European rail sector's joint statement on the revised *Taxonomy Delegated Acts*

This Statement has been jointly prepared by the following associations: Alliance of Passenger Rail New Entrants (ALLRAIL), Community of the European Railways and Infrastructure Companies (CER), European Rail Infrastructure Managers (EIM), European Rail Freight Association (ERFA), International Union of Wagon Keepers (UIP) and European Rail Supply Industry (UNIFE), hereinafter ''the European rail sector''.

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With the present joint statement, the European rail sector aims to highlight its common priorities on the European Commission's proposal for amending the *Taxonomy Climate* & *Disclosures Delegated Acts.*

- Rail is the greenest mode of mass transportation and freight: achieving the climate-neutrality ambition by 2050 requires decarbonising the transport sector. Rail accounts for less than 0.5% of transport-related greenhouse gas emissions[1] and has been steadily reducing emissions while increasing energy efficiency. Rail is thus essential to contribute to a cleaner transport paradigm.
- Our sector's environmental assets and energy efficiency are vital to transitioning to a low-carbon economy and reducing the EU's dependency on imported fossil fuels. Therefore, we consider that rail-related economic activities for infrastructure and operations, as well as for the manufacture of products and technologies, should all be considered compliant with the minimum criteria to be considered environmentally sustainable.
- In order to channel investments towards greener projects and financing solutions, the EU Taxonomy's regulatory framework must enable fair, verifiable and reliable comparability between the different economic activities and modes of transport.

We, the European rail sector, reaffirm our readiness to work with EU Institutions to make the EU Taxonomy successful. Our main recommendations on the European Commission's proposal to amend the *Delegated Regulation (EU) 2021/2139* are in ANNEX I on the next page.

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[1] Distribution of greenhouse gas emissions from transportation in the European Union (EU-27) in 2020 by mode - https://www.statista.com/statistics/1237597/transport-greenhouse-gas-emissions-by-mode-eu/

Annex I – recommendations on the revised *Taxonomy Delegated Acts*

Eligibility of rail components: need for a broader definition

- The European rail sector welcomes that rail components are included in the revised version of the Delegated Act. However, to simplify reporting, they should not be listed under the new activity (3.19). They should instead be included in the activity (3.3) *Manufacture of low-carbon technologies for transport*.

- The European rail sector recommends avoiding listing single components, which risks not being exhaustive, but rather making reference to the classification for rail constituents detailed in Point 2 of Annex II of *Directive (EU) 2016/797 on the interoperability of the rail system within the European Union*. Therefore, only points 2.4, 2.7 and 2.8, which are components for rolling stock, should be mentioned under activity (3.3). The remaining points under 2 (2.1, 2.2, 2.3, 2.4, 2.5, 2.6, 2.8) are related to rail infrastructure and should be added to activities (6.14) *Infrastructure for rail transport* and (6.15) *Infrastructure enabling low-carbon road transport and public transport*.

- However, it should be underlined that components required and used for switch manufacturing are excluded from the term "constituent" in the *Technical Specification for Interoperability for Infrastructure* (TSI INF). Therefore, all constituents listed in the TSIs (including TSI INF) should be in the scope of the EU Taxonomy, but also special trackwork products made of some of these constituents (e.g. switches, rail expansion joints etc.) and signalling components to cover all the rail supply industry adequately.

- The European rail sector proposes to add the text to the substantial contribution of activity (3.3):

  "The economic activity manufactures, repairs, maintains, retrofits, repurposes or upgrades:

  (a) trains, passenger coaches and wagons that have zero direct (tailpipe) CO_2 emissions;

  (b) trains, passenger coaches and wagons that have zero direct tailpipe CO_2 emission when operated on a track with necessary infrastructure and use a conventional engine where such infrastructure is not available (bi-mode);

  (c) Manufacture, installation, technical consulting, retrofitting, upgrade, repair, maintenance, and repurposing of products, equipment, systems, and software related to the following rail constituents detailed in Points 2.4, 2.7 and 2.8 of Annex II of Directive (EU) 2016/797 on the interoperability of the rail system within the European Union.

  (d) urban, suburban and road passenger transport devices, where the direct (tailpipe) CO_2 emissions of the vehicles are zero; (…)."

- Urban transport significantly drives greenhouse gas emissions. The expansion and promotion of low-carbon transportation affect mainline (6.14) and mass transit (6.15). This needs to be reflected in the EU Taxonomy. Therefore, the European rail sector recommends applying the same addition to the eligibility description for (6.15) as it was added for activity (6.14).

- To correct a clerical error and avoid misinterpretations, the NACE Code 30.2 "*Manufacture of railway locomotives and rolling stock*", must replace the NACE Code 30.1 "*Building of ships and boats*" in the third paragraph of the description of the activity (3.19).

Disclosure and the *Single Path principle*: to be efficient and avoid double counting

- Companies should apply the "*single path principle*"; in other words, to avoid contradictions, if the *Climate Delegated Act* covers an activity, it should not be covered by the *Environmental Delegated Act*, or vice-versa.

- Once an undertaking contributes to *Climate Change Mitigation* (CCM), *Climate Change Adaptation* (CCA) or both, it shall be assessed and disclosed according to the *Technical Screening Criteria* (TSC) of the *Climate Delegated Act*.

- To avoid double counting and as an option, only undertakings that do not contribute to CCM /CCA may be assessed and disclosed according to TSC for the substantial contribution of activities to non-climate objectives.

A level playing field addressing the sustainable mobility challenges

- The European rail sector underlines the importance of a level playing field in the EU Taxonomy based on climate objectives, with a coverage equally stringent for all transport modes.

- The European Commission could undermine its sustainable-finance investment criteria by proposing the inclusion of modes of transport in the EU Taxonomy that are not "*contributing substantially to climate change mitigation or adaptation*". Moreover, the requirements presented in this draft Delegated Act would send a poor signal about the seriousness of the EU's climate action.

- The European Commission should instead incentivise investment and development in zero- or low-emission modes of transport such as rail. Encouraging the "energy efficiency first principle" must be at the core of the EU transport policy.

Do No Significant Harm (DNSH) Criteria: keep the previous definition and achieve coherent policy

- *Do No Significant Harm* (DNSH) criteria were added to the activity (6.14) without any changes in the scope/description but with the addition of components only. The European rail sector suggests sticking to the previous definition.

Appendix C - Pollution Prevention and Control: stick to the existing legal framework

- The European rail sector has raised concerns about implementing the DNSH criteria of Appendix C on "*pollution prevention and control regarding the use and presence of chemicals*". The criteria go beyond the current scope of restriction by referring only to the definitions of the applicable regulations without replicating the current restriction perimeter (e.g. scope and exemptions).

- Consequently, the European rail sector asks to align the requirement set in criteria (f) and (g) to demonstrate compliance within the limits of current legislation. Furthermore, if other substances should be banned, the European rail sector recommends doing this within the according regulatory instrument, e.g. via the REACH regulation. In other words, the consistency between DNSH criteria and the perimeters of restrictions in existing rules must be ensured. Therefore, the European rail sector proposes to change (f) and (g):

  "(f) substances, whether on their own, in mixtures or in an article, meeting the criteria laid down in Article 57 of Regulation (EC) 1907/2006 and identified under Article 59(1) of that Regulation, ***except where the requirements under Article 33 are met and where substances are used under controlled conditions."***

  "(g) other substances, whether on their own ***or*** *in mixtures, that meet the criteria of Regulation (EC) No 1272/2008 in one of the hazard classes or hazard categories mentioned in Article 57 of Regulation (EC) 1907/2006****, except where a substance evaluation was performed, and no concern was identified."***