

Feedback on the EU Taxonomy Delegated Acts

TYPE OF RESPONDENT: Business Association	TRANSPARENCY REGISTER NUMBER: 92221016212-42
COUNTRY: Belgium	SECTOR OF ACTIVITY: Construction and real estate
ORGANISATION: FIEC – European Construction Industry Federation	ORGANISATION SIZE: Large (> 250 employees)
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The Delegated Acts presented in this call for feedback include several activities spanning over various economic sectors substantially contributing to all six environmental objectives of the Taxonomy Regulation, however only some of these activities may be of relevance to you. To facilitate your feedback process, find an overview of included activities per sector and environmental objective on the [EU Taxonomy website](#).

Stakeholders are asked to limit their feedback only to the content of the drafts Delegated Acts subject to this call for feedback. Any other comments, including suggestions to add new activities will not be considered. A specific mechanism to channel these requests will be made available on the Commission website in the future.

When replying to this call for feedback, please clearly signal which activities in the draft Delegated Regulation(s) your comments relate to. For example, if referring to activity 3.19 regarding the manufacture of rail constituents in the draft amending Delegated Regulation regarding the objective of climate change mitigation (CCM), please mention the activity reference number (3.19) and the objective (CCM) clearly in your submission. The objectives should be abbreviated as follows:

- Climate Change Mitigation: CCM
- Climate Change Adaptation: CCA
- Water: WTR
- Circular Economy: CE
- Pollution Prevention and Control: PPC
- Biodiversity and ecosystems: BIO

If referring to the amendments to Delegated Regulation (EU) 2021/2178 regarding disclosures under the Taxonomy (Art. 8), please also clearly highlight the relevant Section or Annex your reply refers to.

In line with the taxonomy's guiding principle of establishing robust, science-based criteria, the call for feedback puts emphasis on providing a **clear scientific and technical explanation and rationale** as well as **supporting evidence** (including links to published journals and articles) for any comments made with respect to the proposed technical screening criteria.

For more information on the EU Taxonomy and activities already covered in the Taxonomy Climate Delegated Act, please visit: https://finance.ec.europa.eu/sustainable-finance/tools-and-standards/eu-taxonomy-sustainable-activities_en.

Please copy/paste the below comment table for each activity that you would like to provide comments to. In addition, please name the file using your organisation's or first and last name: e.g. Company X or John_Smith.

FIEC comments

COMMENTS 1 – CONSTRUCTION OF NEW BUILDINGS

Delegated Act: Taxonomy Environmental Delegated Act

Annex: Annex II to Environmental Delegated Act (CE)

ACTIVITY: 3.1. Construction of new buildings

GENERAL COMMENT (incl. comments on corrections of technical mistakes in Climate Delegated Act and Article 8 Delegated Act):

FIEC welcomes the opportunity to give feedback to the Commission on the long-awaited draft Taxonomy Environmental Delegated Act.

FIEC firmly believes that the EU taxonomy is a unique sustainable finance framework that must support the construction sector and its companies in their transition to more sustainable and climate-friendly business models. The EU taxonomy is a huge opportunity that cannot be missed.

We have noted that many thresholds proposed for the various construction-related activities would, according to our first assessment, be achievable from a technical point of view. As such, the draft Environmental Delegated Act is **more balanced** than the March 2022 recommendations of the Platform on Sustainable Finance's Technical Working Group (TWG). **However, it is questionable whether all thresholds and maximum/minimum values would be achievable in the short/medium term in every Member State (local availability of secondary raw materials, incompatibility with national building codes, etc.). Currently, there is already insufficient supply of some secondary materials, which some companies must ship in from outside of Europe. We recognise that this Delegated Act should help increase this supply; however, the increased wider demand for secondary materials will make this difficult to achieve in the timescales required.**

Some criteria still seem to have been chosen arbitrarily without proper justification and lack transparency (e.g. maximum values for primary raw material used for certain material categories and construction products) while some activities do not necessarily correspond to what could/should be covered by the description of the activity (e.g. the maintenance of bridges and tunnels, which is not included under "Maintenance of roads and motorways"). Especially for the activity "**Maintenance of roads and motorways**", it will be very difficult for road construction companies to comply with the criteria as many responsibilities lie with designers.

Taxonomy technical screening and Do-No-Significant-Harm criteria should be **easily understandable for businesses** and be achievable across the EU, in every Member State. Some of the technical criteria

would still raise practical problems and make reporting under the EU taxonomy difficult. We also consider it of fundamental importance that **regular checks** of all taxonomy-related documents and management reports are carried out to prevent any attempt of “greenwashing” or “circumvention” of the technical criteria.

In general, it is problematic that important legislative initiatives for the construction and building sector (Construction Products Regulation, Energy Performance of Buildings Directive...) are currently still being negotiated and not yet legally binding, and that the proposed technical criteria “anticipate” these.

Another remark of a “general nature” concerns Level(s). It is necessary that national tools can still be used to assess the (environmental) sustainability of a project. In FIEC’s experience, EU tools such as Level(s) are not sufficiently known and used by construction companies (especially by SMEs) yet. **Level(s) suffers from several limitations.** Its use is not yet mandatory at national and regional level and it is not yet available in all EU languages (e.g. in Dutch/Flemish). It is essential that Level(s) can be “tested” by construction companies before it becomes one of the most important tools that allows undertakings to demonstrate compliance with the technical criteria of the EU taxonomy and the Environmental Delegated Act.

COMMENT ON THE ACTIVITY DESCRIPTION:

The wording suggests that this economic activity mainly applies to “developers” and not to construction companies/contractors (“The development of construction projects...”). Is this the intention? Construction SMEs, which make up a large part of the construction sector, do not build “complete” buildings and could not be covered by this activity.

COMMENT ON THE ACTIVITY SUBSTANTIAL CONTRIBUTION CRITERIA:

Comment on criterion 1 – Treatment of generated construction and demolition waste

See general comments above regarding Level(s). We also doubt whether the 90 % threshold can be met at present in all EU countries.

Comment on criterion 2 – Life-cycle Global Warming Potential (GWP)

The wording of this requirement is coherent with the text of the (future) recast Energy Performance of Buildings Directive (EPBD). Although we have advocated for a harmonised EU methodology for the calculation of the Global Warming Potential of buildings and are of the opinion that a common EU approach to perform this calculation is needed, we believe – in the absence of a common EU methodology, the “WLC Roadmap” - that it is necessary to use existing national tools for performing life cycle calculations. It will certainly take companies time to fully understand and embrace the upcoming “WLC Roadmap”, which is currently under development. National tools are often better known by contractors. Specifically for subcontractors, we would encourage the use of “cradle-to-gate” methodologies, since capturing use and end of life phases are almost impossible for specialist subcontractors that are not involved in the overall project. **This would better reflect the fragmented nature of the construction supply network.**

We generally expect that the comparability across Europe – or even within a country - of data related to the life cycle GWP of buildings will remain a serious problem in the short to medium term. We also

still think that the calculation of the life cycle GWP of buildings could come with considerable additional costs that construction companies may be forced to pass on to clients, especially in countries where there is no national regulation on life-cycle calculations yet (such as the RE2020 in France).

Comment on criterion 3 – Construction designs and techniques

See comment above on Level(s). For many smaller construction projects, meeting this criterion will only be possible with increased efforts and it is likely to drive overall construction costs up.

Comment on criterion 4 – Maximum total amounts of primary raw materials used

Most of the maximum total amounts proposed seem – at first glance - to be technically achievable in most of the EU Member States but will require huge efforts from industry. In general, more time is urgently needed to assess whether all proposed total amounts are achievable across the EU, as meeting the maximum amounts is **largely dependent on the local/regional availability and occurrence of secondary raw materials, especially for points a and c. Currently, there is already insufficient supply of some secondary materials which some of our members' companies must ship in from outside of Europe.**

It is also questionable whether applying the same targets/requirements to all Member States will lead to real environmental benefits (e.g. reducing CO2 emissions effectively, as some secondary materials also have a very high carbon footprint.) We reiterate our position that setting too ambitious requirements risks leading to a situation where technical screening criteria could be “circumvented” (e.g. by avoiding using certain materials/products) to be Taxonomy-eligible and Taxonomy-aligned. Too ambitious requirements could also discourage the construction of new buildings, which is urgently needed from a “societal” perspective (e.g. affordable housing in urban areas).

To support companies in the transition towards a circular economy, it would be useful to foresee the introduction of exemption possibilities or special derogations concerning the minimum amounts of secondary raw materials that should be used, especially in cases/countries/regions where

- The local availability of secondary materials is limited;
- the use of secondary materials leads to higher CO2 emissions than the use of primary raw materials, also through a “secondary material tourism effect” in cases where their local availability is limited;
- where it is not allowed under national rules to exceed a certain amount of secondary raw materials (for example, a maximum total amount of primary raw material used of 70% for concrete cannot be supported “unconditionally” due to reasons of technical feasibility and also due to legal/regulatory reasons, as some Member States have regulations in place that do not legally allow to exceed a 30% (or even 20%) target for secondary raw materials to be used in certain types of concrete).

Comment on criterion 5: Electronic tools to describe the characteristics of the building as built

We consider it ambitious that every operator, even smaller companies, uses electronic tools to describe the characteristics of the building as built, “for example using EN ISO 22057:2022 to provide Environmental Product Declarations (EPDs)”, and to store the information in a digital format and make it available to the client.

The number of products for which relevant information is available electronically is small (Environmental Product Declarations in particular). It will take many years before all construction products and building materials have Environmental Product Declarations (EPDs).

In the absence of a clear and stable regulatory framework regarding construction products at EU level (given that the revision of the Construction Products Regulation, which might foresee the establishment of an EU construction products database, is still ongoing), the reference made to EPDs causes confusion.

COMMENT ON THE ACTIVITY DO NO SIGNIFICANT HARM CRITERIA: none

COMMENTS 2 – RENOVATION OF EXISTING BUILDINGS

Delegated Act: Taxonomy Environmental Delegated Act

Annex: Annex II to Environmental Delegated Act (CE)

ACTIVITY: 3.2. Renovation of existing buildings

GENERAL COMMENT (incl. comments on corrections of technical mistakes in Climate Delegated Act and Article 8 Delegated Act): none

COMMENT ON THE ACTIVITY DESCRIPTION:

It is unclear to us why the description of the activity mentions/refers to the “construction and civil engineering works or preparation thereof”. Why are civil engineering works included? (the activity is “Renovation of existing buildings”, not of bridges, roads, tunnels, etc., so not “underground construction”). Clarification would be welcome.

COMMENT ON THE ACTIVITY SUBSTANTIAL CONTRIBUTION CRITERIA:

Comment on criterion 3: Retain at least 50% of the original building

We believe that the 50% threshold will be difficult to achieve for every renovation project. One should not exclude the possibility that only part of the original building can be retained, which may be less than 50% of the original building. In general, all useful parts of a building to be renovated should be retained and only the structures of a building to be renovated that cannot be retained should be deconstructed or demolished.

Moreover, this criterion should be more closely aligned with the new concept/definition of renovation or “deep renovation” in the recast Energy Performance of Buildings Directive (EPBD) (deep renovation means a renovation which transforms a building or building unit into a nearly zero-energy building before a certain date and into a zero-emission building as of a certain date that is yet to be determined).

Comment on criterion 4: Maximum total amounts of primary raw materials used

See previous comment for “Construction of new buildings”. More time is needed to assess whether all proposed total amounts would be achievable as meeting the maximum amounts **is largely dependent on the local/regional availability and occurrence of secondary raw materials**.

Setting too ambitious requirements risks discouraging much-needed energy-efficient renovations in the EU and raises also questions of technical feasibility and of legal/regulatory nature (incompatibility with certain national rules).

Comment on criterion 6: Electronic tools to describe the characteristics of the building as built

See previous comment for “Construction of new buildings”.

EPDs are not yet available for all products used. The provision of data is still in the process of being set up; "if available" should be inserted for this criterion.

Moreover, public registers are not widely available. Currently, in most countries, data can only be documented within software solutions. Here, too, more time is needed before the mandatory provision of publicly accessible data can be prescribed by the EU taxonomy.

COMMENT ON THE ACTIVITY DO NO SIGNIFICANT HARM CRITERIA: none

COMMENTS 3 – DEMOLITION OR WRECKING OF BUILDINGS AND OTHER STRUCTURES

Delegated Act: Taxonomy Environmental Delegated Act

Annex: Annex II to Environmental Delegated Act (CE)

ACTIVITY: 3.3. Demolition or wrecking of buildings and other structures

GENERAL COMMENT (incl. comments on corrections of technical mistakes in Climate Delegated Act and Article 8 Delegated Act): None

COMMENT ON THE ACTIVITY DESCRIPTION: none

COMMENT ON THE ACTIVITY SUBSTANTIAL CONTRIBUTION CRITERIA:

none

COMMENT ON THE ACTIVITY DO NO SIGNIFICANT HARM CRITERIA: none

COMMENTS 4 – MAINTENANCE OF ROADS AND MOTORWAYS

Delegated Act: Taxonomy Environmental Delegated Act

ACTIVITY: 3.4. Maintenance of roads and motorways

GENERAL COMMENT (incl. comments on corrections of technical mistakes in Climate Delegated Act and Article 8 Delegated Act):

It is not clear why this economic activity does not include the “maintenance of bridges or tunnels itself”. See also comment below.

This activity is important to our members that represent companies involved in the construction and maintenance of roads and we would like to stress the relevance of these criteria for future call for tenders, contracting authorities, and project owners.

COMMENT ON THE ACTIVITY DESCRIPTION:

It is completely unclear to us why this economic activity does not include the “maintenance of bridges or tunnels itself”, and only covers the maintenance of the road that runs on the bridge or through the tunnel, considering that many bridges in the EU are in a very poor or even miserable condition (and not just the roads that run on them). This activity should therefore include the maintenance of bridges and tunnels. It is necessary to define conditions under which also the maintenance of bridges and tunnels can be considered as environmentally sustainable.

We also call for a broader description that would include new construction, expansion of roads and maintenance, as well unbound base courses, asphalt base courses, pavement overlays and slab overlays. These activities and elements should also be part of the EU taxonomy.

COMMENT ON THE ACTIVITY SUBSTANTIAL CONTRIBUTION CRITERIA:

Comment on criterion 1: Preparation for re-use and recycling of the non-hazardous waste generated onsite where main road elements are demolished/removed

We advocate for a 95% threshold rather than a 100% threshold. The technical suitability of the removed material cannot be guaranteed in all cases. Given that groundworks and foundations often end up mixed with soil and general spoil, it is not currently feasible to expect the 100% recycling rates on every project.

Comment on criterion 2: 50% re-use or recycled materials rate for road elements that are newly installed after demolition or removal

A 50% reuse and recycling rate is not allowed under several national (technical) rules (for example, no asphalt granulate may be added to an asphalt surface course in certain EU countries). In addition, asphalt mixing plants are not always equipped with parallel drums, which make high recycling rates possible in the first place. We advocate for a recycling rate in accordance with technical regulations.

Comment on criterion 3: Distance between construction site and nearest production facility for equivalent primary raw materials

It is unclear whether it is feasible to not move re-used or recycled materials over distances greater than 2.5 times the distance between the construction site and the nearest production facility for primary raw materials in all EU countries, e.g. in countries with a big surface area where production facilities are rare. Moreover, this number seems to have been chosen arbitrarily. A justification or explanation would be welcome. What would be the consequence for the decision whether to re-use or recycle products if the distance is greater than 2.5 times the distance between the construction site and the production facility? In the end, the aim should also be to reduce CO2 emissions from transport and to decarbonise the transport of recycled materials. **One should look at the overall “carbon footprint” of replacing primary raw materials and not only focus on the “distance” aspect.**

In addition, it must be considered that decisions whether to purchase certain materials or not are always subject to strong market dynamics.

See also comment on the supply of secondary raw materials in the introductory remarks.

Comment on criterion 4: Service lifetime of binder course

A service lifetime “no shorter than 20 years” appears to be a very long period.

COMMENT ON THE ACTIVITY DO NO SIGNIFICANT HARM CRITERIA:

Comment on DNSH criterion 1

The reduction of road traffic is not a responsibility of construction companies. We call for a deletion of this criterion.

Comment on DNSH criteria 2,3 5, and 6

Road construction companies are, first and foremost, companies that carry out road construction works – they are not designers. The responsibility for these DNSH criteria lies with the client and concerns designers and developers. A deletion or redrafting of these criteria should be considered by the Commission.

COMMENTS 5 – USE OF CONCRETE IN CIVIL ENGINEERING

Delegated Act: Taxonomy Environmental Delegated Act

Annex: Annex II to Environmental Delegated Act (CE)

ACTIVITY: 3.5. Use of concrete in civil engineering

GENERAL COMMENT (incl. comments on corrections of technical mistakes in Climate Delegated Act and Article 8 Delegated Act): none

COMMENT ON THE ACTIVITY DESCRIPTION: none

COMMENT ON THE ACTIVITY SUBSTANTIAL CONTRIBUTION CRITERIA:

Comment on criterion 3: Use of primary raw material

“For concrete, a maximum of 70% of the material comprises primary raw material”.

The question of whether or not it is feasible to meet this requirement is largely dependent on the local availability of secondary raw materials. It is also not clear what the 70% threshold exactly refers to. Does it refer to “the concrete as a whole” or to the aggregates used? In the production of concrete, the proportion of recycled material is considered in the aggregate used, not in the “concrete as a whole”. We propose to apply the 70% to the aggregates used. However, a percentage of 30% of recycled aggregate cannot be supported for structural concrete. This threshold would be incompatible with the national rules of some Member States.

Comment on criterion 4: Distance requirement

See also previous comment on the distance requirement. It is unclear whether it is feasible to not move re-used or recycled materials over distances greater than 2.5 times the distance between the construction site and the nearest production facility for primary raw materials in all EU countries, e.g. in countries with a big surface area where production facilities are rare. Moreover, this figure seems to have been chosen arbitrarily.

Comment on criterion 5 – Electronic tools to describe the characteristics of the building as built

See previous comments on electronic tools and on EPDs.

COMMENT ON THE ACTIVITY DO NO SIGNIFICANT HARM CRITERIA: none
