

# Joint civil society organisation analysis and recommendations on the Leaked Delegated Act draft on Climate Mitigation and Adaptation Taxonomy

April 2021

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## INTRODUCTION AND DISCLAIMER

This is a document that reflects the collective analysis of a large network of NGOs and think tanks working on the EU taxonomy. The main objective of this document is to update civil society's analysis of the Taxonomy Delegated Act on the basis of the 'March leak'.

On the basis of this analysis, we issue recommendations to improve the leaked DA.

**This 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 will comment on the sections they have analysed but should not be understood to be endorsing comments made in other sections. Some experts have provided contact information for the section they analysed and are pleased to be contacted for further discussion of their area.

# SCORECARD OF ACTIVITIES ANALYSED IN THE DRAFT DA

**Green** - good criteria

**Orange** - criteria need improvement

**Red** - criteria problematic, require significant changes (or exclusion from taxonomy)

| <b>1. AGRICULTURE AND FORESTRY</b>   | November 2020 | March 2021   |
|--|---------------|--------------|
| 1.1. Growing of non-perennial crops  | Orange        | Removed      |
| 1.2. Growing of perennial crops  | Orange        | Removed      |
| 1.3. Livestock production  | Red           | Removed      |
| 1.4. Afforestation   | Orange        | Red          |
| 1.5. Rehabilitation and restoration of forests   | Orange        | Red          |
| 1.6. Reforestation   | Orange        | Red          |
| 1.7. Improved forest management  | Orange        | Red          |
| 1.8. Conservation forestry   | Orange        | Red          |
| <b>2. ENVIRONMENTAL PROTECTION AND RESTORATION ACTIVITIES</b>  |               |              |
| 2.1. Restoration of wetlands   | New           | Orange       |
| <b>3. MANUFACTURING</b>  |               |              |
| 3.2. Manufacture of equipment for the production of hydrogen   | Orange        | Red          |
| 3.4. Manufacture of energy efficiency equipment for buildings  | Orange        | Not assessed |
| 3.5. Manufacture of other low carbon technologies  | New           | Not assessed |
| 3.6. Manufacture of cement   | Orange        | Not assessed |
| 3.7. Manufacture of aluminium  | Orange        | Not assessed |
| 3.8. Manufacture of iron and steel   | Orange        | Not assessed |
| 3.9. Manufacture of hydrogen   | Orange        | Red          |
| 3.13. Manufacture of organic basic chemicals   | Orange        | Not assessed |
| 3.14. Manufacture of anhydrous ammonia   | Orange        | Not assessed |
| 3.16. Manufacture of plastics in primary form  | Orange        | New          |
| <b>4. ENERGY</b>   |               |              |
| 4.26. <b>(New)</b> Replacement of existing combined heat/cool and power facilities using solid or liquid fossil fuels or replacement of existing separate heat facilities using solid or liquid fossil fuels or replacement of existing separate power facilities using solid or liquid fossil fuels with high-efficiency combined heat/cool and power facilities using gaseous and liquid fuels |               | Red          |
| 4.27 <b>(New)</b> Replacement of heating/cooling facilities using solid or liquid fossil fuels by heating/cooling facilities using gaseous and liquid fuels in efficient district heating and cooling  |               | Red          |

|  |                  |                  |
|--|------------------|------------------|
| 4.3. Electricity generation from wind power                                |                  | Not assessed     |
| 4.4. Electricity generation from ocean energy technologies                 |                  | Not assessed     |
| 4.5. Electricity generation from hydropower                                |                  |                  |
| 4.7. Electricity generation from gaseous and liquid fuels                  |                  |                  |
| 4.8. Electricity generation from bioenergy                                 |                  |                  |
| 4.9. Transmission and distribution of electricity                          |                  | Not assessed     |
| 4.13. Manufacture of biogas and biofuels for use in transport              |                  | Not assessed     |
| 4.16. Installation of electric heat pumps                                  |                  | Not assessed     |
| 4.20. Cogeneration of heat/cool and power from bioenergy                   |                  |                  |
| 4.24. Production of heat/cool from bioenergy                               |                  |                  |
| <b>6. TRANSPORT</b>  |                  |                  |
| 6.1. Passenger interurban rail transport                                   |                  | Not assessed     |
| 6.2. Freight rail transport  |                  | Not assessed     |
| 6.3. Urban, suburban and road passenger transport                          |                  |                  |
| 6.4. Operation of personal mobility devices                                | New              | Not assessed     |
| 6.5. Transport by motorbikes, passenger cars and light commercial vehicles |                  | Not assessed     |
| 6.6. Freight transport services by road                                    |                  | Not assessed     |
| 6.7. Inland passenger water transport                                      |                  | Not assessed     |
| 6.8. Inland freight water transport  |                  | Not assessed     |
| 6.9. Retrofitting of inland water passenger and freight transport          | New              | Not assessed     |
| 6.10. Sea and coastal freight water transport                              | New              | Not assessed     |
| 6.11. Sea and coastal passenger water transport                            |                  | Not assessed     |
| 6.13. Infrastructure for personal mobility                                 |                  | Not assessed     |
| 6.14. Infrastructure for rail transport                                    |                  | Not assessed     |
| 6.15. Infrastructure enabling low-carbon road transport                    |                  | Not assessed     |
| <b>7. CONSTRUCTION AND REAL ESTATE ACTIVITIES</b>                          |                  |                  |
| 7.2. Renovation of existing buildings                                      |                  |                  |
| 7.3. Installation, maintenance and repair of energy efficiency equipment   |                  | Not assessed     |
| <b>8. INFORMATION AND COMMUNICATION</b>                                    |                  |                  |
| 8.1. Data processing, hosting and related activities                       |                  | Not assessed     |
| 8.2. Data-driven solutions for GHG emissions reductions                    |                  | Not assessed     |
| <b>9. PROFESSIONAL, SCIENTIFIC AND TECHNICAL ACTIVITIES</b>                |                  |                  |
| 9.1. Research, development and innovation                                  | New              | Not assessed     |
| <b>00. ADDITIONAL ANALYSIS</b>   |                  |                  |
| Nuclear  | Separate Process | Separate Process |
| Clarification of whether an activity is 'transitional' or not (new)        | New              | Not assessed     |
| Cross-cutting Do no significant Harm criteria for Biodiversity             |                  | Not assessed     |

|   |  |              |
|---|--|--------------|
| Ensuring that adaptation criteria is not used as loophole |  | Not assessed |
| GHG emissions accounting methodologies                    |  | Not assessed |

# I. MARCH LEAK - ANALYSIS ACTIVITY BY ACTIVITY

## I. ANALYSIS ACTIVITY BY ACTIVITY

### 1. AGRICULTURE (Removed from March leak) AND FORESTRY

#### **Growing of non-perennial crops**

*Removed from March leak*

#### **Growing of perennial crops**

*Removed from March leak*

#### **Livestock production**

*Removed from March leak*

#### **General remarks on Forestry activities in the March leak**

The section on the forest activities (1.1 Afforestation, 1.2 Rehabilitation and restoration of forests, 1.3 Reforestation, 1.4 Forest Management), compiles a list of criteria that describe normal, existing forestry practices - business as usual - as sustainable. These sections *could* be climate-friendly, but only if the activities identified are innovative, that is when they are restricted to and defined as truly future-orientated measures.

**We recommend that forestry criteria are postponed in the taxonomy until the debate is mature, just as was done for agriculture.** We make recommendations to improve the forestry section in the Taxonomy: these recommendations serve to highlight the significant problems in the March leak, which must be addressed in a separate discussion that is not linked to the Taxonomy.

**Carbon stock:** The carbon stock must be increased in all forest units (not only on average). Sustainability with regard to carbon stock means using less than the annual growth – for climate change mitigation this is relevant and applicable at every forest unit. On a reliable scientific basis, the measures chosen in the EU-Taxonomy should reduce carbon releases with positive impact on biodiversity. Instead, the draft of the EU taxonomy allows for all negative forest management issues to be continued.

**Clear-cuts:** Clear-cuts must be forbidden as the carbon release from soils is unacceptably high.

**Standards referenced:** “Forest Europe” is the only forestry-related approach/concept that is recommended and cited in the revised text: 18 times. The “Forest Europe” approach stands for criteria that reflect normal forestry and are forest industry-friendly. European-wide nature conservation is not substantially mentioned in the text. FSC is not mentioned, Natura2000 is mentioned just once in the context of wind energy, despite its being the most important EU tool for maintaining forest ecosystems.

**Repeated reference to national law to define sustainability:** The text refers repeatedly to national laws, existing forest management approaches and plans. For example, *“The sustainability of the forest management systems, as documented in the plan referred to in point 1.1, is ensured by choosing the most ambitious through one of the following approaches: (a) the forest management matches the*

applicable national definition of sustainable forest management; (b) the forest management matches the Forest Europe definition of sustainable forest management, and the Pan-European Operational Level Guidelines for Sustainable Forest Management;". This choice does not lead to any more sustainable contributions in forestry and allows all practices that release carbon at scale from forests (by clear-cutting, soil preparation and water drainage).

**Weak or non-existent audit:** The description of the audit implies a non-effective control with all the weaknesses we see in the implementation of the EUTR and PEFC. The description makes it appear that no control is envisaged.

**Holdings under 25 ha:** The March leak has inserted a condition removing requirements for any climate benefit analysis for holdings under 25 ha. This creates extensive opportunities for greenwashing.

**Fertilisers:** The March leak has established that the use of fertilisers is now permitted. Furthermore, the destruction of soil structure is now permitted. This is extremely harmful.

**Forest control plans:** The March leak has removed the requirement for compliance with forest plan controls. This allows unverified claims to be made.

**Do No Harm on biomass supply:** The March leak has, in some chapters, introduced a 'Do No Significant Harm' criterion for circular economy which could prevent the restoration of more natural forest if it means reducing supply of biomass.

The criterion reads as follows: *The silvicultural change induced by the activity on the area covered by the activity is not likely to result in a significant reduction of sustainable supply of primary forest biomass suitable for the manufacturing of wood-based products with long-term circularity potential. This criterion can be demonstrated through the climate benefits analysis.*

**Additionality and Permanence:** The March leak has entirely removed requirements for additionality and permanence. With the condition that the area remains classified as "forest" under national law, it would be possible to clear cut to an extent that removes all trees in the area. Even in situations where the forest will never grow back, all that is required is for it to be still classified as forest land, without it needing to have trees on it.

**Forestry is in the wrong section:** Forestry should be moved to "Environmental Protection and Restoration activities (chapter 2). Forest management and protection has to be released from the agricultural approach – forests have to be considered as an important part of our environment that needs protection and restoration.

**We recommend postponing forestry criteria to permit further analysis and a mature discussion to develop, just as the Commission has done for agriculture. This can be done in the EU Forestry Strategy and in the Platform, which is currently examining land-based sectors extensively.**

## 1.1. Afforestation

Have criteria improved/worsened/significantly worsened compared to December? Are criteria now good, needing improvement, or bad?

Criteria have significantly worsened and are now bad.

Are these criteria consistent with the taxonomy regulation - particularly Art. 10.2 on transition and Art. 19 on requirements for criteria?

Criteria may be in breach of Article 19 requirement that criteria be 'based on conclusive evidence'.

Technical assessment - what are the key problems?

Under 25 ha there is no requirement for a climate benefit analysis.

Afforestation measures that release carbon such as soil preparation are not excluded.

Areas that are drained and now suitable for tree growth do not fulfill the definition of a sustainable afforestation and should be excluded.

Finally, safeguards are much too weak. The section on "Guarantee of performance" is written in a way that the conventional transformation of forests towards more "forest-agricultural approaches" is possible.

The proposed criteria on audit risk resulting in no audit or control.

### Recommendation to Member States and Commission

Postpone forestry criteria as a whole from the Delegated Act to give more time to the discussion, like the European Commission did for the agricultural sector: the issue is complex and controversial and the Platform is working on the sector to shape environmental, non-climate, criteria.

The proposed changes in the March leak, as well as those already made in the November 2020 Delegated Act, will lead to more carbon release from the forest sector.

The current draft is extremely dangerous for our climate and biodiversity. For the forest sector, in particular, the danger is that all activities will continue as they currently are, moving the Taxonomy's approach from forward-looking to 'business as usual'. Carbon stock volumes will be reduced and carbon release from wood use will increase.

Afforestation must be restricted to natural regeneration. Non-native tree-species as well as GMOs should be excluded completely.

Afforestation must be restricted to clearly degraded areas.



Areas that are drained and now suitable for tree growth do not fulfill the definition of a sustainable afforestation and should be excluded.

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## **1.2. Rehabilitation and restoration of forests**

Have criteria improved/worsened/significantly worsened compared to December?

Criteria have significantly worsened.

Are these criteria consistent with the taxonomy regulation - particularly Art. 10.2 on transition and Art. 19 on requirements for criteria?

Criteria may be in breach of Article 19 requirement that criteria be 'based on conclusive evidence'.

Technical assessment - what are the key problems?

The safeguards introduced are much too weak.

The section on "Guarantee of performance" is written in a way that the conventional transformation of forests towards more "forest-agricultural approaches" is possible.

The proposed audit is no audit or control.

Recommendation to Member States and Commission

Remove forestry as a whole from the Delegated Act to give more time to the discussion, like the EC did for the agricultural sector: the issue is complex and controversial; and the Platform is working on the sector to shape environmental non-climate criteria.

The proposed changes in the March leak, as well as those proposed in the November draft, will lead to more carbon release from the forest sector.

Forest restoration and rehabilitation must be restricted to clearly degraded areas.

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## **1.3. Reforestation**

Have criteria improved/worsened/significantly worsened compared to December?

Criteria have significantly worsened.

Are these criteria consistent with the taxonomy regulation - particularly Art. 10.2 on transition and Art. 19 on requirements for criteria?

Criteria may be in breach of Article 19 requirement that criteria be 'based on conclusive evidence'.

Technical assessment - what are the key problems?

The description of the audit implies a non-effective control with all the weaknesses we see in the implementation of the EUTR and PEFC. The description makes it appear that no control is envisaged.

In order to reduce costs, audits can be performed together with any forest certification, climate certification, or other audit. This is extremely weak.

Recommendation to Member States and Commission

Postpone forestry as a whole from the Delegated Act to give more time to the discussion, like the EC did for the agricultural sector: the issue is complex and controversial; and the Platform is working on the sector to shape environmental non-climate criteria.

It is better to remove the EU-Taxonomy's forestry criteria because the current draft is too dangerous for climate and biodiversity. **For the forest sector, the danger is that everything will continue as it is.** The carbon stock volumes will be reduced and the carbon release by wood use will increase.

The section on reforestation should without question be postponed.

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#### **1.4. Forest Management**

Have criteria improved/worsened/significantly worsened compared to December?

Criteria have significantly worsened.

Are these criteria consistent with the taxonomy regulation - particularly Art. 10.2 on transition and Art. 19 on requirements for criteria?

Criteria may be in breach of Article 19 requirement that criteria be 'based on conclusive evidence'.

### Technical assessment - what are the key problems?

The word “Improved” was deleted in the title. It is clear that there is no ambition to promote more sustainable forestry in the EU taxonomy any longer.

Calculation of Greenhouse Gas benefits of forest management are now done not against current carbon stock but against a “business as usual” scenario. This provides a clear loophole for greenwashing: under the assumption that all the forest will be logged completely, any logging that is actually undertaken and which does not log the entire forest will be better and hence may be classified as green.

Climate benefits are calculated over the next 100 years or *more* if the “forest cycle” is longer. This sort of time frame is completely irrelevant for the achievement of any EU climate targets. Under this criterion, it would be possible to have a net source of emissions until 2050 and beyond and still be classified as contributing to climate mitigation.

Forest holdings under 25 ha are not required to perform a climate benefit analysis but can simply claim they are sustainable.

### Recommendation to Member States and Commission

Remove forestry as a whole from the Delegated Act to give more time to the discussion, like the EC did for the agricultural sector: the issue is complex and controversial; and the Platform is working on the sector to shape environmental non-climate criteria.

It is better to remove the EU-Taxonomy’s forestry criteria because the current draft is too dangerous for climate and biodiversity. **For the forest sector, the danger is that everything will continue as it is.** The carbon stock volumes will be reduced and the carbon release by wood use will increase.

The sections on forest management must be without question postponed.

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## **1.5. Conservation forestry**

### Have criteria improved/worsened/significantly worsened compared to December?

Criteria have significantly worsened.

### Are these criteria consistent with the taxonomy regulation - particularly Art. 10.2 on transition and Art. 19 on requirements for criteria?

Criteria may be in breach of Article 19 requirement that criteria be ‘based on conclusive evidence’.

Technical assessment - what are the key problems?

A substantial worsening has occurred. Logging is added to “conservation forestry”.

Recommendation to Member States and Commission

Remove forestry as a whole from the Delegated Act to give more time to the discussion, like the EC did for the agricultural sector: the issue is complex and controversial; and the Platform is working on the sector to shape environmental non-climate criteria.

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## 2. ENVIRONMENTAL PROTECTION AND RESTORATION ACTIVITIES

Recommendation: Forest issues should be moved to this section to separate forest management from agriculture issues.

### 2.1. Restoration of wetlands

Have criteria improved/worsened/significantly worsened compared to December?

Criteria have significantly worsened.

Are these criteria consistent with the taxonomy regulation - particularly Art. 10.2 on transition and Art. 19 on requirements for criteria?

#### Technical assessment

There are three weakenings:

- The climate benefit analysis needs to demonstrate that the net balance of GHG emissions and removals generated by the activity over a period of 30 years is lower than a baseline - while it was 20 years in the previous draft. More generally this approach is problematic as it compares emissions reduction with the business-as-usual practices that would have occurred in the absence of the activity: for example this means that if the business-as-usual practices were large-scale extraction of peat in a peatland, then a new activity extracting only half of the peat will be deemed "green" wetland restoration - while in fact it is only a slower destruction of the peatland, not necessarily contributing in any way to the *restoration* of the peatland (peat extraction is not forbidden and should only be "minimised").
- Holdings under 25ha are not required to perform a climate benefit analysis.
- The activity of wetland restoration is now allowed to use fertilisers (DNSH criteria).

#### Recommendation to Member States and Commission

Reinstate the initial criteria from the December draft.

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### 3. MANUFACTURING

#### 3.2. Manufacture of equipment for the production of hydrogen

Have criteria improved/worsened/significantly worsened compared to December?

Worsened.

Are these criteria consistent with the taxonomy regulation - particularly Art. 10.2 on transition and Art. 19 on requirements for criteria?

Under Assessment.

Technical assessment - what are the key problems?

In the November DA, the wording was:

'The economic activity manufactures **hydrogen electrolysis technologies**'

Now, the new wording is:

The economic activity manufactures equipment for **the production of hydrogen compliant with the Technical Screening Criteria set out in Section 3.10 of this Annex and equipment for the use of hydrogen.**

This creates two loopholes:

1. The new threshold makes it easier for hydrogen produced from natural gas to be taxonomy aligned. The issue is that the same equipment can be used to produce hydrogen complying with the new threshold or to produce the dirtiest hydrogen on the market.
2. This activity also mentions equipment for the use of hydrogen, which once again, can very well be used with carbon intensive hydrogen produced from fossil fuels. With the current wording, adding "equipment for the use of hydrogen" it must also be made clear that there is a requirement that the equipment is in fact used for hydrogen, and not that simple compatibility with hydrogen would be sufficient even if the equipment is in fact used for undefined low-carbon gases.

The previous wording ensured that only equipment for the manufacturing of hydrogen through electrolysis was considered an enabling activity - which is the technology allowing the uptake of renewable hydrogen.

Recommendation to Member States and Commission

Go back to the wording of the November draft DA.

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### **3.9. Manufacture of hydrogen**

Have criteria improved/worsened/significantly worsened compared to December?

Worsened.

Are these criteria consistent with the taxonomy regulation - particularly Art. 10.2 on transition and Art. 19 on requirements for criteria?

Under Assessment.

Technical assessment - what are the key problems?

The November DA (former activity 3.9) set the threshold at 80% reduction compared to the fossil fuel benchmark, which is 94gCO<sub>2</sub>e/MJ (RED2). The threshold was therefore 18,8 gCO<sub>2</sub>/MJ = 2.256 tCO<sub>2</sub>eq/tH<sub>2</sub> = 0.67gCO<sub>2</sub>/kWh.

The leaked DA (now activity 3.10) sets the new threshold at 70% reduction compared to the fossil fuel benchmark for hydrogen-based synthetic fuels and 73.4% reduction for hydrogen.

On activity 3.9, the draft was amended to exactly match the demands from the hydrogen lobby (<https://www.euractiv.com/section/energy-environment/news/eu-taxonomy-shutting-the-door-to-grid-powered-hydrogen-critics-say/>). It makes it easier for hydrogen from natural gas + CCS to be eligible. Grid powered hydrogen in countries where the grid is relatively decarbonised (e.g. France, thanks to the heavy reliance on nuclear energy) is now taxonomy eligible.

This is one step further away from what NGOs called for as we asked for renewable hydrogen ONLY to be taxonomy eligible.

With the added “synthetic fuels” to the Taxonomy, it must be specified the CO<sub>2</sub> source for the production of synthetic hydrocarbons. The source influences the climate impact of synthetic fuels but as they can be avoided in conventional LCAs it needs to be specified.

Recommendation to Member States and Commission

At best - amend wording to request that only renewable hydrogen is eligible.

At least - go back to the November draft.

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

Have criteria improved/worsened/significantly worsened compared to December?

Improved.

Are these criteria consistent with the taxonomy regulation - particularly Art. 10.2 on transition and Art. 19 on requirements for criteria?

Under Assessment.

Technical assessment - what are the key problems?

The carbon intensity threshold for the use of chemical recycling was tightened in the leak. Also the activity now clearly establishes a hierarchy between mechanical and chemical recycling.

Recommendation to Member States and Commission.

Stick to the new draft (or go back to TEG recommendations).

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## 4. ENERGY

### 4.5. Electricity generation from hydropower

Have criteria improved/worsened/significantly worsened compared to December?

Worsened.

Are these criteria consistent with the taxonomy regulation - particularly Art. 10.2 on transition and Art. 19 on requirements for criteria?

Under Assessment.

#### Technical assessment

Main point: The revised DA fails to reintegrate the TEG recommendation that “construction of small hydropower (<10MW) should be avoided.” Instead, the revised DA adds a technical screening criteria stating that *"The electricity generation facility is a run-of-river plant and does not have an artificial reservoir"*. However, most run-of-river plants are small plants, which produce negligible quantities of electricity, and therefore do not make a substantial contribution to the climate mitigation objective. In addition, those small run-of-river plants often have a larger ecological footprint per megawatt of power produced than that of large hydropower plants. This is not fixing the problem.

#### Other comments:

- The revised DA lowered the DNSH criteria for new hydropower plants. It deleted the specifications previously indicated for the items that a cost-benefit analysis should include, in particular linked to the marginal quantity of energy generated; the impacts on water status or potential upstream and downstream; the impacts on biodiversity, in particular on Protected Areas, and the benefits of ecosystem services.
- The revised DA also lowered the DNSH criteria for hydropower plants in operation, saying that mitigation measures should apply "where relevant and depending on the ecosystems naturally present in the affected water bodies".
- The revised DA has failed to reintroduce the TEG recommendation to reduce the emission cap every 5 years in line with a net-zero CO<sub>2</sub>e in 2050 trajectory; instead, the cap is maintained at 100gCO<sub>2</sub>e/kWh, which is far higher than median values reported by the IPCC (24 gCO<sub>2</sub>e/kWh) or International Hydropower Association (18.5 gCO<sub>2</sub>e/kWh).

#### Recommendation to Member States and Commission

We recommend:

- **Replacing the new criteria saying that "The electricity generation facility is a run-of-river plant and does not have an artificial reservoir" with a criteria excluding hydropower facilities of a capacity <10MW under the substantial contribution.**
- Reintegrate the previous DNSH criteria for new hydropower plants specifying that that a cost-benefit analysis should include an assessment of the marginal quantity of energy generated; the impacts on water status or potential upstream and downstream; the impacts on biodiversity, in particular on Protected Areas, and the benefits of ecosystem services.

#### Contact details

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### **4.7. Electricity generation from gaseous and liquid fuels p111**

#### Have criteria improved/worsened/significantly worsened compared to December?

Criteria remain the same, nominally. However, significant loopholes have been created by the introduction of the two new activities 4.26 and 4.27.

#### Are these criteria consistent with the taxonomy regulation - particularly Art. 10.2 on transition and Art. 19 on requirements for criteria?

Criteria are inconsistent with Article 10.2 and Article 19.

#### Technical assessment - what are the key problems?

The 100 g emissions threshold for power is maintained. However, a significant loophole has been created.

#### Recommendation to Member States and Commission

Remove activities 4.26 and 4.27.

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### **4.8. Electricity generation from bioenergy p114**

#### Have criteria improved/worsened/significantly worsened compared to December?

Criteria remain bad.

#### Are these criteria consistent with the taxonomy regulation - particularly Art. 10.2 on transition and Art. 19 on requirements for criteria?

The criteria are in breach of article 19, which outlines that criteria must be based on 'conclusive scientific evidence'.

#### Technical assessment - what are the key problems?

The criteria contravene article 19 of the Taxonomy regulation, which requires that criteria be devised on the basis of 'conclusive scientific evidence'. The classification of bioenergy as a 'transitional' activity has been removed, despite extensive scientific evidence concerning its high emissions.

Furthermore, the March leak has not changed the provision that all forest biomass - wood sourced directly from forests - may be burned as feedstocks and that almost any activity that is aligned with the flawed Renewable Energy Directive is counted as sustainable, including the use of dedicated cropland.

This is completely unscientific. It contradicts all recent authoritative scientific research and the Commission's own [impact assessment on bioenergy](#), which stated that the idea that forest biomass can mitigate climate change is extremely problematic and acknowledged that demand for forest biomass is hindering EU forests' ability to act as a carbon sink.

#### Recommendation to Member States and Commission

Remove bioenergy as a whole from the Delegated Act to give more time to the discussion, like the EC did for the agricultural sector: the issue is complex and controversial and the process to elaborate the Renewable Energy Directive III will commence in 2021 - creating the risk that the taxonomy criteria, which are currently based on RED-II, could be rapidly overtaken by existing EU legislation.

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### **4.9 Transmission and distribution of electricity**

#### Have criteria improved/worsened/significantly worsened compared to December?

Criteria have worsened.

Power Distribution networks are completely excluded from the new definition, which has been modified only to focus on TSO investments.

The November DA had already weakened the TEG criteria. It set four criteria for substantial contribution to climate change mitigation instead of the TEG's two criteria with a 100gCo2e/kWh threshold. In the November DA, by contributing to the interconnected European system, any transmission and distribution of electricity could avoid the 100 gCo2e/kWh threshold.

#### Are these criteria consistent with the taxonomy regulation - particularly Art. 10.2 on transition and Art. 19 on requirements for criteria?

#### Recommendation to Member States and Commission

The Technical Expert Group's criteria should be followed.

### **4.20. Cogeneration of heat/cool and power from bioenergy p140**

#### Have criteria improved/worsened/significantly worsened compared to December?

#### Are these criteria consistent with the taxonomy regulation - particularly Art. 10.2 on transition and Art. 19 on requirements for criteria?

The criteria contravene article 19 of the Taxonomy regulation, which requires that criteria be devised on the basis of 'conclusive scientific evidence'. The classification of bioenergy as a 'transitional' activity has been removed, despite extensive scientific evidence concerning its high emissions.

Furthermore, the March leak has not changed the provision that all forest biomass - wood sourced directly from forests - may be burned as feedstocks and that almost any activity that is aligned with the flawed Renewable Energy Directive is counted as sustainable, including the use of dedicated cropland.

This is completely unscientific. It contradicts all recent authoritative scientific research and the Commission's own [impact assessment on bioenergy](#), which stated that the idea that forest biomass can mitigate climate change is extremely problematic and acknowledged that demand for forest biomass is hindering EU forests' ability to act as a carbon sink.

#### Recommendation to Member States and Commission

Remove bioenergy as a whole from the Delegated Act to give more time to the discussion, like the EC did for the agricultural sector: the issue is complex and controversial and the process to elaborate the Renewable Energy Directive III will commence in 2021 - creating the risk that the taxonomy criteria, which are currently based on RED-II, could be rapidly overtaken by existing EU legislation.

#### Contact details

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#### **4.24. Production of heat/cool from bioenergy p148**

##### Have criteria improved/worsened/significantly worsened compared to December?

Worsened.

##### Are these criteria consistent with the taxonomy regulation - particularly Art. 10.2 on transition and Art. 19 on requirements for criteria?

The criteria contravene article 19 of the Taxonomy regulation, which requires that criteria be devised on the basis of 'conclusive scientific evidence'. The classification of bioenergy as a 'transitional' activity has been removed, despite extensive scientific evidence concerning its high emissions.

Furthermore, the March leak has not changed the provision that all forest biomass - wood sourced directly from forests - may be burned as feedstocks and that almost any activity that is aligned with the flawed Renewable Energy Directive is counted as sustainable, including the use of dedicated cropland.

This is completely unscientific. It contradicts all recent authoritative scientific research and the Commission's own [impact assessment on bioenergy](#), which stated that the idea that forest biomass can mitigate climate change is extremely problematic and acknowledged that demand for forest biomass is hindering EU forests' ability to act as a carbon sink.

## Recommendation to Member States and Commission

Remove bioenergy as a whole from the Delegated Act to give more time to the discussion, like the EC did for the agricultural sector: the issue is complex and controversial and the process to elaborate the Renewable Energy Directive III will commence in 2021 - creating the risk that the taxonomy criteria, which are currently based on RED-II, could be rapidly overtaken by existing EU legislation.

### Contact details

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

**Please refer to the 'Ten Flaws' analysis provided below.**

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

**Please refer to the 'Ten Flaws' analysis provided below.**

## **6. TRANSPORT**

### **General comment on transport activities**

Have criteria improved/worsened/significantly worsened compared to December?

Criteria have worsened.

Are these criteria consistent with the taxonomy regulation - particularly Art. 10.2 on transition and Art. 19 on requirements for criteria?

No. We notice with great concern a new sentence usually framed as follows in many transport activities (with minor differences):

*"Where an economic activity in this category does not fulfil the substantial contribution criterion specified in point (a), activity is a transitional activity as referred to in Article 10(2) of Regulation (EU) 2020/852, provided it complies with the remaining technical screening criteria set out in this Section."*

This is the case for the following nine activities:

- 6.1. Passenger interurban rail transport
- 6.2. Freight rail transport
- 6.3. Urban and suburban transport, road passenger transport
- 6.5. Transport by motorbikes, passenger cars and light commercial vehicles
- 6.6. Freight transport services by road
- 6.7. Inland passenger water transport
- 6.8. Inland freight water transport
- 6.10. Sea and coastal freight water transport, vessels for port operations and auxiliary activities
- 6.11. Sea and coastal passenger water transport.

**We believe that this sentence is in breach with Article 10.2 of the regulation, which clearly sets out that transitional activities can only be set up where "*there is no technologically and economically feasible low-carbon alternative*":**

- If for a given transport activity there are 2 substantial contribution criteria that can be met, it means that the activities meeting the two criteria are intrinsically green. The Taxonomy Regulation makes explicit that in that case, there cannot be any transitional activity, as there is already a low-carbon alternative.
- It is then inconsistent with the law to state that activities that only meet 1 substantial contribution criteria out of those 2 can be deemed transitional.

**Intrinsically green and transitional activities cannot coexist for the same sector.** The new sentence goes against the regulation on that issue and creates an enormous confusion on what transitional activities are and when and how they can be set up or not. This is all the more regrettable that the Commission mandated a Taskforce on financing transition within the Platform on sustainable finance, that published a report to notably dispel this confusion; at the very same time, the Commission deliberately decided to create even more confusion on the issue.

#### Recommendation to Member States and Commission

The new controversial sentence must be removed in each of the nine transport activities.

### **6.3. Urban, suburban and road passenger transport**

Have criteria improved/worsened/significantly worsened compared to December?

Criteria have worsened.

Are these criteria consistent with the taxonomy regulation - particularly Art. 10.2 on transition and Art. 19 on requirements for criteria?

See point above "General comment on transport activities".

Technical assessment - what are the key problems?

Gas-powered buses are considered sustainable.

Vehicles required to meet the latest Euro standard.

Recommendation to Member States and Commission

Return to November draft recommendations.

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## 7. CONSTRUCTION AND REAL ESTATE ACTIVITIES

### 7.2. Renovation of existing buildings

Have criteria improved/worsened/significantly worsened compared to December?

They are the same, and risk the delivery of the EU's aspirations for the Renovation Wave and to not decarbonise the existing buildings as fast as is required to be "fit for 55".

Are these criteria consistent with the taxonomy regulation - particularly Art. 10.2 on transition and Art. 19 on requirements for criteria?

Under Assessment.

Technical assessment - what are the key problems?

SC for mitigation for existing renovations are either:

1) As set in the applicable national and regional building regulations for 'major renovation' implementing Directive 2010/31/EU. The energy performance of the building or the renovated part upgraded meets cost-optimal minimum energy performance requirements in accordance with the respective directive.

OR 2) A 30 % improvement results from an actual reduction in primary energy demand (where the reductions in net primary energy demand through renewable energy sources are not taken into account), and can be achieved through a succession of measures within a maximum of three years. The initial primary energy demand and the estimated improvement is based on a detailed building survey, an energy audit conducted by an accredited independent expert or any other transparent and proportionate method, and validated through an Energy Performance Certificate.

Recommendation to Member States and Commission

The overall principle of "green being better than regulatory minima" is overstepped. A minimum PER of 30% should be a requirement of all SC AND, in the case of a major renovation, the applicable national and regional building regulations for 'major renovation' implementing Directive 2010/31/EU as amended in 2020 to align with new EU climate ambitions.

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# Early analysis: Ten major flaws of the gas cogeneration/heating loophole in the Commission's leaked proposal

## 1. Summary of the ten major flaws

### 1. The first criterion is automatically met, hence useless

There is far more coal power closing (35 GW at least) than gas CHP planned (8.3 GW): up to 100% of gas combined heat and power (CHP) plants built until 2025 could be eligible to be labelled as green, and there will be room for labelling much more. The leaked proposal therefore creates an *incentive* to build even more gas CHP plants than already planned, while failing to close any more coal plants. This criterion is not only ineffective - it is harming the environment. Including power-only coal plants in the proposal is the most outrageous part of the proposal.

### 2. The second criterion is useless given the existence of the fourth criteria

Any gas plant operating below 270g CO<sub>2</sub>/kWh, which substitutes a coal or oil plant, will *automatically* emit 50% fewer GHG per kWh of energy. The second criterion is redundant.

### 3. The third criterion is either useless or a blank cheque to power companies

By focusing only on the "low carbon gaseous or liquid fuels-readiness" equipment, the proposal makes no requirement on the company to actually use it, nor a definition of what so-called low carbon gases and liquid fuels entail. Assuming that such equipment will be used as expected relies on the highly speculative, risky, and thus flawed assumption that at some point biogas and/or hydrogen will become extremely abundant and cheap, so that CHP plants can fully rely on it. "Low carbon gaseous or liquid fuels-readiness" for power plants is a myth as big as "CCS-readiness" was a few years ago, when it was used to justify new coal plants and turned into a complete climate failure and major carbon lock in.

### 4. The fourth criterion is unscientific and unambitious

For gas CHP plants, the Commission has replaced the 100 g threshold for the power sector with the threshold of 270gCO<sub>2</sub>/kWh: this is totally inconsistent with other power sources required to meet the threshold of 100gCO<sub>2</sub>/kWh in the taxonomy. In addition, the EU's average carbon intensity for the power sector reached 226 g CO<sub>2</sub>/kWh in 2020 and rapidly decreases, while the most efficient gas CHP plants can only reach 230 g CO<sub>2</sub>/kWh. This means that over its entire lifespan any new gas CHP plant will *permanently* have a higher carbon intensity than the average of the EU power mix, slowing down the decarbonisation of the sector.

### 5. The fifth criterion on alternatives is vague and unambitious

The criteria completely lacks details which are critical to ensure its robustness: established good practice requires that the assessment of power alternatives is done in an independent way, is made public, and includes at least the following alternatives: (a) a mix of renewable energy sources; (b) demand side management; (c) energy efficiency; (d) a mix of the previous options.

## **6. The fifth criterion on just transition regions is risky and not fit for gas incentives**

Focusing on 'just transition regions' is totally inconsistent with the fossil-free Just Transition Fund, which was created to accelerate the shift *out* of fossil fuels. All Member States are allocated money from the Just Transition Fund, so it can be expected that there will be 'just transition regions' in every Member State.

## **7. The 2025 phase-in date for gas plants risks increasing the pace of construction of EU gas CHP plants**

The leaked proposal only asks for new gas CHP plants to be *built* before 2025, and does not set any closure date. This is not an adequate "sunset clause". These plants will be stranded. The EIB, when negotiating its Energy Lending Policy in 2019, weakened its initial proposal because of Member States' concerns by introducing a **one-year delay** to end support for fossil fuel projects. Unlike the EIB, the Commission proposes to weaken its initial proposal by introducing a **half-a-decade delay**. This is completely at odds with climate science requiring early action.

## **8. The leaked proposal creates a major carbon lock-in risk**

The leaked proposal does not include any criteria on the lifetime of such new gas plants, i.e. when they would have to be closed to avoid carbon lock-in: this is a missing sunset clause (e.g. 2030-2035). A gas plant has a typical lifespan of 25 years; however the Commission's climate analysis finds that the power sector will need to reach zero emissions way before 2050 (largely around 2035).

## **9. Fossil gas is far more carbon-intensive than previously thought**

Methane matters because its impact on climate change is 84 times greater than CO<sub>2</sub> over a twenty-year timeframe. 40% of EU gas imports come from Russia, the country with the highest contribution to global methane emissions from oil and gas; and 36% of EU gas imports come from the US as liquefied natural gas (LNG), an inefficient product that uses a further 25% to fuel the process of liquefaction and transportation: this extra amount means that the power produced from LNG emits more emissions than power from coal.

## **10. The last-minute opaque process is unacceptable**

The latest proposal has been published at the very last minute, following intense lobbying from fossil fuel interests and Member States, negotiations behind closed doors, and is now in the public domain only because of a leak. This is completely at odds with the long, considered process which until now brought expertise, assembled feedback, integrated stakeholders views, and proceeded through several iterations. It makes it obvious that this is a political compromise bowing to the gas industry lobby and at odds with climate science.

### **As a result, the leaked proposal could:**

- Label *all* planned gas cogeneration plants as green, and *favor* the development of new gas CHP plants;
- Create a fossil fuel lock-in for so-called "Just Transition" regions, despite the fact that the Just Transition Fund aim at helping them exiting their fossil fuel dependency;
- Create a major asset stranding risk;
- Undermine the decarbonization of EU electricity, by allowing for major new infrastructures that produce electricity well-above climate mitigation threshold and even current EU electricity carbon intensity.

## 2. Summary of the leaked proposal

The leaked proposal proposed 2 new activities in the Annex II of the Delegated Act on climate mitigation:

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

- First criterion (a): Gas-fired CHP plants can be classified as sustainable when they replace one of the following 3 types of coal-fired or oil-fired plants: CHP plants / heating plants / power plants
- First criterion (a): Phase-out of existing coal/oil facility and phase-in of new CHP gas installation by 2025
- Second criterion (b): Replacement leads to emissions reduction of 50% per kWh of energy
- Third criterion (c): The new facility is compatible with low-carbon gases
- Fourth criterion (d): Direct emissions under 270gCO<sub>2</sub>/kWh
- Fifth criterion (e): No technological and economical alternatives
- Fifth criterion (e): Retired facility located in 'just transition' regions.

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

Same criterion except that the replacement should lead to emissions reduction of 40% per kWh (not 50%).

## 3. Analysis: ten major flaws in the leaked proposal

### 3.1. The first criterion is automatically met, hence useless

The first criterion of the Commission's leaked proposal states that a gas cogeneration plant can only be tagged "green" if it replaces a high-emitting combined heat/cool and power generation facility that has at least the same capacity.

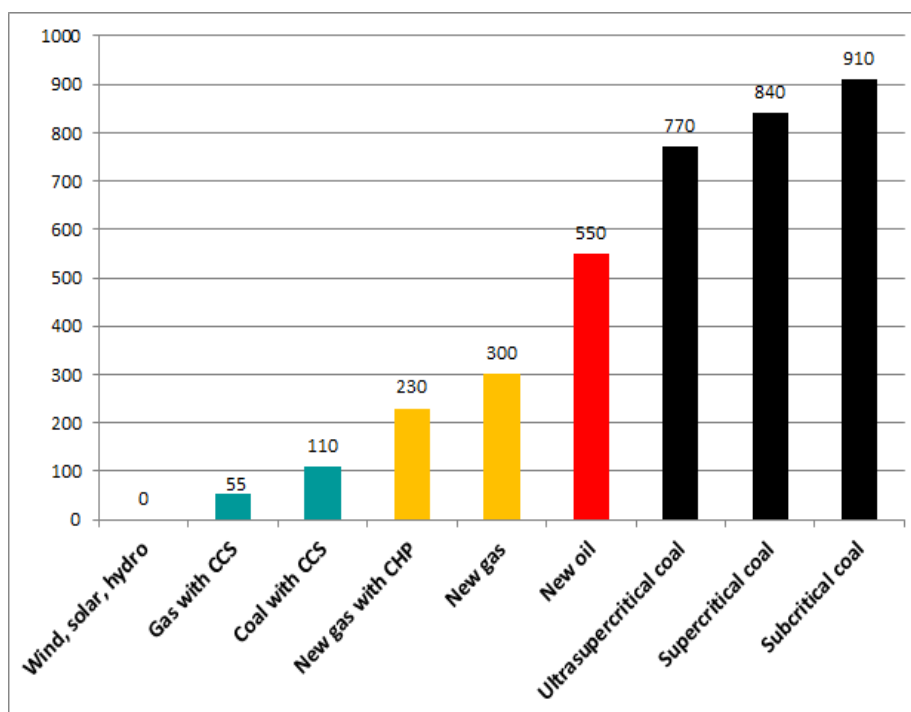
- *How much coal and oil power capacity could be closed between now and 2025?*  
Using the [Europe Beyond Coal database](#), we find that as of today **35 Gigawatts (GW) of coal-fired power plants are already scheduled to close between now and 2025** in the EU (out of the total 142 GW of operational coal plants in the EU today) and tens of additional GW need to close by 2025 in a 1.5°C pathway. This figure is only for coal power plants - it does not even include coal CHP plants, coal heating plants, oil power plants, oil CHP plants and oil heating plants, all of which are included in the leaked proposal, and which would further increase the number of GW due to close by the end of 2025.
- *In comparison, how much gas cogeneration is in the making in the EU?*  
According to [Global Energy Monitor](#), **8.3 GigaWatts (GW) of gas-fired cogeneration plants are under construction or planned in the EU : this is 4.3 times less** than the 35 GW of coal-fired power plants already scheduled to close between now and 2025.
- As a result, **up to 100% of gas plants with cogeneration built until 2025 could be eligible to be labelled as green, as there is far more coal power closing than gas CHP opening.**

- Even worse, there will be room for labelling much more. **The leaked proposal creates a direct incentive to build even more gas cogeneration plants than already planned, while failing to close any more coal plants.** This first criterion of the leaked proposal is not only ineffective - it is harming the environment.
- **Including power-only coal plants in the proposal is the most outrageous part of the proposal**, as there is a huge, obsolete and polluting coal plant fleet in Europe that is *already* closing at increasing speed because most EU coal plants are losing money: according to [Carbon Tracker Initiative analysis](#), in 2019 four in five EU coal power plants were unprofitable and utilities lost billions because of coal. Matt Gray, Head of Power & Utilities at Carbon Tracker and co-author of the report, said: “*EU coal generators are haemorrhaging cash because they cannot compete with ever-cheaper renewables and gas and this will only get worse. Policymakers and investors should prepare to phase out coal by 2030 at the latest.*”

### 3.2. The second criterion is useless given the existence of the fourth criteria

The second criterion in the Commission’s leaked proposal requires that the replacement leads to a reduction in emissions of at least 50% GHG per kWh of energy, while the fourth criterion requires the direct GHG emissions of the new facility to below than 270 gCO<sub>2</sub>e per kWh of energy.

- The second criterion is redundant: as the chart below shows, coal plants emit, at a minimum, 770gCO<sub>2</sub>/kWh, and oil emits a minimum of 550gCO<sub>2</sub>/kWh. Therefore, *any* gas plant operating below 270g CO<sub>2</sub>/kWh, which substitutes a coal or oil plant, will *automatically* emit 50% fewer GHG per kWh of energy. The second criterion is entirely redundant.
- Below is the **carbon intensity of new power sources (gCO<sub>2</sub>/kWh)**:



Sources:

IEA (2013), CO<sub>2</sub> emissions from fossil fuels; ECOFYS (2011), International comparison of fossil power efficiency and CO<sub>2</sub> intensity; IPCC Special Report (2008), Carbon dioxide capture and storage SPM

### 3.3. The third criterion is either useless or a blank cheque to power companies

The third criterion of the Commission's leaked proposal requires that the new facility demonstrates compatibility with co-firing of 'low carbon gaseous or liquid fuels'.

- There are two options to assess this criterion:
  - (1) Focusing only on the "low carbon gaseous or liquid fuels-readiness" equipment: it is possible to verify its installation. **But the Commission makes no requirement on the company to actually use it, nor a definition of what so-called low carbon gases and liquid fuels entail** - while both loopholes would create a clear carbon lock-in risk.
  - (2) The criterion assumes that such equipment, if installed, will be used by the company: is this a plausible assumption? The requirement for co-firing does not provide a set percentage requirement and could, in effect, together with the absent definition of low-carbon gases and liquid fuels, provide a loophole allowing *any* gas plant to be compatible with this criterion.
- Low-carbon gases and liquid fuels, including hydrogen, are currently scarce and expensive, hence either unavailable or barely available for power and heat generation. **"Low carbon gaseous or liquid fuels-readiness" for power plants is a myth as big as "CCS-readiness" was a few years ago, when it was used to justify new coal plants and turned into a complete climate failure: both 'CCS-readiness' and 'hydrogen-readiness' are being used to justify a major carbon lock in.**
- This criterion relies on the highly speculative, risky, and thus flawed assumption that at some point biogas and/or hydrogen will become extremely abundant and cheap, so that CHP plants can fully rely on it:
  - This is dismissed by recent analysis (for example [from the International Council on Clean Transportation](#)) showing that green hydrogen will be scarce and expensive, hence should be reserved for the highest value added (i.e. *not* used for the power sector but to decarbonise industry and transport, where emissions are harder to abate).
  - To date, the tiny amount of hydrogen produced is 95% 'grey' fossil-based hydrogen, hence irrelevant to decarbonize power generation.
  - Biofuels (like bioenergy more widely) are heavily criticized by the [latest JRC analysis](#) as harming climate, biodiversity or both, depending on the assumptions.
- **The 'CCS-readiness' argument** was developed at EU level a few years ago to, notably, allow the development of new coal plants. Not a single coal plant will ever be retrofitted with operational CCS, because its deployment has never been legally mandated and because it is completely uneconomical: according to [Carbon Tracker Initiative analysis](#), coal plants are already largely uncompetitive because of decreasing prices of renewables and increasing ETS carbon prices. This analysis does not even account for the high cost and decreased energy efficiency from operational CCS. The "CCS-readiness" approach did not boost CCS developments at all in the power sector, and simply enabled the construction of new high-carbon plants. It caused a major carbon lock-in which went against all EU climate mitigation objectives.
- Once the gas CHP plant has been built, it will be up to the power utility to decide what source of energy it uses, given that this criterion creates no obligation whatsoever for the company to use low carbon gaseous or liquid fuels. It will therefore also be impossible to verify. This is not consistent with the Taxonomy Regulation, which states that technical screening criteria should *"be set in a manner that facilitates the verification of their compliance"* (Art 19(1)k).

- The third criterion of the leaked proposal is therefore a blank cheque for companies that relies on flawed, unrealistic assumptions.

### 3.4. The fourth criterion is unscientific and unambitious

The fourth criterion of the Commission's leaked proposal requires that the direct GHG emissions of the new facility are lower than 270 gCO<sub>2</sub>e per kWh of output energy.

- The science-based criteria set a 'substantial contribution' threshold for gas power production of 100 g CO<sub>2</sub>/kWh. It also set a 270 g 'Do No Significant Harm' threshold. The 100g threshold for substantial contribution must be reinstated.
- For gas CHP plants, the Commission has replaced the 100 g threshold for the power sector with the threshold of 270gCO<sub>2</sub>/kWh. Effectively, gas is considered to be environmentally sustainable simply when it does not harm the environment, which is totally at odds with climate science and inconsistent with the Taxonomy Regulation. It is totally inconsistent and unscientific to require 270 g CO<sub>2</sub>/kWh for gas CHP plants and 100 g for any other type of power generation.
- [Ember analysis](#) of the EU power market finds that, in 2020, the average carbon intensity of EU electricity fell to 226 gCO<sub>2</sub>/kWh. Any new installation whose carbon intensity is above the EU average will move the EU away from its climate and energy targets, therefore harming any progress to net zero. This should be the level for the Do No Significant Harm criteria of the taxonomy for the power sector, not 270 g.
- The EU's average carbon intensity for the power sector will gradually decrease. It reached 226 g CO<sub>2</sub>/kWh in 2020 but will be lower in 2021, while the most efficient gas CHP plants can only reach 230 g CO<sub>2</sub>/kWh - barely on a par. **This means that over its entire lifespan any new gas CHP plant will always have a higher carbon intensity than the average carbon intensity of the EU power mix.**
- **This is blatantly inconsistent with the Art 19(1) of the Taxonomy Regulation that states that technical screening criteria must “be based on conclusive scientific evidence”** and take into account “*the risk of creating inconsistent incentives for investing sustainably*”.
- This is also inconsistent with the Art 19(1) of the Taxonomy Regulation that states that technical screening criteria must take into account “*the risk of creating inconsistent incentives for investing sustainably*”.
- **It also significantly jeopardizes the long-term relevance of the Taxonomy, as it does not represent the intended “gold standard”.** As the Platform on sustainable finance states in its Transition Finance report, “*Weaker criteria will not help companies and investors understand what level of environmental performance is needed to achieve the (climate) targets.*”
- Additionally, the new threshold will create confusion for stakeholders, who will no longer be able to differentiate between activities that contribute to climate mitigation and those that simply do not harm the environment. The Taxonomy was designed to address greenwashing in financial markets, where several different categorisation tools, with a varying degree of scientific basis, are in use. However, the recent, unscientific proposal could create additional uncertainty and confusion, impeding the shift of capital to sustainable economic activities as opposed to the clear direction that a science-based classification would provide.

### 3.5. The fifth criterion on alternatives is vague and unambitious

The fifth criterion of the Commission's leaked proposal requires that "there are no technological and economical low-carbon alternatives for the facility".

- The criteria completely lacks details which are critical to ensure its robustness: when conducting assessments of alternatives, established good practice requires that the assessment of power alternatives is **done in an independent way (e.g. as part of the project's Environmental Impact Assessment), is made public, and includes at least the following alternatives: (a) a mix of renewable energy sources; (b) demand side management; (c) energy efficiency; (d) a mix of the previous options.**
- For example, [a report from Forum Energii in Poland](#) finds that heat pumps have great potential to replace coal heating in Poland: at household level, the installation of a heat pump in conjunction with solar photovoltaics can lower annual cost of heating a home by 18%- 30% compared to other heat sources that can be used to replace a coal-fired boiler, thanks to the high efficiency of heat pumps.
- When assessing the economic feasibility of low-carbon alternatives it must also be assured that all the negative externalities inflicted on the environment and pathway to net-zero by 2050 by the new fossil facilities, as well as whether or not fossil fuel subsidies, are fully accounted for.
- Without the specific requirements mentioned above, the criterion completely lacks teeth and will probably be ineffective.

### 3.6. The fifth criterion on just transition regions is risky and not fit for gas incentives

The fifth criterion of the Commission's leaked proposal focuses the geographical scope on 'just transition regions'.

- **This is totally inconsistent with the fossil-free Just Transition Fund, which was created to accelerate the shift out of fossil fuels.** The Just Transition Fund is one of the few in the EU budget that does not support fossil fuel projects at all, in contrast with the leaked proposal.
- This is a wide scope: **all Member States are allocated money from the Just Transition Fund, so it can be expected that there will be 'just transition regions' in every Member State.** Just Transition Fund regions are NUTS 3 regions that have Territorial Just Transition Plans developed and approved by the Commission. In Poland for example, the Commission assessed that there would be three regions, but Poland itself claims there should be six.
- Worse, the final list of 'just transition regions' is not finalised yet; it could be the case that a Member State asks to add a *new* 'just transition region' for the purpose of tagging a new gas CHP plant as green in that specific region: there is a serious threat this loophole will be expanded even further.

### 3.7. The 2025 phase-in date for gas plants risks increasing the pace of construction of EU gas CHP plants

- The Commission's proposal only asks for new gas to be built before 2025, and does not set any closure date. This is not an adequate "sunset clause", but merely a call to accelerate gas build-up before 2025 in order to have the plant classified as sustainable. Future policy-makers will have a difficult choice to make: will they stick to the EU's climate commitments, and thus turn these gas plants into stranded assets, or will they keep the plant operational, dismantling any chance of attaining the EU's climate targets?
- The economic logic is also highly flawed: new gas will rapidly become uncompetitive compared to renewables, and the investments made while take years to be amortised, causing huge economic losses.
- **The EIB, when negotiating its Energy Lending Policy in 2019, weakened its initial proposal because of Member States' concerns by introducing a *one-year* delay to end support for fossil fuel projects. Unlike the EIB, the Commission proposes here to weaken its initial proposal by introducing a *half-a-decade* delay.** This is completely at odds with climate science requiring early action.
- Furthermore, the world's leading Multilateral Development Banks agreed on a [methodology](#) in 2011 that does not permit greenfield conventional fossil fuel power generation to be counted as climate finance. It would be a major blow to the EU's climate credibility if the EU taxonomy was weaker than this long-standing global consensus among multilateral banks.'

### 3.8. The leaked proposal creates a major carbon lock-in risk

- As seen above, the leaked proposal makes clear it focuses on *new* gas plants that replace coal or oil ones. It does not focus on existing gas plants. Classifying new gas plants as "green" would clearly create an incentive for additional gas-fired generation - the opposite of what is needed to decarbonize EU power production as soon as possible.
- **As noted, the leaked proposal does not include any criteria on the lifetime of such new gas plants, i.e. when they would have to be closed to avoid carbon lock-in: this is a missing sunset clause (e.g. 2030-2035).** This creates a major risk of exceeding the scarce carbon budget available to the EU energy sector until 2050. Indeed, as a gas plant has a typical lifespan of 25 years: it would remain in operation until 2045-2050 and be called 'green', even if its very operation is wholly inconsistent with the EU's climate targets. However the [Commission's climate analysis](#) finds that the power sector will need to reach zero emissions before 2050 as it is a sector that is relatively much easier to decarbonise than other ones.
- This is inconsistent with the Art 19(1) of the Taxonomy Regulation that states that technical screening criteria must *"take into account the potential market impact of the transition to a more sustainable economy, including the risk of certain assets becoming stranded as a result of such transition."*



### 3.9. Fossil gas is far more carbon-intensive than previously thought

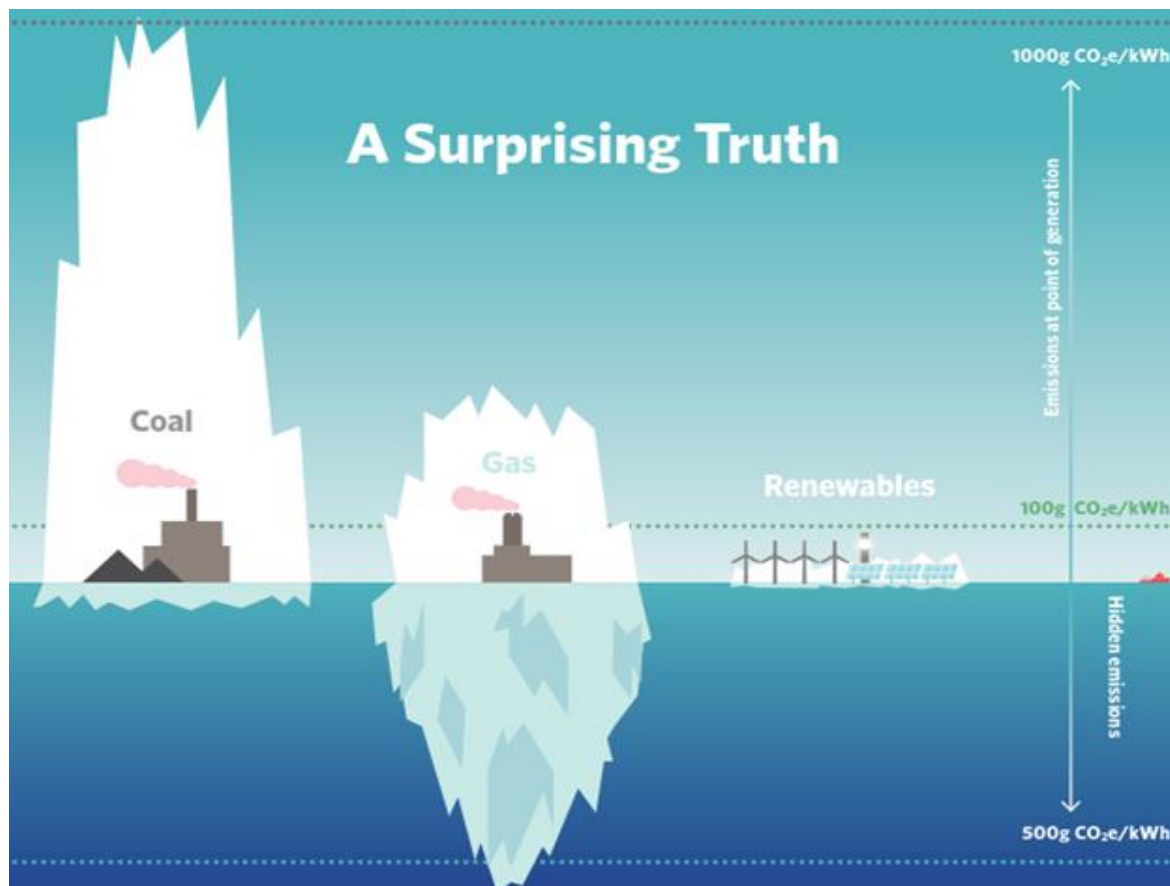
Greenhouse gas emissions from fossil gas are way higher than previously thought, because of hidden emissions due to fugitive methane emissions along the full life cycle, as presented in a [briefing coordinated by Climate Bond Initiative](#):

There are four key points:

- Methane matters because its impact on climate change is 84 times greater than CO<sub>2</sub> over a twenty-year timeframe.
- If gas leaks more than 3% of its methane content, it is worse for the climate than coal.
- Methane emissions attributable to oil and gas production are up to 40% higher than thought.
- The EU imports most of its gas, increasingly in the form of highly inefficient LNG, and always from sources with high methane footprints. 40% of EU gas imports come from Russia, the country with the highest contribution to global methane emissions from oil and gas; and 36% of EU gas imports come from the US as liquefied natural gas (LNG), a product that uses a further 25% to fuel the process of liquefaction and transportation: this extra amount means that the power produced from LNG emits more emissions than power from coal.

The Taxonomy Regulation's Article 19(1) requires a full lifecycle approach. As a result, emissions due to fugitive methane emissions along the full life cycle must be taken into account.

#### The Hidden Emissions from Gas-Fired Power



### **3.10. The last-minute opaque process is unacceptable**

- The Technical Expert Group on Sustainable Finance worked for two years to set up recommendations to the Commission on power generation.
- It gathered 250 experts, including from the industry.
- It organized 2 consultations to gather feedback, based on its interim report and final report.
- In addition, the Commission organized a public consultation in Fall 2020 to gather feedback on its draft Delegated Acts. 97% of the 47000 respondents supported a science-based taxonomy based on a Substantial Contribution criteria of 100 g CO<sub>2</sub>/kWh for the power sector.
- The latest proposal has been published at the very last minute, following intense lobbying from fossil fuel interests and Member States, negotiations behind closed doors, and is now in the public domain only because of a leak. This is completely at odds with the long, considered process which until now brought expertise, assembled feedback, integrated stakeholders views, and proceeded through several iterations. It makes it obvious that this is a dirty political compromise bowing to the gas industry lobby.
- This also creates a disastrous precedent for the Commission's Platform on sustainable finance: will the Commission trash the final recommendations of the Platform the same way it does it with the TEG ones? This undermines the trustful relationship that was in the making.