



European Metals response to the proposed amendments of the Climate (EU) 2021/2139 and Environmental delegation acts (EU) 2023/2486

Introduction

European Metals, the European non-ferrous metals industry association, supports the objectives of EU Taxonomy Regulation EU/2020/852 to channel investments into sustainable economic activities, as well as the proposed amendments to the Climate and Environmental delegation acts which aim to improve the usability and implementation of the existing criteria. If the proposed amendments are correctly designed accordingly, they can deliver support to economic sectors in their decarbonisation transition and provide ambitious but realistic sustainable investment criteria.

It is vital that the proposed criteria represent the industry's best available performance and achievability, reflecting industries capability and technical availability in transitioning towards decarbonisation and supporting the competitiveness of the EU industry, in line with the current policy priorities.

In our response to the proposed amendments, we will comment on:

- 1) **Manufacturing of Aluminium**
- 2) **Appendix C – Generic criteria to DNSH**
- 3) **Inclusion and consideration of multi-metallic recycling**

1. Manufacturing of Aluminium

Climate Change Mitigation – Substantial Contribution

At present the manufacturing of aluminium is the only non-ferrous metals covered by the EU Taxonomy delegated acts.

The current draft proposes a similar structure of the previous delegated acts with eligibility conditions of meeting two out of the three proposed criteria replicated in the current draft, and valid until 2030. This allows economic operator to exclude the problematic reference to the average carbon intensity for the **indirect GHG emissions of**



100 gCO₂/kWh, which as mentioned in several previous contexts remain very much linked to the location of the operations as dependent on the national energy mix.

While we do understand the importance of decarbonising the whole system, we **suggest removing this criterion for energy consumers**. This criterion is outside the economic operator's control and does not represent any current existing technology, also overlooking the national electricity mixes or infrastructure available in several EU countries. We recommend rather looking at the overall carbon footprint of the European aluminium production, including indirect emissions, compared to their international competitors.

On the use of **ETS benchmarks**, we do understand that this allows to use existing official data. However, taking the average of the top 10% economic operators, while there are less than 20 existing plants in the EU, only corresponds to one or two industry plants, which leaves out the majority of the sector. In addition, the performance of primary smelting is heavily affected by disruptions, e.g. caused by curtailments due to energy prices, which means that in times of energy crisis it is possible that there is no plant meeting that level in a given year.

While we support the proposed extension until 2030, we also recommend a thorough reassessment of the criteria, to consider the actual technological developments and the concrete availability of low carbon electricity for the smelters to avoid penalising EU production compared to their global competitors.

As for the new reference to the performance classes of the Ecodesign for Sustainable Products Regulation, industry finds it challenging to express a targeted view, given that the work is about to start and these categories will only be defined later in 2027.

On the criteria for **secondary aluminium**, we support the clarification that the recycling plants integrated with downstream processing can be aligned with the category of "secondary metal".

Our recommendations:

- i) **Support the revised European Commission's proposal which allows flexibility to choose 2 out of 3 criteria until 2030 and reassess the design of the criteria;**
- ii) **Remove the criterion for the average carbon intensity for the indirect GHG emissions, and rather define criteria based on the European total GHG performance compared to the global average.**



Climate Change Mitigation – Do No Significant Harm (DNSH)

Similar considerations as for the criteria for climate change mitigation substantial contribution also apply to the DNSH criteria.

As currently designed, criteria risks classifying European aluminium smelters as “doing significant harm,” despite having carbon footprints 50% lower than the global average, and for similar reasons already mentioned above.

On the basis of the **indirect emissions** criterion 270 gCO₂/kWh, smelters would be discriminated based on their location, and with no levers to modify the footprint of its energy supply, which is under the control of the electricity generator.

The proposed DNSH threshold for **direct emissions** is also problematic, given that it is based on the median value of the emissions declared by European smelters under the EU ETS. This means that half of Europe’s smelters are considered to be doing significant harm, despite the fact that their emissions are considerably lower than the global average.

While designing the criteria, global considerations should be taken into account to avoid penalising European companies compared to their global counterparts, with whom they compete on the market.

These DNSH criteria become even more problematic as the principle is being used, but vaguely defined, across various EU funds and State Aid Guidelines¹, effectively preventing companies to access financing and disadvantaging them on the global scene and against operators with a much higher carbon footprint.

Our recommendations:

- i) **Support the revised European Commission’s proposal which allows flexibility to choose 2 out of 3 criteria until 2030 and reassess the design of the criteria;**
- ii) **Remove the criterion for the average carbon intensity for the indirect GHG emissions, and rather define criteria based on the European total GHG performance compared to the global average;**
- iii) **Avoid using the DNSH principle outside the EU Taxonomy.**

¹ Innovation Fund, CEEAG, Modernization Fund, Cohesion Fund, Recovery and Resilience Facility...



2. Appendix C – Generic criteria to DNSH

Appendix C which covers the DNSH regarding the use and presence of chemicals has been reviewed and updated under the proposed amendments. European Metals supports the proposed amendments and fully supports the further alignment with existing EU legislation, namely with the inclusion of exemptions not considered under the previous text.

In our view, DNSH criteria **should be based on compliance with existing EU legislation, such as the REACH Regulation, which provides a well developed and implemented framework to assess substances requiring risk management and identify the most appropriate risk management solutions. DNSH criteria should not impose additional burden or go beyond existing requirements.**

While we understand that ‘substantial contribution’ usually refers to performance that is better than the industry average, DNSH do not have the same purpose and should not go beyond what is already required under the existing EU legislation. DNSH criteria should be limited to preventing negative trade-off between the substantial contribution and the other environmental objectives and not implicitly demanding additional contribution to the other objectives with their own requirements.

The current text deletes the requirements on assessing “suitable alternatives” and proposes a more pragmatic approach which our industry supports.

Our recommendation: Consider alignment with existing EU legislation as fulfilment of DNSH.

3. Inclusion and consideration of multi-metallic recycling

European Metals supports the changes in the economic activity 2.4 **Treatment of hazardous waste for substantial contribution to circular economy**, with the deletion of the exclusion for metals and metal compounds, as well as the explicit reference to NACE Code C24.4. This inclusion is an important recognition of the key role of metals recycling towards the EU circular economy objectives, and the supply of secondary raw materials.



From the updated description, we also understand that materials recovery from batteries, Waste from Electrical and Electronic Equipment (WEEE), and End-of-Life Vehicles (ELV) is also now covered.

On the other hand, and as previously requested, the section **2.7 Sorting and materials recovery of non-hazardous waste** still remains limited to sorting and recovery of non-hazardous waste streams through mechanical recycling process only.

European Metals proposes that this should be expanded to allow for other recycling processes other than mechanical transformation to be aligned and recognised. The current wording overlooks the final step of recovering metals, which is technically necessary to close the loop.

Incorporating metallurgical processing such as smelting and refining is necessary to contribute towards establishing circular supply chains and establishing a strong secondary raw materials market within Europe.

Finally, the recognition of multi-metallic recycling processes can contribute to closing the material loop and contributing towards the recycling benchmarks within the Critical Raw Materials Act (EU 2024/1252).

Our Recommendation: Expanding section 2.7 to go broader than mechanical recycling only to allow for the eligibility of multi-metallic recycling processing in relation to non-hazardous material recovery under EU taxonomy.

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About European Metals

European Metals is an umbrella association representing the interests of the combined non-ferrous metals industry towards EU policy makers. We bring together the companies and associations shaping Europe's non-ferrous metals ecosystem: from upstream mining and refining to downstream use and high-quality recycling. By connecting technical expertise with policy action, we ensure that the importance of the metals sector is recognised, valued, and that our sector's future is secured. For more information, visit our website: <https://european-metals.eu/>