

Joint Letter

Joint letter on EU Taxonomy Appendix C

EU Taxonomy Appendix C is hampering the uptake of the EU Taxonomy and the competitiveness of sustainably ambitious European industries – an urgent review is needed



The signatories of this letter represent a very significant part of the European economy and are committed to deliver the net-zero transformation and the green transition.

Our industries support the EU Taxonomy framework as a tool to bridge the huge investment gaps that currently exist. The EU Taxonomy Regulation (EU/2020/852), at the heart of the EU's sustainable finance agenda, can further incentivise financial flows towards economic sectors and activities in line with the climate change and environmental objectives under the premise of criteria that are fit for purpose and implementable.

However, we have identified a significant usability issue as the EU Taxonomy **Appendix C** ("Generic criteria for do no significant harm (DNSH) to pollution prevention and control regarding use and presence of chemicals", as well as additional provisions on chemicals in the Technical Screening Criteria) **is preventing companies that provide enabling technologies for the green transition from reporting alignment with the EU Taxonomy.**

By setting the ambition level of Appendix C significantly higher than the requirements of EU chemical legislation, manufacturers of products and technologies which are key to reducing the adverse impact of sectors with high environmental footprints are, in practice, excluded from complying with Appendix C and thereby prevented from becoming Taxonomy-aligned. This certainly cannot be the political intention of Article 16 of the Taxonomy Regulation, which acknowledges the distinctive role of enabling products and technologies in the sustainable finance framework.

If left unchanged, Appendix C will de-facto restrict manufacturers, which are otherwise politically championed in the EU, from accessing green finance, based on the EU Taxonomy. European manufacturers will therefore legally remain subject to the significant cost of reporting within the requirements of the EU Taxonomy, while gaining neither financial benefit nor a competitiveness advantage. Instead, European-based companies would be put at a disadvantage, since financial institutions are allowed to use estimates for DNSH compliance for companies outside Europe.

Below, we list the key usability challenges from Appendix C that the European Commission should urgently address when revising the EU Taxonomy Climate Delegated Act and the Environment Delegated Act, together with our recommendations:

- **Unclear scope:** clearly define the list of substances in scope and remove paragraph f) and f) bis from Appendix C.
 - Substituting hazardous substances and reporting under the CSRD and EU Taxonomy begins with identifying their presence in materials, products, or production processes, for which companies must have a clear list of substances with CAS/EC numbers. The only legal requirement to provide information in articles throughout the supply chain is regarding the REACH candidate list (SVHCs), whilst substitutions are not usually communicated (partly due to intellectual property issues) and are incentivised differently across EU legislations. In addition to this legal requirement, manufacturers do not receive information from their value chain related to the use of regulated chemicals.
 - The core principle of the CLP Regulation is the self-classification of substances or mixtures by manufacturers, importers or downstream users. This is a challenge as referred to in the Commission's draft notice of 29 November. The only legal requirement to provide safety data sheets applies to substances and mixtures but not to articles – these do not typically release hazardous chemicals during their normal use.

- **Acceptance of exemptions in EU law:** clarify that the use of substances covered by valid exemptions (as per RoHS or similar legislation) should be accepted as a means to demonstrate compliance with Appendix C of the EU Taxonomy. These exemptions are time-limited and granted only when there is no suitable alternative and the risk is acceptable. Consequently, the existence of such a derogation demonstrates the impossibility for companies not to use the substance in question.
- **Legal ambiguity and uncertainty in the introductory phrase and points d)/f):** tackle the legal vacuum around mixed legislation scopes (i.e. placing on the market vs use of regulated substances) and terms (e.g. “assessed and documented” “suitable alternative” and “used under controlled conditions”); authorisations granted under REACH or other sector-specific regulations (e.g. valid exemptions/derogations under RoHS, POPs and Mercury Regulation) should be sufficient for compliance.
- **Lack of transparency and technical expertise in the legal process:** enhance transparency in the regulatory process, as well as engaging and involving further stakeholders and technical experts. Furthermore, comments from previous consultations should be made publicly available and considered.

The signatories of this letter have compiled in the attached **Annex** a list of various products and product categories that reflect the impossibility for our members to comply in practice with Appendix C of the EU Taxonomy.

We thank you in advance for your consideration of these recommendations and remain available to provide further details and recommendations on how to tackle the identified usability challenges. We stand ready to engage in a constructive discussion.