Feedback on the EU Taxonomy Delegated Acts

TYPE OF RESPONDENT: Business Association	**TRANSPARENCY REGISTER NUMBER: 201845053314-57**
COUNTRY: Norway	**SECTOR OF ACTIVITY: Other**
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About the Federation of Norwegian Industries

The Federation of Norwegian Industries represents industry branches such as oil and gas contractors, onshore petroleum activities, aluminium, biotechnology, cement, chemical industries, electro and energy equipment, furniture, glass and ceramics, machine and hardware industry, maritime industry, aquaculture and aquaculture suppliers, metals, mining, paints and coatings, graphic arts and communication, paper and pulp, pharmaceuticals, plastics, recycling, facility services, textiles and clothing, etc. We represent around 3.200 companies with 145.000 employees. We are active members of several European industry federations.

Section 2.1: Review of the Climate Delegated Act

Energy-related thresholds

The Platform proposes to lower the threshold for CO_2e/kWh from the current values of 100 g CO_2e/kWh to 45 g CO_2e/kWh in 2025 and further down to 25 g CO_2e/kWh in 2030. The Norwegian Water Resources and Energy Directorate has calculated that the average CO2-emissions per kWh physically delivered electricity in Norway was 15 g CO_2e/kWh in 2023 (see https://www.nve.no/energi/energisystem/kraftproduksjon/hvor-kommer-stroemmen-fra/). The physically delivered electricity mix in Norway is above 95 % renewable energy. Hydropower alone accounts for almost 85 %. The Federation of Norwegian Industries believes that the energy-related thresholds in the taxonomy should be ambitious, yet realistic. Hence, there seems to be a potential to lower the current thresholds. However, it must also be secured that industry projects which contribute to large reductions in CO_2 emissions do comply the climate mitigation act and do not fall out of the taxonomy because of too strict requirements. Lowering of the energy-related thresholds in the taxonomy should follow the development in the steady increase of the renewable energy share in the European Economic Area.

Section 2.2: Recommendations of new activities

Mining of Lithium, Nickel and Copper for Climate Change Mitigation

The proposal for technical screening criteria for the substantial contribution for climate change mitigation is based on offtake agreements. The Federation of Norwegian Industries believes that mining should not be regarded as an enabling activity. Basing taxonomy compliance on offtake agreements is not aligned with the dynamics of the raw materials market. We would argue that compliance with the taxonomy must be based on technical requirements not the nature of commercial agreements. Technical criteria for sustainability must be dependent on actual performance on the ground and not offtake agreements.

Furthermore, in the draft documents, it is proposed to include a Do No Significant Harm criteria (DNSH) for pollution prevention and control, that there shall be no marine, lake, riverine and other freshwater waterbodies tailings disposal. The other proposed DNSH criteria are set in accordance with requirements in the Industrial Emissions Directive, Extractive Waste Directive 2006/21 with the Best Available Techniques Reference Document for the Management of Waste from Extractive Industries (MWEI-BREF) and the Global Industry Standard on Tailings Management (GISTM). We believe that the DNSH criterion, requiring that there shall be no marine, lake, riverine and other freshwater waterbodies tailings disposal, is unjustified.

Sea disposal of extractive waste is applied in Norway in specific cases after a thorough Environmental Risk and Impact Evaluation. As mentioned in the MWEI-BREF, sea disposal of extractive waste may both provide certain benefits compared to land-based deposition methods and have disadvantages. Which form of disposal that has the least environmental impact, must be decided though an environmental impact assessment, as required by the Environmental Impact Assessment Directive, where different solutions are assessed and compared. The proposed procedure in the MWEI-BREF is to carry out comparisons between land disposal alternatives and sea disposal to evaluate the environmental acceptance and the technical feasibility of any relevant alternatives (see MWEI-BREF, chapter 2.1.1.5).

To minimise possible environmental impacts, the site location and the configuration of the seabed is of utmost importance. Sea disposal should secure that the extractive waste is effectively contained within a designated area and prevented from migrating. Other important characteristics include sea depth and sediment types. These characteristics to be taken into consideration are described in the MWEI-BREF.

We refer to a report from the Norwegian Environment Agency (2019), which compared solutions for tailings disposal. The conclusion in this report was that it is not possible to determine in general which landfill solution will entail the least environmental disadvantages. This must be determined on a case-by-case basis (see https://www.miljodirektoratet.no/globalassets/dokumenter/vann-hav-og-kyst/sjodeponering-gruver-notat240119.pdf). In recent years, the Norwegian Environment Agency has considered that use of sea disposal was the most environmentally friendly alternative for two new mining activities. However, a prerequisite for the sea disposal permits has been that extensive monitoring of the disposal site and its surroundings, both during operation as well as after closure, must be carried out.

Furthermore, in the draft documents, seabed mining is proposed to not meet the requirements of “Do no significant harm” in the EU Taxonomy. The Federation of Norwegian Industries believes that different mining activities must be evaluated towards the EU Taxonomy in terms of actual performance towards measurable material topics and transparent reporting, not based on water depth, which is an arbitrary factor regarding environmental impact. It is equally important to ensure mining is performed responsibly to a high environmental standard at land and sea. We strongly believe seabed mining can play an important role in securing the supply of critical raw minerals and achieving European and global climate goals. Ultimately is the environmental impact of any industry controlled by regulations (e.g. avoiding special habits) and technical solutions. Using low noise closed loop vertical transport systems, seabed minerals have the potential to deliver the critical metals we need, with lower environmental impact than on land. Hence, mining seabed minerals should not be excluded from the EU Taxonomy on a general basis.

The taxonomy must be developed by setting neutral technical criteria which promote high environmental standards.

Manufacturing of refined Copper substantially contributing to climate change mitigation

The draft criteria refer to emissions of CO_2e per ton copper. However, a manufacturing facility for copper (Cu) may also produce other metals, such as cobalt and nickel and/or use a mix of primary and secondary raw materials. The taxonomy should lay down clear criteria for how climate gas emissions per ton of Cu shall be calculated in facilities that manufacture/produce more metals in addition to copper.

Furthermore, we refer to the proposal for a requirement to develop a Decarbonisation Roadmap at activity level, for decreasing the scope 3 emissions by 50 % (criterion C). The Federation of Norwegian Industries believes that any taxonomy criteria for decarbonisation roadmaps should be aligned with and/or refer to already existing requirements for respectively transformation plans (Industrial Emission Directive art. 27d), financial and investment plans for reaching climate neutrality, etc. (Corporate Sustainability Reporting Directive art. 19a and art. 29 a) and transition plans for climate change mitigation (Corporate Sustainability Due Diligence Directive art. 22). In any event, Decarbonisation Roadmaps should be made at company or group level, and not at activity level, as is required in the mentioned European legislation.

Manufacturing of refined Nickel substantially contributing to climate change mitigation

The draft taxonomy criteria refer to emissions of CO_2e per ton Nickel Equivalents (Ni Eq). We believe that there is a need for better definition on Ni Eq. For instance, manufacturing facilities for nickel may also produce other metals, such as cobalt and copper. A production facility may also use different mixes of raw materials in the production and/or a mix of primary and secondary resources. For the sake of transparency, the taxonomy should lay down clear criteria for how emissions per ton of Ni Eq shall be calculated in facilities that produce more metals in addition to Nickel and/or from a mix of raw materials.

Regarding the criteria for refined nickel and alloys produced from secondary resources, we believe that the criteria should be based on input of tons of secondary resources, instead of, or in addition to, percent (ratio of secondary input material to total input materials). Larger existing facilities may recycle significant amounts of metals, where recycled metals go efficiently into the flows of primary metals. Manufacturing facilities may want to do organic capacity expansions where the additional feed is based on more than 80 % recycled material. However, these projects - using existing industrial infrastructure - will not reach the 80% criteria given in TSC3 (p. 252) since the criterion only considers the total input for the whole plant, and not the real effect of the expansion project. For such projects it is logical to express the taxonomy criteria on nickel and alloys produced from secondary resources as a minimum required tonnage.

Therefore, we suggest that the TSC 3 is expressed as either that the ratio of secondary input materials to total input materials is higher than 80%, based on mass, or that more than 3000 MT of the total nickel input to the manufacturing facility comes from secondary resources.

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