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Behandeld door

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Date January 21th 2022

Subject NL feedback on taxonomy draft Complementary Delegated Act

[Redacted]

Ons kenmerk
DGKE / 22005792

Uw kenmerk

Bijlage(n)

The Netherlands attaches great value to the development of the taxonomy, as in our view it is a vital instrument to support the greening of the financial sector and the broader economy. The Netherlands has always emphasized the importance of a science based and technology-neutral taxonomy, in line with state of the art developments in the market and coherence with current policies.

We have read the draft Complementary Delegated Act with interest. In this letter we provide specific technical feedback on a number of articles in this Act. We would like to urge the Commission to comprehensively review all responses, taking into account these criteria that are enshrined in the taxonomy regulation, before adoption of the complementary delegated act. Please find The Netherlands' feedback on the draft Complementary Delegated Act below.

4.26 Pre-commercial stages of advanced technologies with minimal waste from the fuel cycle

The Netherlands supported the separate scientific process on the role of nuclear energy in the taxonomy, and supports that the outcome of that process is reflected by the inclusion of this research activity on nuclear energy in the taxonomy.

With regard to the do no significant harm criterion on disposal facilities in this activity, we refer to our feedback in relation to activity 4.27 on this matter, below.

4.27 Construction and safe operation of new nuclear power plants, for the generation of electricity or heat, including for hydrogen production, using best-available technologies

The Netherlands supported the separate scientific process on the role of nuclear energy in the taxonomy, and supports that the outcome of that process is

reflected by the inclusion of nuclear energy in the taxonomy. We do however have a few significant issues with regard to the technical screening criteria for this activity in the draft complementary delegated act.

Disposal facility

First, screening criterion 1f (page 14) requires a plan with detailed steps to have in operation, by 2050, a disposal facility for high-level radioactive waste. The Netherlands supports including criteria for the safe treatment of nuclear waste, in line with the relevant Euratom legislation. But the proposed criterium disregards the fact that a disposal facility is only needed upon conclusion of the nuclear activities.

The Netherlands has a unique waste management system in place (detailed below), that ensures a high level of safety. The technical screening criteria for this activity should facilitate the safe waste management system The Netherlands has in place. This requirement should be amended to *"Member states should have in place a disposal facility for radioactive waste by 2050, or as a temporary measure until a specified date, a specially designed and built storage. This storage has to be specifically designed and built to provide a level of safety comparable to geological depository. More specifically, to withstand a the regular hazards e.g. flooding and earthquakes."*

Background information

- The Netherlands has one national nuclear waste management organization: COVRA. It has very robust facilities for the long-term storage of low, intermediate and high-level waste. These facilities are situated on their site in Vlissingen, the province of Zeeland.
- All operators of nuclear reactors in The Netherlands are obliged to store their nuclear waste at COVRA. Operators pay a fee to COVRA, and COVRA becomes owner of the waste. During their lifespan, operators transfer waste regularly to COVRA. Operators don't collect waste on their site.
- The radioactive waste at COVRA is stored and safely managed in specially designed buildings until 2130. These buildings provide a level of safety comparable to a geological disposal. The Dutch geological disposal is foreseen to be in operation in 2130. The waste at the site of COVRA will then be transferred to the geological disposal facility. This National Program complies with directive EU 2011/70.
- This storage at COVRA provides a high level of safety, which eliminates the necessity of a disposal facility to be built earlier than 2130.
- Apart from the absence of the necessity for The Netherlands to have in operation a geological storage facility in 2050 from a safety point of view, it will be technically and financially unfeasible to meet the criterion of an operational geological storage, due to the short time period to design and build such a site.

Accident tolerant fuels

Regarding 'do no significant harm'-criterion 2, setting a requirement for the use of accident-tolerant fuel for nuclear power plants, The Netherlands is of the opinion that it is better not to include this in the 'do no significant harm'-criteria, until it is

scientifically absolutely clear that these type of fuels are actually safer in general, and specifically in the type of nuclear power plants that are in use in Europe. This is currently not the case yet. We therefore propose striking this criterion at this stage.

Other do no significant harm criteria

In addition The Netherlands has feedback on the DNSH-criteria for this activity.

Feedback regarding the sustainable use of water resources:

The Netherlands is reiterating that the activity should be in line with recitals 23 and 26, and articles 12, 14, 15 and 17 of the Regulation, and the Union legislation to which they refer. We very much support the idea of keeping (ground) water safe from contamination and heat, also in the context of environmental degradation. However, the risks resulting from increased water temperature on the ecological function (ecosystem functioning, loss of species and vulnerability to invasive species) are not addressed explicitly enough. This should be addressed by adding the following: "Environmental degradation risks related to preserving water quality and avoiding water stress, such as the ecological function of the affected water body, are identified and addressed, in accordance with a water use and protection management plan, developed in consultation with relevant stakeholders." We furthermore invite the Commission to address the topic of vaporisation as part of the activity and the availability of fresh water in river and lake systems during times of draught, again also in light of environmental and ecosystem degradation risks. We support the concept of a "water use and protection management plan" to be established with all stakeholders as proposed in additional criteria 3 to the DNSH principle, but also urge that more clarity is brought into this text where it states "avoiding water stress". This in our view includes the water available (quantity) for the nuclear power plant and to all other (downstream) water uses depending on the source of water. The minimal use of water for cooling and techniques for safe discharge should be brought in to the best-in-class technology criteria.

Mining and milling

The Netherlands feels an additional (life-cycle) analysis addressing why the impact of mining and milling for uranium was not addressed in the Delegated Act should be provided by the Commission. This issue was referred to by the SCHEER, but not addressed in the draft delegated act.

4.28 Electricity generation from nuclear energy in existing installations

We refer to the feedback provided under 4.27.

4.29 Electricity generation from fossil gaseous fuels

Primarily, The Netherlands is opposed to including any exception to the 100 gram CO₂e/kWh threshold in the green taxonomy. This threshold is supported by scientific evidence: both the recent IPCC-report on 1,5 degrees, and the IEA have

made clear that new fossil fuel investments are incompatible with the 1.5 degrees objective, which is enshrined in the taxonomy regulation (art. 10-2).

Based on the available science, the Platform proposed this technology-neutral threshold of 100 gram CO₂e/kWh. The Commission has not provided scientific evidence to support deviating from this threshold, which was already included in the first delegated act, both explicitly and as a benchmark for many other thresholds (e.g. with regard to manufacturing). Including exceptions to that threshold, as proposed by the Commission in activities 4.29, 4.30 and 4.31, does in our view not meet the requirement that the technical screening criteria *'be based on conclusive scientific evidence and the precautionary principle enshrined in Article 191 TFEU'*, as per article 19-1f of the taxonomy regulation.

Based on scientific evidence, including fossil fuels as sustainable under the taxonomy regulation – even if this is for a limited period of time – would potentially undermine the credibility of the taxonomy as a tool to prevent greenwashing.

Secondarily, The Netherlands is in favour of addressing the role of coal/oil-to-natural gas switching only as amber or 'intermediate performance' in a general taxonomy. The Platform has delivered a draft report on the general taxonomy last July, and is expected to release a final report in Q1 2022. The Commissions' proposed Substantial Contribution threshold for electricity generation from fossil gaseous fuels is the same 270 gr CO₂e/kWh as the DNSH-threshold proposed by the Platform and supported by science. This performance level, between 100gr and 270gr, should only be used as an 'amber' or 'intermediate performance' category in a general taxonomy. The Netherlands would like to note that such an extension of the taxonomy would require a level 1 legislative act.

Thirdly, in the event that fossil gaseous fuels are included in the taxonomy despite the above arguments, The Netherlands strongly urges the Commission to further limit the scope of inclusion, with stricter and additional technical screening criteria, in order to decrease the risk of lock-in in unsustainable fossil fuels. We propose various elements, to be included jointly. All of these conditions together would in the view of the Netherlands be required to meet technical screening criteria for this activity.

1. The Netherlands proposes adjusting the deadline for the exception for gas-powered plants ("for the construction permit is granted by") to 2025.
2. Under technical screening criterion i), we propose amending the threshold for direct GHG emissions of the activity to 230gr CO₂e/kWh, which correlates with the best available technology in this sector. There should be no reference to average annual emissions, and no separate threshold of 550 kgCO₂/kW. This addresses security of supply, which is not the taxonomy's objective. In addition, as average annual emissions can also be lowered by reducing operational hours, this criterion would allow for high emission facilities to be eligible as sustainable under the taxonomy, which would not help the taxonomy's objective of combatting greenwashing.

3. Under technical screening criterion iii), we propose including a requirement that the facility to be replaced by the gas power plant, has been in full operation in the year prior to the replacement. This is needed to prevent that facilities that have already been retired for either regulatory or financial reasons, would be used to greenwash new fossil power facilities.
4. The Netherlands proposes including a high burden of proof to demonstrate that electricity in this location cannot be generated from renewable energy sources. We request the Commission to detail how and when this burden of proof can be met, both technically and economically.
5. With regard to technical screening criterion v., The Netherlands proposes that the production capacity of the (single) facility does not exceed the capacity of the replaced facility. In addition, there should be an additional requirement that the new facility has no more capacity than the actual power output over the last years of the facility that is being replaced.
6. Technical screening criterion vi. should be amended to read: "*the replacement leads to an immediate reduction in emissions of at least 55% GHG per kWh of output energy from the first year of operation of the facility*". In addition, a policy commitment is insufficient as underlying evidence for fuel switching. There needs to be assurance that this fuel switch actually takes place by the deadlines set in the technical screening criteria.
7. Technical screening criterion vii., which states that the activity takes place on the territory of a Member State that has committed to phase-out the use of energy generation from coal, should include the phrase "by at least 2035".
8. We propose that the exception to only be applicable for Member States with a large share of fossil fuels in their electricity mix at the time of approval for the project.
9. The requirements to avoid methane leakage under technical screening criterion 2 should both be met, so that it would not suffice to just meet one. In addition, this should be verified by a certified and independent third party, and included in the review by the Commission.
10. The Netherlands requests the Commission to address the upstream and life-cycle effects of methane leakage (based on the latest available science) in the technical screening criteria, and include these emissions as counting towards the applicable threshold for this activity.

Additionally and importantly, for this activity it should be made clear that only CAPEX investments can count as having a substantial contribution for climate mitigation, and only for improvements in performance. OPEX should not be eligible as sustainable investment under the taxonomy. Where the CAPEX investment might actually have a short-term and potentially substantial contribution in reducing harmful emissions, incentivising the continued operation of fossil fuel power plants creates incentives that lock-in these unsustainable technologies. Therefore, operational expenditures should not be eligible under this exception.

4.30 High-efficiency co- generation of heat/cool and power from fossil gaseous fuels

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We refer to the comments made in response to activity 4.29, which apply for this activity as well.

4.31 Production of heat/cool from fossil gaseous fuels in an efficient district heating and cooling system

We refer to the comments made in response to activity 4.29, which apply for this activity as well.

General remarks on do no significant harm

Cumulative and cross-border effects are not explicitly mentioned in the DNSH-criteria for all economic activities in this draft delegated act. The Netherlands invites the Commission to explicitly account for these effects in the DNSH-criteria for pollution prevention and control.

Reporting

NL is in favor of the proposed separate reporting obligation with regard to the activities covered in this (draft) complementary delegated act.

We look forward to continuing our joint efforts for a science-based and technology-neutral taxonomy, and request for a swift adoption of the definitive complementary delegated act by the Commission. The Netherlands will subsequently decide on our position with regard to this definitive complementary delegated act.

Best regards,

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