

A substantial contribution to climate objectives?

IEEP's response to the European Commission's public consultation 'Sustainable finance – EU classification system for green investments'

Context: In the framework of the EU's "Action Plan on Financing Sustainable Growth", the European Commission is tasked to deliver a classification system of economic activities which are considered as having a positive impact on the climate and the environment. In the legislative process, the European Commission launched a review of the first Delegated Act which aims at defining technical screening criteria for economic activities that contribute substantially to climate change mitigation and adaptation.

The Delegated Act under review is based on recommendations from a Technical Expert Group. The overarching Taxonomy Regulation underlines the objective of redirecting capital flows to projects delivering a low-carbon, resilient and resource-efficient economy.

16 December 2020 | IEEP welcomes the proposal for a Delegated Act on climate mitigation and adaptation for the initiative that it sets within EU law. Establishing clear, scientific and evidence-based criteria and thresholds on which to judge the sustainability of private (and public) finance and investments is a landmark step in orienting capital flows towards sustainability, and in shaping how the EU recovers from the economic impacts of COVID-19.

Investments to support sustainable activities have always been an important component of financing green activities. Yet clarity about what counts as sustainable and how much those activities should be required to deliver on the ground has been lacking. This ambiguity represents an obstacle for both investors wanting to make the right decisions, and those looking to monitor and ensure green finance is delivering for environment and society.

Having clarity on which investments are considered sustainable is particularly important now, as the EU and global economies look to rebuild better and recover green.

Summary of recommendations

These recommendations are given to improve the robustness of the Delegated Act.

In general, for all deviations from the TEG recommendations – evidence should be provided as to how the included revised criteria deliver substantial contribution to mitigation (or adaptation). This would help to provide clarity to investors and give confidence to those using the taxonomy that the criteria are based on rigorous analysis and scientific evidence.

The following specific recommendations are provided primarily for the agriculture, forestry and bioenergy sectors and only for mitigation within this context.

(Agriculture 1): To reinstate the option for land managers to demonstrate climate performance on the basis of measured GHG emission reductions and to include the proposed criterion from the TEG report on maintaining and increasing Carbon stocks on agricultural land. This would encourage the entrepreneurship of land managers to deliver climate mitigation on farmed land and exploit the significant potential for rebuilding carbon in soils and biomass on the same land.

(Agriculture 2): The content of the essential management practices for NACE A1.1, A1.2 and A1.4 should be reviewed and revised in the Delegated Act to be consistent with the recommendations provided by the TEG. Where there are deviations from these recommendations, evidence should be provided (and cited) as to how the practices listed deliver a substantial contribution to mitigation in the given sub-sector.

(Forestry 1): To remove the reference or inference that Article 29(6) of Directive (EU) 2018/2001 is sufficient to guarantee substantial contribution and to replace this with mandatory requirements for activities within forest operations that help to build and maintain carbon stocks in forests and through forest activities. Such requirements can be drawn from the Criterion 1 lists provided for forest activities set out in the [TEG report Annex from 2020](#).

(Bioenergy 1): To require that the criteria for substantial contribution to climate mitigation from bioenergy include the requirement that the biomass is sourced from an agriculture or forestry activity that is Taxonomy compliant for mitigation.

Detail

The Taxonomy Regulation identifies six environmental objectives that help to articulate how financial investments can be judged to be green, or not. They are:

- (a) climate change mitigation;
- (b) climate change adaptation;
- (c) the sustainable use and protection of water and marine resources;
- (d) the transition to a circular economy;
- (e) pollution prevention and control;
- (f) the protection and restoration of biodiversity and ecosystems.

In March 2020, the Technical Expert Group (TEG) on sustainable finance issued its recommendations to the European Commission on how 80+ different economic activities could substantially contribute to mitigation and adaptation, whilst doing no significant harm to the other four objectives. These recommendations form the basis on which the draft Delegated Act on climate mitigation and adaptation is based – the first act to arise out of the Taxonomy Regulation.

The TEG process took nearly two years to complete, involving hours of deliberations and meetings, inputs from experts across society, the Commission services, and review and refinement of the criteria and thresholds that could both deliver substantial contribution to climate mitigation, and, importantly, withstand scientific scrutiny. Whilst there are some inevitable compromises between ambition and evidence, the TEG recommendations stand alone. It is therefore welcome to see many of these being taken up in the Delegated Act that will see evidence-based policy and recommendations form the basis of EU law.

Politics and negotiations have, however, left the Delegated Act in some places falling short of the ambition set out by the TEG. When such effort was put into justifying any inclusion into the TEG recommendations, it is disappointing to see that the same justification is not provided as to why these recommendations were not adopted into the Act, or why they deviate from it. Having been involved in the TEG process, we understand the challenge in matching the ambition to deliver with the ability to implement in such a forward-looking policy initiative. This is particularly challenging when public policies do not command the same level of ambition.

The following recommendations are taken from the work of the TEG (in which IEEP was involved) and are based on our work as an evidence-based and independent think-tank. They are offered to improve the content, rigour and ambition of the Delegated Act – with a focus on mitigation in the context of the agriculture, forestry and bioenergy sectors.

Agriculture - crops

It is welcome to see the inclusion of 'essential management practices' form part of the technical screening criteria, and further that all practices need to be implemented as a package in order to deliver the impacts needed. The caveat made in the criteria to deploying all practices is "except those [practices] that are clearly not applicable to that holding". The Delegated Act could be improved by stating the evidence needs that are required to justify why those practices are not applicable and further how the mitigation benefits associated with such practices could be achieved with another substituted measure.

There are some significant deviations in the specific criteria relating to the essential management practices themselves which should be revised in the Delegated Act in line with the evidence presented in the TEG report. For example, one of the essential management practices listed for the growing of non-perennial crops (NACE A1.1) was to implement "*At least a five-crop rotation, including at least one legume, where a multi-species cover crop between cash crops counts for 1*". The text of the same management practice requirement in the Delegated Act refers to "...up to five crops.." which is significantly different, could result in only one or two crops included in the rotation, and presents a ceiling on the number of crops that could be grown in rotation in order to be considered Taxonomy compliant. The content of the essential management practices for NACE A1.1, A1.2 and A1.4 should be reviewed and revised in the Delegated Act to be consistent with the recommendations provided by the TEG. Where there are deviations from these recommendations, evidence should be provided (and cited) as to how the practices listed deliver substantial contribution to mitigation in the given sub-sector.

In our work on agriculture criteria, we acknowledged the challenge in setting an emission reduction threshold or carbon stock increase target for the agriculture sector. Yet we also recognised that this was an important element to driving ambition in the sector and affording land managers the freedom to manage their land in such a way that works with their normal farm practice but delivers the climate mitigation benefits that society needs. As a compromise and to provide flexibility in how land managers delivered mitigation impacts, we offered two approaches. One is to deliver a measured carbon impact relative to a baseline for a given farm, the other to rely on an essential set of management practices that are expected to deliver mitigation impact if applied correctly and consistently.

Whilst the Delegated Act includes a requirement to monitor emissions and removals using best available data, it sets no requirement to demonstrate a measured change in those emissions or removals. Our proposal, and that of the TEG, would allow those land managers who were able to measure their own

current performance to improve relative to where they are today – reducing greenhouse gas emissions, protecting carbon stocks and increasing carbon removals in soils and biomass. This would allow greater flexibility and address the high heterogeneity in the EU farming system – something that has been at the centre of discussions around results-based and results-oriented environmental land management in recent years. It would further help to build data availability and information on farm performance, and the skills and competence to measure such impacts – which is needed throughout the sector.

Agriculture – livestock

It is welcome to see that criteria for livestock are included as a ‘transitional activity’ (as referred to in Article 10(2) of Regulation (EU) 2020/852) – this effectively recognises that any investment in the livestock sector should not preclude the development of alternatives, has GHG emission levels that correspond to best performance in the sector, and does not lead to system lock-in.

As with crop production, the option to demonstrate performance on the basis of emission reductions or increases in carbon removals (such as through permanent pastures) is not present in the Delegated Act and should be reinstated.

Our recommendations

(A1): To reinstate the option for land managers to demonstrate climate performance on the basis of measured GHG emission reductions and to include the proposed criterion from the TEG report on maintaining and increasing Carbon stocks on agricultural land. This would encourage the entrepreneurship of land managers to deliver climate mitigation on farmed land and exploit the significant potential for rebuilding carbon in soils and biomass on the same land.

(A2): The content of the essential management practices for NACE A1.1, A1.2 and A1.4 should be reviewed and revised in the Delegated Act to be consistent with the recommendations provided by the TEG. Where there are deviations from these recommendations, evidence should be provided (and cited) as to how the practices listed deliver substantial contribution to mitigation in the given sub-sector.

Forestry

The forestry criteria set out in the Delegated Act see some rearticulation of the principles set out in the TEG recommendations. It is particularly welcome to see three distinct areas set out in the criteria that require a “climate benefit analysis”, seek to “ensure additionality” of the activities undertaken to deliver climate

mitigation benefits, and seek to “guarantee permanence” of any gains made towards mitigation objectives, notably the maintenance of stocks as they develop.

It is also good to see the inclusion of ‘Conservation Forestry’ within the Act, as this activity was not included in the initial list within the scope of the TEG activities, but it was recognised as an important area that should be able to benefit from sustainable finance, and for which the TEG recommended criteria.

The lack of inclusion of Sustainable Forest Management (SFM) requirements is an unusual deviation from the TEGs recommendations, particularly given that SFM is a current reporting requirement of European Countries through the Ministerial Conference on the Protection of Forests in Europe (MCPFE) process¹. Whilst SFM criteria and approach are not perfect, they include a range of requirements that can, if correctly implemented, deliver substantial contributions to climate mitigation. These include amongst others the “Identification and application forest management practices that increase existing carbon stocks, however allowing for application of other similar approaches, that recognise local specificities and conditions, while maintaining or improving soil quality, and biodiversity.” The Delegated Act as proposed does not include SFM or similar requirements in the ‘Forest Plan’, which whilst useful as a planning tool, does not appear to have any specific requirements focussed on reducing GHG emissions or increasing carbon stocks. These mandatory requirements for activities within forest operations should be reinstated within the substantial contribution criteria.

The forest criteria also make reference to the sustainability criteria set out in the Recast Renewable Energy Directive (RED II) (Directive (EU) 2018/2001), specifically articles 29(6) and 29(7). Whilst we understand the importance of coherence within EU policy, the objectives of RED II and the sustainability criteria therein are substantially different from the objective and scope of the Taxonomy Regulation as it pertains to the delivery of substantial contributions. The RED II sustainability criteria are there to ensure that in the production and supply of biomass for renewable energy, the GHG savings from such renewable energy are not undermined by an impact on carbon stocks from which the biomass is sourced. Additional criteria seek to avoid no significant harm to other environmental elements. As such the sustainability criteria in RED II are more akin to the Do No Significant Harm (DNSH) criteria requirements of the Taxonomy Regulation. The reference to Article 29(6) under the forest management plan sustainability requirements is insufficient to deliver substantial contribution to mitigation in the energy sector.

¹ https://foresteurope.org/wp-content/uploads/2016/10/MC_lisbon_resolutionL2_with_annexes.pdf#page=18

Our recommendation (F1): To remove the reference or inference that Article 29(6) of Directive (EU) 2018/2001 is sufficient to guarantee substantial contribution and replace this with mandatory requirements for activities within forest operations that help to build and maintain carbon stocks in forests and through forest activities. Such requirements can be drawn from the Criterion 1 lists provided for forest activities set out in the TEG report Annex from 2020.

Bioenergy

It is welcome to see that all the references to bioenergy within the Delegated Act are described as transitional activities – recognising the limited and time-bound role that bioenergy can and should play in the EU’s renewable energy mix.

The functioning of the Taxonomy Regulation requires that the technical screening criteria are set for a specific economic activity. In the context of bioenergy, the criteria should define (in a measurable way), how bioenergy can deliver a substantial contribution to climate mitigation as part of the energy sector. However, economic activities do not function in isolation, with supply chains linking one economic activity to another. Traceability is an important component in ensuring that support for one economic activity does not have consequential negative impacts on another in relation to delivery against Taxonomy objectives.

Do No Significant Harm (DNSH) criteria help to ensure that in pursuit of substantial contributions to one objective, no harm comes to the other five environmental objectives. However, they do not provide a safeguard for the same objective in other economic sectors within a supply chain. In the case of bioenergy, the use of biomass to create bioenergy requires that this biomass is supplied from the forest or agricultural sectors. To be in line with the principles of the Taxonomy, the sourcing of such biomass for power generation should not incentivise the use of biomass from agriculture or forestry in such a way that would lead to an increase in emissions or reduction in removals within the supplying sectors. Within the Delegated Act, the provisions of RED II are cited in the substantial contribution criteria to provide such a safeguard. However, it is questionable whether these provisions should be considered as delivering a substantial contribution to mitigation within the energy sector, or should instead be included as DNSH criteria to mitigation in the sourcing sector (agriculture or forestry). A stronger articulation of this clause, consistent with the logic of bioenergy as a transitional activity, would be to require that the biomass used in the bioenergy sector should arise from agriculture or forestry activities that are themselves Taxonomy compliant for mitigation – as specified by the relevant substantial contribution criteria in the same Act.

Our recommendation (B1): To require that the criteria for substantial contribution to climate mitigation from bioenergy include the requirement that the biomass is sourced from an agriculture or forestry activity that is Taxonomy compliant for mitigation.

More info

IEEP's response to the European Commission's public consultation drew from a broad evidence base, including: [Allen & Marechal 2017](#); [Nanni et al, 2020](#); [Heart et al, 2017](#); [Allen & Hiller, 2020](#); [Arcadis et al, 2020](#); [Stainforth et al, 2020](#);

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