We would like to communicate our comments and concerns regarding the absence of the nuclear energy DNSH analysis in connection to TEG report and uncertainty regarding the preparation of the delegated acts accompanying the Taxonomy regulation.

**NUCLEAR ENERGY**

Regarding nuclear energy, we regret to see no changes to these parts of the TEG report. Nuclear energy have not been subject to a thorough DNSH assessment and thus is not included in the report even though the report recognizes that nuclear energy “has near to zero greenhouse gas emissions in the energy generation phase” and “evidence on the potential substantial contribution of nuclear energy to climate mitigation objectives was extensive and clear.”

As the positive contribution of the nuclear to emissions’ reduction is undisputed, we were looking to see a proper assessment of the nuclear in the report. Even the final Taxonomy Regulation stipulates there is a need to conduct technologically neutral assessment of all sectors aspiring for the substantial contribution to mitigation of the climate change in due time to have all the relevant activities, including nuclear, covered by the draft Delegated Acts to be adopted by the end of 2020.

We would like to call on the Commission to ensure a fully transparent process of elaboration of the relevant Delegated Acts – a credible, evidence-based process based on expertise, scientific inputs and proper Member States involvement in order to undertake a fully informed and objective assessment of sustainability of all available energy technologies, including nuclear energy, on a non-discriminatory basis. In particular, we urge the Commission to establish a suitable platform for immediate and objective assessment of nuclear energy by independent experts on nuclear and radiation safety (preferably coming from national nuclear regulatory bodies) in order to assess the DNSH criteria for nuclear energy by the start of discussions on draft Delegated Acts.

Additionally, we have doubts about claims of hard-to-evaluate evidence of potential significant harm to other environmental objectives or empirical data gaps. The report mentions underground repositories as an example of such gap. However, there are currently hundreds of radioactive waste disposals and spent fuel storages world-wide, including geological disposals. These are safely operated around the world according to national safety regulations that are consistent with international safety standards, with the Espoo Convention and the DNSH to environmental criteria defined in the TEG report.

According to Art. 19 (1) (j) of the Taxonomy Regulation, the technical screening criteria shall „cover all relevant economic activities within a specific sector and ensure that those activities are treated equally if they contribute equally towards the environmental objective set out in [...] this Regulation, to avoid distorting competition in the market“. This requirement has not been met when nuclear energy is taken into account. Although the potential role of nuclear energy in low carbon energy supply is „well documented“ (as stated by TEG), there were raised several doubts on the „do no significant harm to other environmental objectives“ criteria, namely to circular economy and waste management, biodiversity, water systems and pollution. Although there are some signs in the Technical Annex to the TEG Report that TEG has considered certain aspects of the aforementioned objectives, there is still an unfounded statement made by TEG on the impossibility of this body or its members to come to any final conclusion vis-a-vis nuclear energy. As the perhaps most problematic issue preventing such conclusion has been designated the long-term management of high-level waste.

In fact, radioactive waste and spent fuel management practices are well regulated both at the international level, as well as at the European level. The cornerstone of the international regulation of radioactive waste and spent fuel management represents the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management (to be referred to as „Joint Convention“). This instrument promulgates in a legally binding way a set of safety requirements and principles applicable to spent fuel and radioactive waste management. Among these principles, the Parties to the Joint Convention are committed to ensure the generation of radioactive waste to be kept to the minimum practicable, to provide for effective protection of individuals, society and the environment by respecting internationally endorsed criteria and standards, to take into account the biological, chemical and other hazards that may be associated with the spent fuel and radioactive waste management, to strive to avoid actions that impose reasonably predictable impacts on future generations greater than those permitted for the current generation, and to aim to avoid imposing undue burdens on future generations. Many detailed requirements on siting, design, construction, operation and safety assessments of spent fuel and radioactive waste management facilities are pronounced by this international treaty. All EU Member States, as well as the European Atomic Energy Community (Euratom) are the Parties to the Joint Convention. All Parties to the Joint Convention are committed to submit their national reports which shall address the measures taken to implement each of the obligations of the Joint Convention, including their spent fuel and radioactive waste management policies and practices. These national reports are reviewed at the regular review meetings, which are being held at least once per three years. All EU Member States’ national reports with well-reported national practices and policies regarding spent fuel and radioactive waste management are made public, thus being easily made available (see link: https://www.iaea.org/topics/nuclear-safety-conventions/joint-convention-safety-spent-fuel-management-and-safety-radioactive-waste/documents) for assessing the national practices, policies and plans also with regard to the long-term management of high-level waste by TEG/the Commission..

Analogous (and even more stringent) regime has been introduced also by the Council Directive 2011/70/Euratom establishing a Community framework for the responsible and safe management of spent fuel and radioactive waste. This directive further specifies principles and requirements promulgated by the Joint Convention and introduces a set of highly detailed rules on preparation and regular revision of Member States’ national programmes for the management of spent fuel and radioactive waste. These national programmes shall cover all types of spent fuel and radioactive waste management from generation to disposal. These national programmes shall, above all, contain:

• the overall objectives of the Member State’s national policy in respect of spent fuel and radioactive waste management;

• the significant milestones and clear timeframes for the achievement of those milestones in light of the over-arching objectives of the national programme;

• the concepts or plans and technical solutions for spent fuel and radioactive waste management from generation to disposal;

• the concepts or plans for the post-closure period of a disposal facility’s lifetime, including the period during which appropriate controls are retained and the means to be employed to preserve knowledge of that facility in the longer term;

• the research, development and demonstration activities that are needed in order to implement solutions for the management of spent fuel and radioactive waste;

• the responsibility for the implementation of the national programme and the key performance indicators to monitor progress towards implementation.

These national programmes, as well as their subsequent significant changes shall be notified to the Commission. Moreover, there is an obligation of the Member State to report to the Commission on the implementation of the Directive 2011/70/Euratom every three years, in conclusion taking the advantage of the review and reporting under the Joint Convention. The Commission, thus, has all plans and intents, reports and best practices of all Member States on the spent fuel and radioactive waste management (including their disposal) available. This regime also ensures that all Member States adhere to the world’s most advanced and stringent rules and practices on the spent fuel and radioactive waste management as defined by the International Atomic Energy Agency (IAEA), Western European Nuclear Regulators Association (WENRA) and the European Nuclear Safety Regulators Group (ENSREG).

Similar arguments can easily be developed, when the issues of radiation and nuclear safety (in particular towards population and the environment) are risen. The complex framework for dealing with all these aspects comprises following particular legal acts:

• Convention on Nuclear Safety;

• Council Directive 2009/71/Euratom establishing a Community framework for the nuclear safety of nuclear installations (as amended by the Council Directive 2014/87/Euratom);

• Council Directive 2013/51/Euratom laying down requirements for the protection of the health of the general public with regard to radioactive substances in water intended for human consumption;

• Council Directive 2013/59/Euratom laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation.

This robust body of legally binding documents with well-established and extensive practice of reporting of Member States clearly contradict the TEG’s statement on the lack of evidence for conclusion that the nuclear energy value chain does not cause significant harm to environmental objectives on the time scales in question. On the contrary, the Commission should promptly proceed with including nuclear energy into the first package of the draft Delegated Acts, as it has all the relevant evidence already at hand. Moreover, the Commission may actively step in these policies and moderate the discussions on the policy options of the Member States at the European level.

The need to ensure a stable framework for all existing safe and sustainable low-carbon technologies without burdening them with relatively higher undue costs is even more pertinent for the period of economic recovery post COVID-19. Affordable electricity prices and security of supply will be crucial for a swift recovery of the EU economy. Therefore, the issues mentioned above have to be addressed during preparation of the Delegated Acts.