and transparent rationale for excluding offsets from being adopted into any activities defined as contributing substantially to biodiversity. The exclusion of offsets for biodiversity has been discussed at length, agreed, adopted and published by the Platform. By definition offsetting is only compensating significant harm elsewhere and thus cannot represent a substantial contribution. We do not see any arguments put forward that would justify for the Commission to deviate from the expert guidance of the Platform.</p> <p>We strongly recommend the Commission to stick to the original proposal made by the Platform.</p>
<b>COMMENT ON THE ACTIVITY DO NO SIGNIFICANT HARM CRITERIA:</b>
<p><b>Contact details:</b>  Vedran Kordic, WWF European Policy Office, <a href="mailto:vkordic@wwf.eu">vkordic@wwf.eu</a>  <a href="mailto:jochen.krimphoff@wwf.de">jochen.krimphoff@wwf.de</a>  Ingmar Juergens, Climate &amp; Company, <a href="mailto:Ingmar@climcom.org">Ingmar@climcom.org</a>  Paul Schreiber, <a href="mailto:paul@reclaimfinance.org">paul@reclaimfinance.org</a></p>

## 2. Accommodation activities

### 2.1. Hotels, holiday, camping grounds and similar accommodation

<b>Are the Commission's draft criteria consistent with the EU Platform's recommendations?</b>
Yes
<b>Are the Commission's draft criteria consistent with the Taxonomy Regulation - particularly Art. 10.2 on transition activities (for climate mitigation only) and Art. 19 on requirements for technical screening criteria?</b>
Yes
<b>GENERAL COMMENT (incl. comments on corrections of technical mistakes in Climate Delegated Act and Article 8 Delegated Act):</b>
This section is good.
<b>COMMENT ON THE ACTIVITY DESCRIPTION:</b>
<b>COMMENT ON THE ACTIVITY SUBSTANTIAL CONTRIBUTION CRITERIA:</b>
<b>COMMENT ON THE ACTIVITY DO NO SIGNIFICANT HARM CRITERIA:</b>
<b>Contact details:</b> <a href="mailto:Ariel.Brunner@birdlife.org">Ariel.Brunner@birdlife.org</a>

## 5. Analysis of the draft DA activity by activity for the climate change mitigation and adaptation objectives

(The list below is exhaustive, but CSOs provided an assessment for some activities only)

### **ANNEX I - Climate change mitigation**

- 3.3** Manufacture of low carbon technologies for transport
- 3.18** Manufacture of automotive and mobility components
- 3.19** Manufacture of rail constituents

- 3.20 Manufacture, installation, and servicing of high, medium and low voltage electrical equipment for electrical transmission and distribution that result in or enable substantial contribution to climate change mitigation
- 3.21 Manufacturing of aircraft
- 6.7 Inland passenger water transport
- 6.8 Inland freight water transport
- 6.9 Retrofitting of inland water passenger and freight transport
- 6.10 Sea and coastal freight water transport, vessels for port operations and auxiliary activities
- 6.11 Sea and coastal passenger water transport
- 6.12 Retrofitting of sea and coastal freight and passenger water transport
- 6.14 Infrastructure for rail transport
- 6.16 Infrastructure enabling low carbon water transport
- 6.17 Infrastructure enabling low carbon airport infrastructure
- 6.18 Leasing of aircraft
- 6.19 Passenger and freight air transport
- 6.20 Air transportation ground handling operations

**ANNEX II - Climate change adaptation**

- 5.13 Desalination
- 7.8 Civil engineering
- 8.4 Software enabling climate risk management
- 9.4 Consultancy for climate risk management
- 14.1 Emergency services
- 14.2 Flood risk prevention and protection infrastructure

**ANNEX I - Climate change mitigation**

**3.18 Manufacture of automotive and mobility components**

<i>Are the Commission's draft criteria consistent with the EU Platform's recommendations?</i>
<i>Are the Commission's draft criteria consistent with the Taxonomy Regulation - particularly Art. 10.2 on transition activities (for climate mitigation only) and Art. 19 on requirements for technical screening criteria?</i>
<b>GENERAL COMMENT (incl. comments on corrections of technical mistakes in Climate Delegated Act and Article 8 Delegated Act):</b>

This section is good.
<b>COMMENT ON THE ACTIVITY DESCRIPTION:</b>
<b>COMMENT ON THE ACTIVITY SUBSTANTIAL CONTRIBUTION CRITERIA:</b>
This section is good.
<b>COMMENT ON THE ACTIVITY DO NO SIGNIFICANT HARM CRITERIA:</b>
This section is good.
<b>Contact details:</b> Xavier Sol, <a href="mailto:xavier.sol@transportenvironment.org">xavier.sol@transportenvironment.org</a>

### 3.21 Manufacturing of aircraft

<b><i>Are the Commission's draft criteria consistent with the EU Platform's recommendations?</i></b>
They are in essence identical to the criteria developed by the Platform on Sustainable Finance and published in March 2022.
<b><i>Are the Commission's draft criteria consistent with the Taxonomy Regulation - particularly Art. 10.2 on transition activities (for climate mitigation only) and Art. 19 on requirements for technical screening criteria?</i></b>
<p>T&amp;E considers that the draft criteria are not aligned with the Taxonomy Regulation (EU) 2020/852, in particular Article 10.2 and Article 19, for several reasons:</p> <p>Article 10.2 of the Taxonomy Regulation states that an economic activity for which there is no technological and economically feasible low-carbon alternative shall qualify as a 'transitional activity'. T&amp;E disagrees with the notion that there is no technological and economically feasible alternative to traditional fossil-fueled aircraft. There exist low-carbon alternatives depending on the market segment. On the short-haul or medium-haul market, the low-carbon alternative is shifting to rail as well as zero-emission aircraft such as electric or hydrogen. Indeed, aircraft with zero direct tailpipe CO<sub>2</sub> emission is technologically and economically feasible but needs a boost in investments to be deployed at scale. Hydrogen aircraft, for example, is a low-carbon alternative that is both technologically feasible as demonstrated by recent <u>test flights</u>, and economically feasible, as demonstrated by Airbus's <u>announcement</u> of the commercialisation of three hydrogen aircraft in 2035. T&amp;E underlines that the taxonomy rules play a determinant function in drawing the needed investments into zero-emission aviation and in shortening the time required for this technology to become market-ready. On the long-haul market, there is no low-carbon alternative yet, the only medium term solution is using SAF (sustainable aviation fuel) in traditional aircraft models. However, these SAFs only reach max 85% GHG savings, and production levels do not allow these aviation segments to operate flights entirely with SAFs yet. Therefore, T&amp;E stresses that traditional aircraft should qualify in the taxonomy only as a transitional activity and on the conditions that they have engines certified for 100% SAF blends and meeting high CO<sub>2</sub> standards.</p> <p>Consequently, T&amp;E stresses that the transitional activities described in the technical screening criteria b) and c) seem to be in breach of the conditions transitional activities are required to meet laid down in Article 10.2 of the Taxonomy Regulation, in particular with subparagraph b) on not hampering deployment of low carbon alternatives. Given the investments required for developing new aircraft models with zero direct tailpipe CO<sub>2</sub> emissions, labelling traditional fossil-fueled aircraft (meeting the CO<sub>2</sub> standards described in parts b) and c) of the draft rules) as taxonomy-compliant until the end of 2032, will deprive zero-emission aircraft industries of the required investments to reach the market in the most timely way.</p> <p>Moreover, the draft criteria are in direct breach of the conditions described in Article 10.2 subparagraph c) on lock-in of carbon intensive assets. An aircraft is operable for about 30 years on average. Based on this principle, aircraft meeting technical</p>

screening criteria b) will still be operating in 2050, although not respecting aviation emissions reduction goals as mostly reliant on fossil fuels to operate. Indeed, aircraft that would be considered taxonomy compliant before 2027 would be considered green despite not even being able to uptake 100% SAF during the whole of their lifetime.

Finally, the draft criteria contradict Article 19 of the Taxonomy Regulation, in particular, of the provisions contained in paragraph 1 (i) given the lifetime of an aircraft. In fact, aircraft meeting technical screening criteria b) will rapidly become stranded assets before the end of their lifetime because they are limited to 50% SAF usage and will divert investments from truly sustainable aviation technologies. In addition, the draft rules are contrary to provisions contained in paragraph 1 (k) related to ease of use of the criteria because provisions contained in part b) of the technical screening criteria do not inform how and by which organisation the ratio of replacement referred to will be defined. In addition, such a ratio will be difficult to calculate given the scope ("global fleet averaged over the preceding 10 years").

**GENERAL COMMENT (incl. comments on corrections of technical mistakes in Climate Delegated Act and Article 8 Delegated Act):**

The primary objective of the Taxonomy Regulation is to provide investors with the appropriate definition of which economic activities can be considered environmentally sustainable. T&E raises the concern that the draft rules for aircraft manufacturing fail to provide the necessary clarity and confuse current best-in-class energy-efficient technologies, which are fossil-based nonetheless, with the adequate technology to decarbonise aviation. T&E considers that the draft criteria do not put aviation on the path to achieving climate neutrality by 2050 and require substantial improvement. The taxonomy rules for the manufacturing of aircraft are therefore unsuitable and potentially susceptible to facing legal challenges.

Regarding the reporting obligations referred to in Article 8 Delegated Act, T&E considers it problematic that transitional activities such as those described under criteria b) and c) will be reported as "taxonomy aligned" despite continuing to burn fossil fuel. (For instance, in its [2022 annual report Airbus reports](#) the percentage of all "taxonomy aligned" activities but not the difference between enabling/transitional, p.139). It is therefore key that the criteria are substantially improved to ensure reported taxonomy alignment is truly sustainable.

For further information, T&E's analysis of the taxonomy rules for aviation is available [here](#). T&E's position is available [here](#) and [here](#).

**COMMENT ON THE ACTIVITY DESCRIPTION:**

**COMMENT ON THE ACTIVITY SUBSTANTIAL CONTRIBUTION CRITERIA:**

T&E would like to provide the following feedback and suggestions on the activity substantial contribution criteria:

- Regarding criterion a), T&E recommends that the criteria should explicitly refer to both green hydrogen and electric propulsion aircraft.
- With regard to criterion b), T&E notes that the CO2 emissions target specified in this criterion is not ambitious enough and is not aligned with the EU's climate goals of achieving at least 55% reduction in emissions by 2030 and carbon neutrality by 2050. Indeed, the CO2 standards are set at too low a level and the aircraft engine limitation to 50% SAF use precludes the aircraft to operate fully decarbonised flights over the course of its lifetime. The condition for these criteria to be considered taxonomy compliant would be to substantially increase CO2 standards, in line with figures reported in previous European Commission reports ([study](#)) and linked with increased SAF use.
- In addition, provisions relating to the replacement ratio do not inform how and by which organisation the ratio referred to will be defined. It lacks transparency, and the chosen timeframe (preceding 10 years) is too broad and will lead the global fleet to expand. Instead, T&E recommends basing the replacement of aircraft on scrappage certificates airlines and leasing companies will obtain every time an aircraft is withdrawn from use.
- As regards criterion c), T&E suggests that the criterion for aircraft certified to operate on a 100% blend of SAF should come into force on the same day as the Delegated Act. Indeed, recent industry [announcements](#) indicate such activity is already technologically feasible. In addition, the CO2 standards for aircraft under this criterion should be substantially higher than the CO2 standards referred to in the proposal and not mirror manufacturers' aircraft catalogue.

**COMMENT ON THE ACTIVITY DO NO SIGNIFICANT HARM CRITERIA:**

<p><b>Recommendations (for future reference):</b>  T&amp;E recommends adopting more ambitious and stringent taxonomy rules which would provide investors with the right information regarding the sustainability of their investment and would increase investments in zero-emissions aircraft.</p> <p>In particular:</p> <ul style="list-style-type: none"> <li>• Taxonomy rules for the manufacturing of aircraft should identify two criteria. The first criterion should focus on aircraft with zero direct CO2 emissions such as those powered by electricity or green hydrogen, and identify it as enabling activity. The second criterion should concern aircraft meeting high-level CO2 standards and compatible with 100% SAF blend and define it as transitional activity.</li> <li>• A compliance mechanism ensuring that the global fleet does not increase and following the “one-in, one-out” principle. Airlines and leasing companies should be issued a scrappage certificate for every aircraft withdrawn from use. The share of taxonomy-eligible aircraft shall be assessed based on the issued scrappage certificates.</li> </ul>
<p><b>Contact details:</b>  Roman Mauroschat, Aviation policy officer, Transport &amp; Environment, <a href="mailto:roman.mauroschat@transportenvironment.org">roman.mauroschat@transportenvironment.org</a>  +32488248901</p>

## 6.7 Inland passenger water transport

<p><i>Are the Commission's draft criteria consistent with the EU Platform's recommendations?</i></p>
<p><i>Are the Commission's draft criteria consistent with the Taxonomy Regulation - particularly Art. 10.2 on transition activities (for climate mitigation only) and Art. 19 on requirements for technical screening criteria?</i></p>
<p><b>GENERAL COMMENT (incl. comments on corrections of technical mistakes in Climate Delegated Act and Article 8 Delegated Act):</b></p>
<p><b>COMMENT ON THE ACTIVITY DESCRIPTION:</b></p>
<p><b>COMMENT ON THE ACTIVITY SUBSTANTIAL CONTRIBUTION CRITERIA:</b></p>
<p>Existing taxonomy rules for inland shipping for passenger transport have been watered down. As such, we recommend the Commission to completely withdraw the newly proposed mitigation criteria for inland ships under criteria (c). Inland shipping is a segment of the industry that can fully decarbonise using mature battery electric and hydrogen fuel-cell technologies, which deliver zero tail-pipe GHG emissions, no air pollution and no on-board machinery noise. These technologies also deliver the highest well-to-wake energy efficiency and the least impact on the energy system, while at the same time reducing operational costs for companies in the mid and long-term.</p> <p>Instead of maintaining a zero tailpipe emissions standard for green inland ships, the Commission decided to open up the possibility of continued use of internal combustion engines in inland shipping for an indefinite period of time. This means that</p>



instead of investing in zero-emission vessels, inland companies will be able to rely on unsustainable or unscalable biofuels that Europe is already struggling to reduce its dependence on.

**COMMENT ON THE ACTIVITY DO NO SIGNIFICANT HARM CRITERIA:**

**Contact details:**

Xavier Sol, [xavier.sol@transportenvironment.org](mailto:xavier.sol@transportenvironment.org)

## 6.8 Inland freight water transport

*Are the Commission's draft criteria consistent with the EU Platform's recommendations?*

*Are the Commission's draft criteria consistent with the Taxonomy Regulation - particularly Art. 10.2 on transition activities (for climate mitigation only) and Art. 19 on requirements for technical screening criteria?*

**GENERAL COMMENT (incl. comments on corrections of technical mistakes in Climate Delegated Act and Article 8 Delegated Act):**

**COMMENT ON THE ACTIVITY DESCRIPTION:**

**COMMENT ON THE ACTIVITY SUBSTANTIAL CONTRIBUTION CRITERIA:**

Existing taxonomy rules for inland shipping for passenger transport have been watered down. As such, we recommend the Commission to completely withdraw the newly proposed mitigation criteria for inland ships under criteria (c). Inland shipping is a segment of the industry that can fully decarbonise using mature battery electric and hydrogen fuel-cell technologies, which deliver zero tail-pipe GHG emissions, no air pollution and no on-board machinery noise. These technologies also deliver the highest well-to-wake energy efficiency and the least impact on the energy system, while at the same time reducing operational costs for companies in the mid and long-term.

Instead of maintaining a zero tailpipe emissions standard for green inland ships, the Commission decided to open up the possibility of continued use of internal combustion engines in inland shipping for an indefinite period of time. This means that instead of investing in zero-emission vessels, inland companies will be able to rely on unsustainable or unscalable biofuels that Europe is already struggling to reduce its dependence on.

**COMMENT ON THE ACTIVITY DO NO SIGNIFICANT HARM CRITERIA:**

**Contact details:**

Xavier Sol, [xavier.sol@transportenvironment.org](mailto:xavier.sol@transportenvironment.org)

## 6.10 Sea and coastal freight water transport, vessels for port operations and auxiliary activities

*Are the Commission's draft criteria consistent with the EU Platform's recommendations?*

NO

*Are the Commission's draft criteria consistent with the Taxonomy Regulation - particularly Art. 10.2 on transition activities (for climate mitigation only) and Art. 19 on requirements for technical screening criteria?*

**GENERAL COMMENT (incl. comments on corrections of technical mistakes in Climate Delegated Act and Article 8 Delegated Act):**

**COMMENT ON THE ACTIVITY DESCRIPTION:**

**COMMENT ON THE ACTIVITY SUBSTANTIAL CONTRIBUTION CRITERIA:**

T&E is highly concerned about the inclusion of criteria (e) which was not recommended by the Platform in October 2022. According to T&E's analysis, the addition of this criteria would create a loophole in the taxonomy framework by labeling "green" ships still running on fossil fuels for an indefinite period. In addition, the inclusion of criteria (e) risks leading to "criteria shopping": even though several options are available for taxonomy alignment, one can expect ships would rather use criterion (e) which is easier to attain in order to obtain a green taxonomy label, as opposed to investing in zero-tailpipe emission ships - existing criterion (a) - or use sustainable but expensive fuels - new criterion (f) - in real operations to comply with the GHG intensity pathway - two of the three alternative criteria. It is important to stress that the Platform had recommended retaining criterion (a) and supported the addition of a new criterion (f).

T&E highly recommends removing criterion (e) from 6.10. It is essential to note that IMO's EEDI standard has been demonstrated over and over again to be faulty and not reflecting real-world operational efficiency of vessels. We therefore recommend:

- 1) Given that EEDI standard is largely about shipbuilding and has also been added to the manufacturing section of the taxonomy rules, i.e. section 3.3. ((i) in letter (l), point (v) AND in (ii) in letter (m), point (iv)), there is no need to add EEDI

criterion to duplicate it for operational criteria. Therefore, we recommend *removing* the newly proposed *criterion (e)* from section 6.10; AND/OR

- 3) Merge EEDI (and/or EEXI) and WtW fuel GHG intensity criteria (f) in a single alternative option for sea vessels for the period after 2025.

At the very least, clear safeguards must be set if the EEDI standard were to be retained as a standalone criterion for sea and coastal vessels:

- 1) Increase the overcompliance threshold from 20% to >35% to ensure room for innovation as opposed to business as usual;
- 2) Time-limit the applicability of the criterion until 31 December 2029 latest, so that from 2030 onwards, only the GHG intensity pathway and the zero tail-pipe criteria remain active.

For more details on T&E's position, please refer to T&E's briefing available on [T&E's website](#).

**COMMENT ON THE ACTIVITY DO NO SIGNIFICANT HARM CRITERIA:**

**Contact details:**

Xavier Sol, [xavier.sol@transportenvironment.org](mailto:xavier.sol@transportenvironment.org)

## 6.11 Sea and coastal passenger water transport

*Are the Commission's draft criteria consistent with the EU Platform's recommendations?*

No

*Are the Commission's draft criteria consistent with the Taxonomy Regulation - particularly Art. 10.2 on transition activities (for climate mitigation only) and Art. 19 on requirements for technical screening criteria?*

**GENERAL COMMENT (incl. comments on corrections of technical mistakes in Climate Delegated Act and Article 8 Delegated Act):**

**COMMENT ON THE ACTIVITY DESCRIPTION:**

**COMMENT ON THE ACTIVITY SUBSTANTIAL CONTRIBUTION CRITERIA:**

T&E is highly concerned about the inclusion of criteria (d) which was not recommended by the Platform on Sustainable Finance in October 2022. According to T&E's analysis, the addition of this criteria would create a loophole in the taxonomy framework by labeling "green" ships still running on fossil fuels for an indefinite period. In addition, the inclusion of criteria (d) risks leading to "criteria shopping": even though several options are available for taxonomy-alignment, one can expect ships would rather use criterion (e) which is easier to attain in order to obtain a green taxonomy label, as opposed to investing in zero-tailpipe emission ships - existing criterion (a) - or use sustainable but expensive fuels - new criterion (f) - in real operations to comply with the GHG intensity pathway - two of the 3 alternative criteria. It is important to stress that the Platform had recommended retaining criterion (a) and supported the addition of a new criterion (f).

T&E highly recommends removing criterion (d) from 6.10. It is essential to note that IMO's EEDI standard has been demonstrated over and over again to be faulty and not reflecting real-world operational efficiency of vessels. We therefore recommend:

1) Given that EEDI standard is largely about shipbuilding and has also been added to the manufacturing section of the taxonomy rules, i.e. section 3.3. ((i) in letter (l), point (v) AND in (ii) in letter (m), point (iv)), there is no need to add EEDI criterion to duplicate it for operational criteria. Therefore, we recommend removing the newly proposed criterion (e) from section 6.10; AND/OR

3) Merge EEDI (and/or EEXI) and WtW fuel GHG intensity criteria (f) in a single alternative option for sea vessels for the period after 2025.

At the very least, clear safeguards must be set if the EEDI standard were to be retained as a standalone criterion for sea and coastal vessels:

1) Increase the overcompliance threshold from 20% to >35% to ensure room for innovation as opposed to business as usual;

2) Time-limit the applicability of the criterion until 31 December 2029 latest, so that from 2030 onwards, only the GHG intensity pathway and the zero tail-pipe criteria remain active.

For more details on T&E's position, please refer to T&E's briefing available on [T&E's website](#).

**COMMENT ON THE ACTIVITY DO NO SIGNIFICANT HARM CRITERIA:**

**Contact details:**

Xavier Sol, xavier.sol@transportenvironment.org

**6.18 Leasing of aircraft**

***Are the Commission's draft criteria consistent with the EU Platform's recommendations?***

They are in essence identical to the criteria developed by the Platform on Sustainable Finance and published in March 2022.

***Are the Commission's draft criteria consistent with the Taxonomy Regulation - particularly Art. 10.2 on transition activities (for climate mitigation only) and Art. 19 on requirements for technical screening criteria?***

T&E considers that the draft criteria are not aligned with the Taxonomy Regulation (EU) 2020/852, in particular Article 10.2 and Article 19, for several reasons:

Article 10.2 of the Taxonomy Regulation states that an economic activity for which there is no technological and economically feasible low-carbon alternative shall qualify as a 'transitional activity'. T&E disagrees with the notion that there is no

technologically and economically feasible alternative to traditional fossil-fueled aircraft. There exist low-carbon alternatives depending on the market segment. On the short-haul or medium-haul market, the low-carbon alternative is shifting to rail as well as zero-emission aircraft such as electric or hydrogen. Indeed, aircraft with zero direct tailpipe CO<sub>2</sub> emission is technologically and economically feasible but needs a boost in investments to be deployed at scale. Hydrogen aircraft, for example, is a low-carbon alternative that is both technologically feasible as demonstrated by recent test flights, and economically feasible, as demonstrated by Airbus's announcement of the commercialisation of three hydrogen aircraft in 2035. T&E underlines that the taxonomy rules play a determinant function in drawing the needed investments into zero-emission aviation and in shortening the time required for this technology to become market-ready. On the long-haul market, there is no low-carbon alternative yet, the only medium term solution is using SAF (sustainable aviation fuel) in traditional aircraft models. However, these SAFs only reach max 85% GHG savings, and production levels do not allow these aviation segments to operate flights entirely with SAFs yet. Therefore, T&E stresses that traditional aircraft should qualify in the taxonomy only as a transitional activity and on the conditions that they have engines certified for 100% SAF blends and meeting high CO<sub>2</sub> standards.

Consequently, T&E stresses that the transitional activities described in the technical screening criteria b) seem to be in breach of the conditions transitional activities are required to meet laid down in Article 10.2 of the Taxonomy Regulation, in particular with subparagraph b) on not hampering deployment of low carbon alternatives. Given the investments required for developing new aircraft models with zero direct tailpipe CO<sub>2</sub> emissions, labelling traditional fossil-fueled aircraft (meeting the CO<sub>2</sub> standards described in parts b) and c) section 3.21) as taxonomy-compliant until the end of 2032, will deprive zero-emission aircraft industries of the required investments to reach the market in the most timely way.

Moreover, the draft criteria are in direct breach of the conditions described in Article 10.2 subparagraph c) on lock-in of carbon intensive assets. An aircraft is operable for about 30 years on average. Based on this principle, aircraft meeting technical screening criteria b) section 3.21. will still be operating in 2050, although not respecting aviation emissions reduction goals as mostly reliant on fossil fuels to operate. Indeed, aircraft that would be considered taxonomy compliant before 2027 would be considered green despite not even being able to uptake 100% SAF during the whole of their lifetime. The draft criteria contradict Article 19 of the Taxonomy Regulation, in particular, of the provisions contained in paragraph 1 (i) given the lifetime of an aircraft. In fact, aircraft meeting technical screening criteria b) section 3.21. will rapidly become stranded assets before the end of their lifetime because they are limited to 50% SAF usage and will divert investments from truly sustainable aviation technologies.

In addition, the replacement ratio referred to in criterion c) lacks operational feasibility and transparency. Draft rules do not specify what will be the methodology of calculation and what organisation will undertake such calculations. In addition, marking as taxonomy compliant the purchase of new aircraft with the commitment to sell a non-compliant aircraft to another company is in full contradiction with the logic of the draft rules which is based on the notion that replacing used aircraft with newer, more efficient aircraft will lead to emissions reductions (a statement T&E disagrees with as emissions have continually increased despite energy efficient aircraft coming to market) Allowing leasing companies to sell used aircraft to other companies will cause the global fleet to expand and cause additional emissions. This criterion should be deleted. Instead, T&E recommends basing the replacement of used aircraft on the "one-in, one-out" principle and scrappage certificates. When withdrawing an old aircraft from use, airlines will be handed-over a scrappage certificate, which they will have to present for a new aircraft to be considered as taxonomy eligible. This system will ensure that emissions are reduced and global fleet does not increase.

**GENERAL COMMENT (incl. comments on corrections of technical mistakes in Climate Delegated Act and Article 8 Delegated Act):**

The primary objective of the Taxonomy Regulation is to provide investors with the appropriate definition of which economic activities can be considered environmentally sustainable. T&E raises the concern that the draft rules for the leasing of aircraft fail to provide the necessary clarity and confuse current best-in-class energy-efficient technologies, which are fossil-based nonetheless, with the adequate technology to decarbonise aviation. T&E considers that the draft criteria do not put aviation on the path to achieving climate neutrality by 2050 and require substantial improvement. The taxonomy rules for the manufacturing of aircraft are therefore unsuitable and potentially susceptible to facing legal challenges.

Regarding the reporting obligations referred to in Article 8 Delegated Act, T&E considers it problematic that transitional activities such as those referred to under criteria b) will be reported as "taxonomy aligned" despite continuing to burn fossil fuel. It is therefore key that the criteria are substantially improved to ensure reported taxonomy alignment is truly sustainable.

For further information, T&E's analysis of the taxonomy rules for aviation is available [here](#). T&E's position is available [here](#) and [here](#).

**COMMENT ON THE ACTIVITY DESCRIPTION:**

<b>COMMENT ON THE ACTIVITY SUBSTANTIAL CONTRIBUTION CRITERIA:</b>
<p>T&amp;E would like to provide the following feedback and suggestions on the activity substantial contribution criteria:</p> <ul style="list-style-type: none"> <li>• Regarding criterion a), T&amp;E recommends that the criteria should explicitly refer to both hydrogen and electric propulsion aircraft.</li> <li>• With regard to criterion b), T&amp;E notes that the CO2 emissions target specified in this criterion is not ambitious enough and is not aligned with the EU's climate goals of achieving at least 55% reduction in emissions by 2030 and carbon neutrality by 2050. The condition for these criteria to be considered taxonomy compliant is to substantially increase CO2 standards, in line with figures reported in previous European Commission reports (<a href="#">study</a>) and linked with increased SAF use.</li> <li>• Regarding criterion c), provisions relating to the replacement ratio (referred to in criterion b) of section 3.21.) do not inform how and by which organisation the ratio referred to will be defined. It lacks transparency, and the chosen timeframe (preceding 10 years) is too broad and will lead to fleet expansion. Instead, T&amp;E recommends basing the replacement of aircraft on scrappage certificates leasing companies will obtain for every aircraft withdrawn from use. Such a system would ensure that each taxonomy eligible aircraft replaces a non-eligible one, and CO2 emissions to hopefully decrease.</li> <li>• T&amp;E suggests that the criterion for aircraft certified to operate on a 100% blend of SAF should come into force on the same day as the Delegated Act.</li> </ul>
<b>COMMENT ON THE ACTIVITY DO NO SIGNIFICANT HARM CRITERIA:</b>
<p><b>Recommendations (for future reference):</b></p> <p>T&amp;E recommends adopting more ambitious and stringent taxonomy rules which would provide investors with the right information regarding the sustainability of their investment and would increase investments in zero-emissions aircraft.</p> <p>In particular:</p> <ul style="list-style-type: none"> <li>• Criteria for the leasing of aircraft should promote the use of aircraft with zero direct CO2 emission such as those powered by electricity or green hydrogen on the one hand, and aircraft meeting high-level CO2 standards and compatible with 100% SAF blend on the other hand.</li> <li>• A compliance mechanism ensuring that the global fleet does not increase and following the "one-in, one-out" principle. Airlines and leasing companies should be issued a scrappage certificate for every aircraft withdrawn from use. The share of taxonomy-eligible aircraft shall be assessed based on the issued scrappage certificates.</li> </ul>
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## 6.19 Passenger and freight air transport

<b><i>Are the Commission's draft criteria consistent with the EU Platform's recommendations?</i></b>
They are in essence identical to the criteria developed by the Platform on Sustainable Finance and published in March 2022.
<b><i>Are the Commission's draft criteria consistent with the Taxonomy Regulation - particularly Art. 10.2 on transition activities (for climate mitigation only) and Art. 19 on requirements for technical screening criteria?</i></b>
T&E considers that the draft criteria are not aligned with the Taxonomy Regulation (EU) 2020/852, in particular Article 10.2 and Article 19, for several reasons:

Article 10.2 of the Taxonomy Regulation states that an economic activity for which there is no technological and economically feasible low-carbon alternative shall qualify as a 'transitional activity'. T&E disagrees with the notion that there is no technologically and economically feasible alternative to traditional fossil-fueled aircraft. There exist low-carbon alternatives depending on the market segment. On the short-haul or medium-haul market, the low-carbon alternative is shifting to rail as well as zero-emission aircraft such as electric or hydrogen. Indeed, aircraft with zero direct tailpipe CO<sub>2</sub> emission is technologically and economically feasible but needs a boost in investments to be deployed at scale. Hydrogen aircraft, for example, is a low-carbon alternative that is both technologically feasible as demonstrated by recent test flights, and economically feasible, as demonstrated by Airbus's announcement of the commercialisation of three hydrogen aircraft in 2035. T&E underlines that the taxonomy rules play a determinant function in drawing the needed investments into zero-emission aviation and in shortening the time required for this technology to become market-ready. On the long-haul market, there is no low-carbon alternative yet, the only medium term solution is using SAF (sustainable aviation fuel) in traditional aircraft models. However, these SAFs only reach max 85% GHG savings, and production levels do not allow these aviation segments to operate flights entirely with SAFs yet. Therefore, T&E stresses that traditional aircraft should qualify in the taxonomy only as a transitional activity and on the conditions that they have engines certified for 100% SAF blends and meeting high CO<sub>2</sub> standards.

Consequently, T&E stresses that the transitional activities described in the technical screening criteria b) seem to be in breach of the conditions transitional activities are required to meet laid down in Article 10.2 of the Taxonomy Regulation, in particular with subparagraph b) on not hampering deployment of low carbon alternatives. Given the investments required for developing new aircraft models with zero direct tailpipe CO<sub>2</sub> emissions, labelling traditional fossil-fueled aircraft (meeting the CO<sub>2</sub> standards described in parts b) and c) section 3.21) as taxonomy-compliant until the end of 2032, will deprive zero-emission aircraft industries of the required investments to reach the market in the most timely way.

Moreover, the draft criteria are in direct breach of the conditions described in Article 10.2 subparagraph c) on lock-in of carbon intensive assets. An aircraft is operable for about 30 years on average. Based on this principle, aircraft meeting technical screening criteria b) section 3.21. will still be operating in 2050, although not respecting aviation emissions reduction goals as mostly reliant on fossil fuels to operate. Indeed, aircraft that would be considered taxonomy compliant before 2027 would be considered green despite not even being able to uptake 100% SAF during the whole of their lifetime. The draft criteria contradict Article 19 of the Taxonomy Regulation, in particular, of the provisions contained in paragraph 1 (i) given the lifetime of an aircraft. In fact, aircraft meeting technical screening criteria b) section 3.21. will rapidly become stranded assets before the end of their lifetime because they are limited to 50% SAF usage and will divert investments from truly sustainable aviation technologies.

In addition, the replacement ratio referred to in criterion c) lacks operational feasibility and transparency. Draft rules do not specify what will be the methodology of calculation and what organisation will undertake such calculations. In addition, marking as taxonomy compliant the purchase of new aircraft with the commitment to sell a non-compliant aircraft to another company is in full contradiction with the logic of the draft rules which is based on the notion that replacing used aircraft with newer, more efficient aircraft will lead to emissions reductions (a statement T&E disagrees with as emissions have continually increased despite energy efficient aircraft coming to market) Allowing leasing companies to sell used aircraft to other companies will cause the global fleet to expand and cause additional emissions. This criterion should be deleted. Instead, T&E recommends basing the replacement of used aircraft on the "one-in, one-out" principle and scrappage certificates. When withdrawing an old aircraft from use, airlines will be handed-over a scrappage certificate, which they will have to present for a new aircraft to be considered as taxonomy eligible. This system will ensure that emissions are reduced and the global fleet does not increase.

**GENERAL COMMENT (incl. comments on corrections of technical mistakes in Climate Delegated Act and Article 8 Delegated Act):**

The primary objective of the Taxonomy Regulation is to provide investors with the appropriate definition of which economic activities can be considered environmentally sustainable. T&E raises the concern that the draft rules for passenger and freight air transport fail to provide the necessary clarity and confuse current best-in-class energy-efficient technologies, which are fossil-based nonetheless, with the adequate technology to decarbonise aviation. T&E considers that the draft criteria do not put aviation on the path to achieving climate neutrality by 2050 and require substantial improvement. The taxonomy rules for passenger and freight air transport are therefore unsuitable and potentially susceptible to facing legal challenges.

Regarding the reporting obligations referred to in Article 8 Delegated Act, T&E considers it problematic that transitional activities such as those described under criteria b) and c) will be reported as "taxonomy aligned" despite continuing to burn fossil fuel. (For instance, in its 2022 annual report Ryanair reports the percentage of all "taxonomy aligned" activities but not the difference between enabling/transitional, p.38). It is therefore key that the criteria are substantially improved to ensure reported taxonomy alignment is truly sustainable.

For further information, T&E's analysis of the taxonomy rules for aviation is available [here](#). T&E's position is available [here](#) and [here](#).

**COMMENT ON THE ACTIVITY DESCRIPTION:**

**COMMENT ON THE ACTIVITY SUBSTANTIAL CONTRIBUTION CRITERIA:**

T&E would like to provide the following feedback and suggestions on the activity substantial contribution criteria:

- Regarding criterion a), T&E recommends that the criteria should explicitly refer to both hydrogen and electric propulsion aircraft.
- With regard to criterion b), T&E notes that the CO2 emissions target specified in this criterion is not ambitious enough and is not aligned with the EU's climate goals of achieving at least 55% reduction in emissions by 2030 and carbon neutrality by 2050. The condition for these criteria to be considered taxonomy compliant is to substantially increase CO2 standards, in line with figures reported in previous European Commission reports ([study](#)) and linked with increased SAF use. T&E suggests that the criterion for aircraft certified to operate on a 100% blend of SAF should come into force on the same day as the Delegated Act, as mentioned above.
- In addition, T&E underlines that requirements regarding minimum SAF use in criteria d) and e) are too low. T&E underscores the inconsistency of not requiring any SAF use on aircraft fulfilling criteria b) and c) of section 3.21. until the end of 2029. In particular, the 10% target referred to in criterion d) is identical to [commitments](#) already taken by the industry. Instead, the rates should reflect the aviation pathway to net zero, more than 3% yearly reduction by 2050 of actual emissions (and not emissions intensity or efficiency).
- Regarding criterion c), provisions relating to the replacement ratio (referred to in criterion b) of section 3.21.) do not inform how and by which organisation the ratio referred to will be defined. It lacks transparency, and the chosen timeframe (preceding 10 years) is too broad and will lead to fleet expansion. Instead, T&E recommends basing the replacement of aircraft on scrappage certificates leasing companies will obtain for every aircraft withdrawn from use. Such a system would ensure that each taxonomy-eligible aircraft replaces a non-eligible one, and CO2 emissions to decrease.
- T&E stresses that the SAF used should strictly comply with SAF definitions in Article 3 of the Regulation ensuring a level playing field in the field for sustainable air transport (RefuelEU).

**COMMENT ON THE ACTIVITY DO NO SIGNIFICANT HARM CRITERIA:**

As many reports - including from air industry experts - have shown, the volume of air traffic should be massively reduced to meet climate goals. Like all criteria in the draft DA related to aircrafts, the criteria does not take that into account at all.

**Recommendations (for future reference):**

T&E recommends adopting more ambitious and stringent taxonomy rules which would provide investors with the right information regarding the sustainability of their investment and would increase investments in zero-emissions aircraft.

In particular:

- Criteria for the leasing of aircraft should promote the use of aircraft with zero direct CO2 emission such as those powered by electricity or green hydrogen on the one hand, and aircraft meeting high-level CO2 standards and compatible with 100% SAF blend on the other hand.
- A compliance mechanism ensuring that the global fleet does not increase and following the "one-in, one-out" principle. Airlines and leasing companies should be issued a scrappage certificate for every aircraft withdrawn from use. The share of taxonomy-eligible aircraft shall be assessed based on the issued scrappage certificates.

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## ANNEX II - Climate change adaptation

### 5.13 Desalination

<i>Are the Commission's draft criteria consistent with the EU Platform's recommendations?</i>
Yes
<i>Are the Commission's draft criteria consistent with the Taxonomy Regulation - particularly Art. 10.2 on transition activities (for climate mitigation only) and Art. 19 on requirements for technical screening criteria?</i>
<b>GENERAL COMMENT (incl. comments on corrections of technical mistakes in Climate Delegated Act and Article 8 Delegated Act):</b>
From an energy transition perspective, desalination is an energy intensive process that should be swiftly decarbonized. "Sustainable" desalination - beyond meeting environmental criteria notably related to its impact on water ecosystems - should be conducted using carbon neutral energy. However, the draft enables the use of relatively high carbon energy in the desalination process (270 g CO <sub>2</sub> /KWh - consistent with the climate adaptation threshold). This threshold could be brought down to 100 g CO <sub>2</sub> /KWh (consistently with the climate mitigation threshold) or, at the very least, should be updated with a more recent figure of the EU average carbon intensity of power generation (the threshold of 270 CO <sub>2</sub> /KWh builds on data that is now three-year old).
<b>COMMENT ON THE ACTIVITY DESCRIPTION:</b>
<b>COMMENT ON THE ACTIVITY SUBSTANTIAL CONTRIBUTION CRITERIA:</b>
<b>COMMENT ON THE ACTIVITY DO NO SIGNIFICANT HARM CRITERIA:</b>
The DNSH for climate mitigation enables for the use of still high-carbon energy in the desalination process (270 g CO <sub>2</sub> /KWh). This threshold could be brought down to 100 g CO <sub>2</sub> /KWh (consistently with the climate mitigation threshold) or, at the very least, should be updated with a more recent figure of the EU average carbon intensity of power generation (the threshold of 270 CO <sub>2</sub> /KWh builds on data that is now three-year old).
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### 14.2 Flood risk prevention and protection infrastructure

<i>Are the Commission's draft criteria consistent with the EU Platform's recommendations?</i>
Yes
<i>Are the Commission's draft criteria consistent with the Taxonomy Regulation - particularly Art. 10.2 on transition activities (for climate mitigation only) and Art. 19 on requirements for technical screening criteria?</i>
<b>GENERAL COMMENT</b> (incl. comments on corrections of technical mistakes in Climate Delegated Act and Article 8 Delegated Act):
This section is good.
<b>COMMENT ON THE ACTIVITY DESCRIPTION:</b>
<b>COMMENT ON THE ACTIVITY SUBSTANTIAL CONTRIBUTION CRITERIA:</b>
<b>COMMENT ON THE ACTIVITY DO NO SIGNIFICANT HARM CRITERIA:</b>
<b>Contact details:</b> <a href="mailto:Ariel.Brunner@birdlife.org">Ariel.Brunner@birdlife.org</a>

## 6. Analysis on the activities that have been left out

**Pollution prevention objective:**

- Manufacture of chemicals
- Manufacturing of chemical products

The manufacturing of chemicals and chemical products is the basis for the input of chemicals into all products and therefore pivotal for the substantial contribution to pollution prevention and other areas relevant to the EU Taxonomy. We strongly advocate for the rapid introduction of these activities as it would help drive the chemical industry by incentivizing the production of safer alternatives, as well as offering downstream users

substitution possibilities and therefore the impacts away from pollution. These activities would have a trickle-down effect and therefore a very large environmental impact.

- Finishing of textiles
- Tanning of leather.

These missing activities would create a necessary incentive to reduce the impact on pollution. We recommend the rapid introduction of these activities in the DA.

### **Circular economy objective:**

- Manufacture, repair, refurbishment and resale of wearing apparel
- Manufacture, remanufacture and reselling of footwear and leather goods
- Design, manufacture, remanufacture, and reselling of furniture

These missing activities would create a necessary incentive to reduce the impact on pollution and improve the propositions for a circular economy.

- Manufacture of food products and beverages.

We recommend the rapid introduction of these activities in the DA.

### **Biodiversity objective:**

- Manufacture of food products and beverages
- Environmental refurbishment of facilities that produce electricity from hydropower

It is a missed opportunity to not include the activity 'Environmental refurbishment of facilities that produce electricity from hydropower' in the draft DA. Europe counts more than 20,000 hydropower plants which have a massive negative impact on freshwater ecosystems, many of them ageing assets built without any kind of mitigation measures for biodiversity. Refurbishing them to implement environmental measures, such as fish passes, modern turbines, etc. is necessary to decrease their environmental impacts and meet the objectives of the EU environmental legislation, including the Water Framework Directive.

We recommend the rapid introduction of these activities in the DA.

- Forestry

There are already forestry criteria in the EU Taxonomy for the climate mitigation objective. Unfortunately, these criteria are not science-based and hence unacceptable - and as such challenged in Court by various organisations.

The new forestry criteria proposed by the Platform for the biodiversity objective are robust and we recommend their rapid introduction in the DA with no weakening. In addition, the first taxonomy delegated act on climate objectives included a specific recital (17) explicitly stating the need to review the climate mitigation criteria for forestry when the 'taxo4' draft DA is tabled - which is now the case:

*"(17) In the follow-up to communications from the Commission of 11 December 2019 'The European Green Deal', of 20 May 2020 on 'EU Biodiversity Strategy for 2030' and of 17 September 2020 'Stepping up Europe's 2030 climate ambition – Investing in a climate-neutral future for the benefit of our people', in line with Union wider biodiversity and climate neutrality ambitions, with the communication from the Commission of 24 February 2021 'Forging a climate-resilient Europe – the new EU Strategy on Adaptation to Climate Change, and with the new Forests Strategy planned in 2021, technical screening criteria for forest activities should be complemented, reviewed and where necessary revised at the time of adoption of the delegated act referred to in Article 15(2) of Regulation 2020/852. Those technical screening criteria should be reviewed to take better into account biodiversity friendly practices that are under development such as close to nature forestry."*

Building on the Platform's forestry proposal for the biodiversity objective, the Commission should urgently review and radically tighten the forestry criteria for climate mitigation.

- Agriculture

The fishing criteria proposed by the Platform are robust and we recommend their introduction in the DA with no weakening. However, if the Commission is not prepared to fully align with the Platform proposal, we would prefer there to be no Delegated Act on agriculture than a greenwashed one. Accordingly, we would have to publicly oppose such a Delegated Act and consider every appropriate action to challenge it.

- Fishing

The fishing criteria proposed by the Platform are robust and we recommend their introduction in the DA with no weakening. However, if the Commission is not prepared to fully align with the Platform proposal, we would prefer there to be no Delegated Act on fishing than a greenwashed one. Accordingly, we would have to publicly oppose such a Delegated Act and consider every appropriate action to challenge it.

