

To the members of the European Parliament

ClientEarth's call to the members of the EP to vote against the Taxonomy Complementary Delegated Act on Climate¹

We welcome the objection expressed by a joint vote of the ENVI and ECON committees of the European Parliament to the Taxonomy Complementary Climate Delegated Act ("The delegated act"). This is an extremely positive move from the European Parliament, however, not yet final. We urge you now to confirm that position by objecting to the delegated act during the plenary vote in July. It is not only the credibility of the whole taxonomy framework that is at stake but also the leadership role of the EU at international level in addressing the climate crisis. The adoption of the delegated act would indeed make the EU lag behind other states, including Colombia, Bangladesh and South Africa which have decided not to consider gas as a sustainable option.

Qualifying certain fossil gas activities as sustainable would be at odds with the urgent need to reduce greenhouse gas emissions and address climate urgency. According to the International Energy Agency², for net zero emissions to be achieved at the global level, there must be deep cuts in the use of fossil fuels. The European Commission itself also confirms that to meet the target for a 1.5C scenario, the share of natural gas must decrease significantly.³

Taking into account the specificity of the procedure relating to the adoption of delegated acts and in light of the fact that the Commission did not consider it useful to engage into informal discussions and consultations with the European Parliament at an earlier stage, it is therefore now that the European Parliament should express its opinion on the delegated act.

The recent war in Ukraine has revealed with force the danger of relying on fossil gas imports from other countries and shown the need for the EU to deeply transform its energy system. Only diversifying the import of fossil fuels is not a long term solution and risks to maintain the EU energy dependence on other countries.

The inclusion of fossil gas and nuclear into the EU Taxonomy is not supported by a significant number of investors and banks who need and ask for reliable information based on international standards about the environmental impact of the activities they consider financing.

In addition, MEPs should express their objection to the delegated act for the following legal reasons:

- The Commission hasn't conducted a dedicated Impact Assessment of the delegated act which led to its adoption without sufficient understanding and consideration of all the relevant conditions imposed by the Taxonomy Regulation for an activity to be considered

¹ Commission Delegated Regulation amending Delegated Regulation (EU) 2021/2139 as regards economic activities in certain energy sectors and Delegated Regulation (EU) 2021/2178 as regards specific public disclosures for those economic activities

² "Net Zero by 2050: A Roadmap for the Global Energy Sector", IEA.

³ 'A Clean Planet for all A European strategic long-term vision for a prosperous, modern, competitive and climate neutral economy' (COM(2018) 773 final)

as sustainable, including consideration of the economic and environmental impacts of the delegated act.

- The Commission has not complied with the requirement to assess the consistency of a draft measure with the climate neutrality objective and the Union 2030 and 2040 climate targets as required by Art. 6(4) of the European Climate Law.
- Fossil gas based activities do not qualify as economic activities for which there is no technologically and economically feasible low-carbon alternative under Art. 10(2) of the Taxonomy Regulation. The alternatives to fossil gas based activities regulated in the delegated act exist. Moreover, fossil gas based activities hamper the development and deployment of low carbon alternatives, lead to a lock-in of carbon-intensive assets and do not comply with other relevant criteria of Art. 10(2) Taxonomy Regulation.
- The delegated act should be based on scientific knowledge and the technical screening criteria on conclusive scientific evidence provided therein – this is a key requirement for the taxonomy to have a meaningful impact and to remain a credible tool. This is not the case. There are also other criteria set out in Art. 19 of the Taxonomy Regulation that are not respected, including the requirement to take into account the life cycle related to the economic activity or the requirement to take into account the potential market impact of the transition to a more sustainable economy.
- In consequence, the delegated act also conflicts with other various legal norms and commitments, and in particular: the commitment to reduce greenhouse gas emissions ('GHGs') as necessary to meet the specific temperature limits under the Paris Agreement, the EU commitments under the European Climate Law to a 'climate-neutral Union' by 2050 and to reduce its net greenhouse gas emissions by at least 55 % compared to 1990 levels by 2030 as well as obligations under Articles 11 and 191 of the Treaty on the Functioning of the European Union (the 'TFEU') that require the EU to integrate environmental protection into its policies and activities and pursue a high degree of environmental protection and international cooperation to combat climate change.

By not complying with the above requirements the Commission has not respected the conditions pertaining to the delegation mandate provided under the Taxonomy Regulation.

The non-respect of these legal requirements sets a very concerning precedent that also risks creating legal uncertainty. The delegated act itself is expected to be challenged in the EU Court. Moreover, decisions based on the act may also be challenged at national level for lack of compliance with climate and environmental legislation.

We would be happy to meet and discuss any of these points. Please do not hesitate to contact us should you have any questions.

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