



To:

Marja Rislakki, Ambassador of the Finnish permanent representation

Lars Danielsson, Ambassador of the Swedish permanent representation

Brussels, 24th November 2020

We call on the European Commission to bring the delegated act on climate change mitigation and adaptation in compliance with technology neutrality and EU sectorial legislation

Your Excellency,

We, the signatory companies and associations, are writing you to express a number of significant concerns in relation to the forthcoming MESG meeting of 25 November where the recently issued draft delegated acts on climate change mitigation and adaptation will be discussed.

We are representing leading energy players that firmly support the objective of climate-neutrality by 2050, as well as a sound framework aimed at channelling the investments needed to implement the ambitious EU climate targets in line with the Paris Agreement.

We are convinced that transforming the European economy into a climate-neutral economy requires an approach that relies on a complementarity of energy technologies, ranging from all renewable sources (wind, solar, hydropower, biomass, geothermal, etc), nuclear, energy storage, and clean gases to carbon-negative technologies. We believe that the EU decarbonisation process should be founded on a market-based and climate-oriented policy, following strong carbon pricing, competition amongst climate-neutral technologies and a well-calibrated CO₂ threshold.

Whilst well intended, we are most worried that the **EU taxonomy** could provide unintended effects that undermine national decarbonisation efforts. Our main concern is that the detailed criteria are defined in a non-objective and discriminatory way, thus leading to an **arbitrary selection of the desired technologies** and undermining the trust in a most essential element of the European green deal and recovery.

This would be the case if the delegated acts were to **exclude more than 40% of existing CO₂-free power technologies in the EU net electricity generation mix** – as we have documented below. Such an outcome would also **go beyond the powers conferred to the Commission** by the EU Treaty, as delegated acts are intended only to *'supplement or amend no essential parts of EU legislative acts'*. Furthermore, this could also significantly **affect member states** in their **freedom** to conduct **decarbonisation strategies** and **identify the needed climate-neutral power mix**.

Our concerns relate most specifically to:

- **hydropower**: in contrast to wind and solar, in the delegated act proposal, hydropower is subject to prohibitive environmental requirements that are not aligned with the EU Water Framework Directive and could even be made tighter with reference to the forthcoming EU biodiversity policy. The draft delegated act even imposes changes in national hydropower systems by limiting hydropeaking making it more difficult to increase the share of wind and solar in the power system;

- nuclear: existing national and Euratom legislation, as well as close supervision by national nuclear safety regulators, have ensured the safe and responsible operation of nuclear power plants and handling of nuclear waste. Geological disposal facilities for intermediate-level of radioactive waste and fully compliant with the highest safety standards are in place in Finland and Sweden for more than 30 years. Furthermore, the facilities for high-level radioactive waste are well-advanced or close to operation. Whilst this technology has been continuously upgraded to meet high levels of safety standards, nuclear is not covered under the climate mitigation delegated act and taxonomy-alignment seems most uncertain;
- hydrogen: capping the life cycle emissions associated with the production of clean hydrogen to 2.256 tCO₂/eqtH₂ is roughly half of the value proposed by TEG, resulting in ruling out the production of hydrogen from the most decarbonised grid mix. This criterion largely pre-empts the regulatory debate to take place with respect to the EU hydrogen framework, whilst again in this case referring to not-yet-adopted legislation (methodology for the calculation of life cycle emissions to be set in a forthcoming delegated act under Art 28.5 of RED II).

Considering the above, we call on the Commission to further assess the proposed delegated acts to ensure technology-neutrality, compliance with the existing EU sectorial legislation and avoid regulatory pre-emption in new EU legislative initiatives.

We thus see it as key to take the necessary time to review these delegated acts so that the above-mentioned conditions are satisfied and the evaluation of the whole energy block is completed.

We thank you for taking the time to read this letter and remain at your disposal for any discussion on the related issues.

Yours sincerely,

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