Consultation response

EUROFER feedback on the draft EU taxonomy article 8 delegated act

European steel industry, represented by EUROFER, is progressively transitioning towards greener solutions and plays a crucial role in moving towards a carbon neutral economy

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Introduction

The European steel industry, represented by EUROFER, is progressively transitioning towards 'greener' solutions and plays a crucial role in moving towards a carbon neutral economy. The sector is considered a transitional activity for the objective of Taxonomy climate change mitigation. Transitional activities are those economic activities for which there is currently no technologically and economically feasible low carbon alternative, but that are taking actions for transitioning towards a climate neutral economy.

In order to reach the EU's ambitious reduction target for 2030 and climate neutrality in 2050, novel technologies need to be demonstrated and scaled-up, which will require large and significant CAPEX investments, as well as increased OPEX for production in Europe. Given the magnitude of such investments, the EU taxonomy system must be developed to meet the scientifically based targets under 2030 and 2050, while at the same time allowing financing for activities contributing and transitioning to the EU climate and environmental goals, such as steel manufacturing.

Furthermore, taxonomy, its delegated acts and the relating reporting obligations should take into account the complexity of the steel sector: as a matter of fact, this is the only industrial sector for which the Delegated Act on climate mitigation and adaptation includes several technical screening criteria to comply with, covering different sub-activities and phases of the steel making process. This implies that the steel "activity" will need to be assessed against each and one of these criteria. It is therefore crucial that the reporting obligations set in accordance with Art. 8 of the Taxonomy Regulation are clear, legally certain, and that additional economic and administrative burdens for undertakings are prevented or limited.

With this in mind and in the light of the ongoing work of the European Commission on the Art. 8 Delegated Act, EUROFER wishes to submit its comments and suggestions on the proposed provisions, with the hope that these comments will contribute to current discussions.

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Reporting requirements

EUROFER shares the intent of the Commission and of the Taxonomy framework to steer capital flows and investments towards more sustainable activities and processes, to avoid green washing, and enhance transparency, as part of the EU Strategy on Sustainable Finance.

However, the current draft delegated act seems to go beyond what is foreseen by Art. 8 of the Taxonomy Regulation as it requires very detailed and granular information to be provided (e.g. Annex II includes a very detailed template for KPIs), with the risk of adding considerable reporting complexity for steel companies and of potentially disclosing sensitive data.

The whole taxonomy approach is new and will therefore imply efforts and costs to comply with the new requirements, including for reporting obligations. More flexibility is needed on how to report on the proportion of turnover, Capex and Opex related to sustainable activities, so as to ensure alignment with other reporting obligations. Indeed, most steel companies are already performing their reporting (financial and non-financial statements/information; environmental and sustainability data etc.), in line with existing EU and internationally recognized rules and standards; furthermore, they will also need to comply with new EU upcoming legislation such as the proposed Directive on Corporate Sustainability Reporting (CSRD).

Taxonomy reporting obligations should therefore be coherent and consistent with the other set of rules, to avoid additional burdens and duplication; only necessary information should be provided, leaving companies to decide whether to provide further details. This is also a question of trust and transparency that companies see as an essential part of contributing to the ambitious targets for 2030 and 2050.

The complexity of the steel sector also lies in the multiple eligible activities/sub-activities that will need to be assessed against the technical screening criteria, and which can be embedded within multiple or different reporting entities. In this respect the draft Delegated Act presents several provisions that are not clear and might generate legal uncertainty. A key aspect is *who* is the reporting entity: Annex I part 2 refers to both the Group and the “relevant undertaking”, but it is unclear when the Group disclosure is more pertinent than the entity disclosure (or vice versa). This is particularly true for large multinational companies that may have several legal entities corresponding to production units/activities that will be assessed against the taxonomy screening criteria. For instance, Capex and Opex (covering assets and processes) may refer to a legal entity/production unit, while turnover (referring to products and services) is often the result of an interlink between the different production units.

We recommend that the Commission clarifies this aspect in the delegated act or, as an alternative, leaves flexibility to non-financial undertakings to decide at which level to report on the new obligations/KPIs.

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Timeline of application of the Delegated Act

EUROFER recognizes the effort of the EU Commission to include a transitional period for the reporting obligations. However, we believe that this is not sufficient to allow companies to be fully prepared.

Firstly, the new taxonomy disclosure obligations will require non-financial undertakings, including steel companies, to revise and update their current reporting systems, as these obligations will be based on new processes, specific structures and KPIs. This will most probably imply the need for undertakings to develop new internal reporting methodologies, to update their IT system and train their employees.

In addition, the current lack of clarity within the draft delegated act, as well as the delay in the adoption of the technical screening criteria (both the climate delegated act and the other expected environmental criteria) do not allow companies to have a complete and clear picture of the new overall framework and obligations.

For the aforementioned reasons, EUROFER recommends to postpone the application of the delegated act by one year (starting in January 2023), while keeping a phase-in implementation of the provisions. On the one hand this would allow to have the overall taxonomy framework in place, on the other hand it would provide adequate timing for steel companies to correctly understand the disclosure requirements, as well as to assess the eligibility of their economic activities.

Finally, the draft delegated act requires to disclose information covering the previous five years' reporting periods. This request goes well beyond what is foreseen by Art. 8 of the Taxonomy regulation and is much longer than the 1-2 years normally required for financial statements, thus creating misalignments with other aspects of a company's reporting. In addition, this timing could lead to inconsistencies and add even more complexity in the reporting, considering that the whole taxonomy framework and its technical screening criteria will be periodically updated. Finally, a fragmentation of reporting obligations would also add complexity to enforce and control compliance. ***For these reasons EUROFER recommends deleting this paragraph or to limit the reporting to the current and the previous reporting year.***

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Definition and disclosure of metrics for transitioning sectors - the investment/Capex plans

EUROFER appreciates that the European Commission has considered the role of an investment plan/roadmap, allowing a company to align with the taxonomy criteria and with the green deal objectives. This is a key aspect for the steel sector and a proposal that EUROFER has already made during previous discussions on taxonomy and sustainable finance.

In this respect, we welcome that the delegated act considers such investment plans when reporting on Capex and Opex of the eligible economic activities.

However, EUROFER believes that also with reference to such a plan, the delegated act should ensure more flexibility, concerning the following aspects:

- The text proposes a time frame of 5-7 years: this is a very strict provision that does not consider the heterogeneity of the different industrial sectors, which may have different timelines for their R&D and technological developments. Investments in the steel industry (including in innovative low carbon technologies) may cover a period of even 15-20 years, although such time frames may vary depending on projects and framework conditions. EUROFER therefore proposes to revise the delegated act by either not to limit the timeline of an investment plan or, in alternative, extend it to an at least 10-year period.
- The information to be provided on such an investment plan is very detailed. The obligation to publish a Capex plan could involve sensitive information that could allow competitors to analyze an EU company's strategy, thus affecting the competitiveness of the European steel companies (who compete on a very globalized market and with companies located in countries who do not have the same obligations).
- The proposed delegated act does not give any kind of guidance to financial players regarding assessment and evaluation of such investment plans in respect to taxonomy and how to accept such plans as eligible. EUROFER recommends to include this guidance either in this or in a separate delegated act or to provide a specific guidance document.

EUROFER hopes that the Commission will consider these comments in the final version of the delegated act.

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