

THE EU TAXONOMY CDA: BREACH OF LEGALITY AND THE DEMOCRATIC PROCESS?

The EU Taxonomy Complementary Delegated Act (CDA) establishes that both unabated fossil gas and nuclear are sustainable economic activities. Following its publication at the start of February, criticism of the lack of a public democratic process, breach of mandate and circumvention of co-legislators as well as the outright breach of the EU Taxonomy Regulation, has hailed against the European Commission. With the start of the scrutiny period on the 11th of March, the co-legislators now have 4 months to ensure that a veto of absolute majority is raised against the CDA.

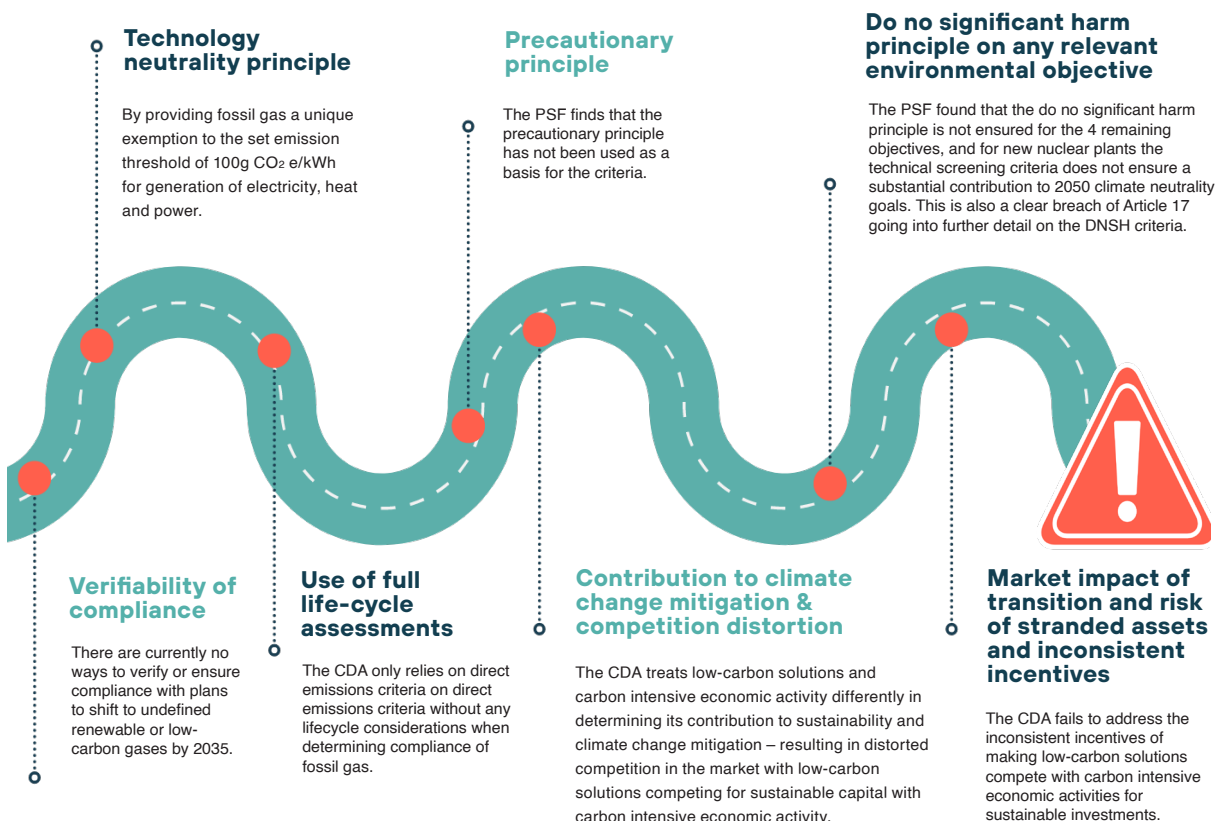
// BREACH OF TAXONOMY REGULATION

The European Commission’s own expert adviser, the Platform on Sustainable Finance (PSF), provided a scathing [feedback](#); identifying clear breaches in the CDA of the Taxonomy Regulation, as well as the democratic process.

The PSF establishes that the draft CDA “takes a materially different approach to implementing the Taxonomy Regulation” that stands in opposition to the DA on climate change mitigation. This is particularly clear for fossil gas, where the starting point for the CDA is a shift away from solid fossil-fired energy – whereas in the CDA, fossil gas is viewed as a tool to transition from coal. This is in stark contrast with the original intention and makes assumptions on the capacity of fossil gas to contribute substantially to sustainability and emission reductions that are not shared by the scientific community. The PSF concluded in its report that the “draft CDA activities are not in line with the Taxonomy Regulation¹”.

In addition to changing the focus of the Taxonomy away from sustainability contributions, breaches of Article 10.2 and 19 were identified. Specifically, Article 19 set out important requirements for the criteria included in the DAs, and as evident by the illustration below, the CDA’s in breach on multiple points.

BREACHED REQUIREMENTS TAXONOMY REGULATION ARTICLE 19

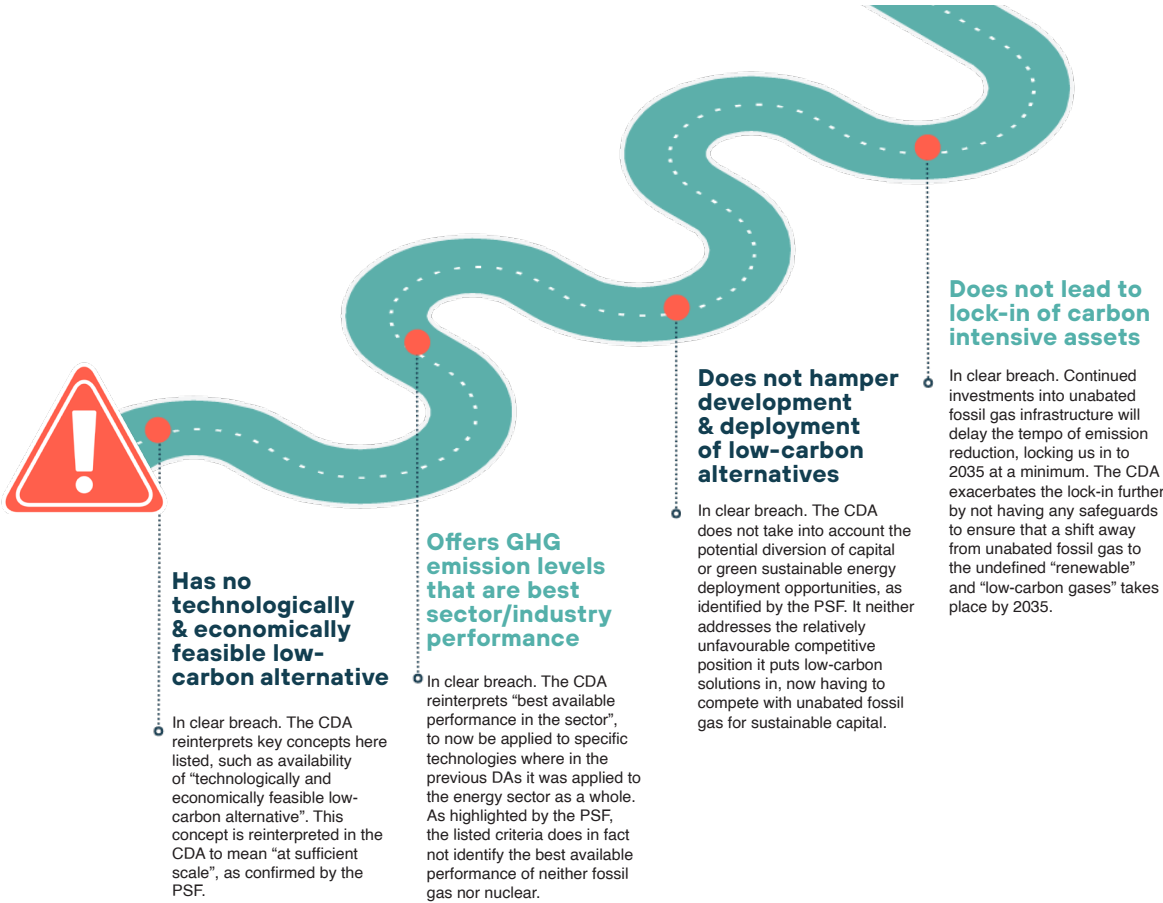


// BREACH OF MANDATE AND CIRCUMVENTION OF EUROPEAN PARLIAMENT

As noted below, the draft CDA has not been subject to a proper consultation process as outlined in the Better Regulation Guidelines (BRG). The breaches of the Taxonomy Regulation Article 19, 17 and 10.2 clearly show a breach of the mandate given to the European Commission by the European Parliament and the Council. The European Commission does not have the mandate to amend essential elements or the interpretation of the Taxonomy Regulation in Delegated Acts.

The European Commission is now facing accusations of trying to sneak in changes through a “back-door” approach, knowing full well the added difficulty in gathering an absolute majority for a veto. The issue of the Taxonomy Regulation thus relates just as much to the agreed-upon democratic process as it does the role of unabated fossil gas and nuclear – and sets a dangerous precedent.

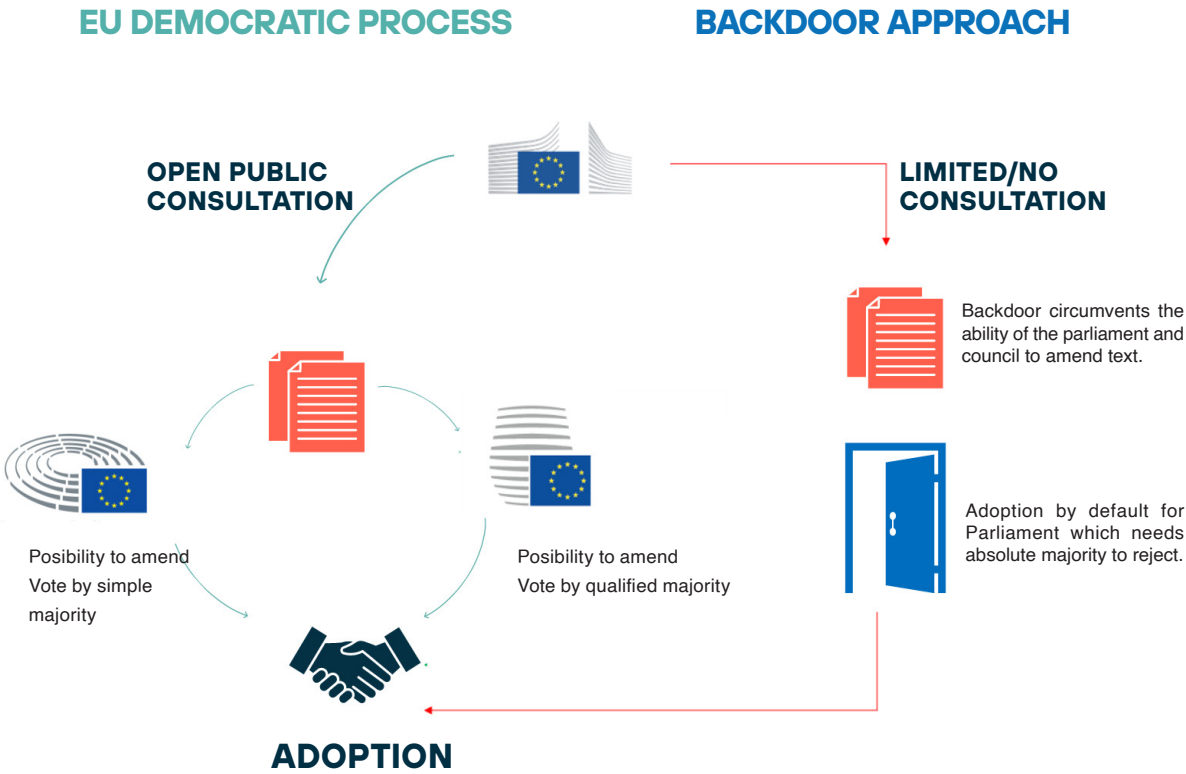
UNABATED FOSSIL GAS AS TRANSITIONAL: BREACH OF TAXONOMY REGULATION ARTICLE 10.2



// BREACH OF PUBLIC TRUST AND BETTER REGULATION GUIDELINES

Despite repeated promises to consult and include stakeholders in the process, in particular market participants subject to the reporting requirements resulting from the Taxonomy DAs, the published CDA has only been subjected to a limited consultation with Member States and the European Commission’s own expert group. The European Commission has neither followed the process as outlined in its own BRG despite the politically sensitive nature and importance of the CDA, nor has it chosen to take into account the advice presented by its own expert advisory group.

CIRCUMVENTION OF THE EU DEMOCRATIC PROCESS



The content and process of the CDA does not live up to the democratic process agreed onto, nor the underlying Taxonomy Regulation supposed to set the requirements for any DA developed by the European Commission. With a scrutiny period of four months starting on the 11th of March, we strongly urge that you join the call for a veto against the Taxonomy CDA.



CONTACT

Lina Strandvåg Nagell
Sustainable Finance & Economy
Manager
Bellona Europa

Phone
Mobile: +32 (0) 489 638 843

Online
Email: lina@bellona.org
Website: www.bellona.org