

Malta's Written Comments on the Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) 2019/1242 as regards strengthening the CO₂ emission performance standards for new heavy-duty vehicles and integrating reporting obligations, and repealing Regulation (EU) 2018/956

Following the call for written comments as announced by the Presidency at the WPE of 26 May 2023 (WK 07004/2023 INTT), Malta would like to submit the following comments regarding public procurement procedures.

Article 3c: Public procurement procedures

On the administrative burden involved in terms of additional tender documentation, the Commission has explained that this will not be done for small purchases, but rather for purchases of bigger numbers of Heavy-Duty Vehicles (HDVs). Malta seeks clarification as to what is meant by 'small purchases'. Is there a threshold based on estimated value? Or is the threshold related to vehicle technicalities?

Based on recital (16) and Article 3c, it is understood that the regulation seems to relate to the procurement, **as well as lease or any other approach** to the use of vehicles. Malta would like to seek confirmation that the Regulation necessitates that whenever there is procurement/lease/other approach to the use of vehicles, such shall only take place through the Best Price Quality Ratio or Life Costing Award Mechanism. As both approaches form part of the MEAT (Most Economically Advantageous Tender), procuring through the cheapest technically compliant shall not be possible.

Malta understands that Security of Supply is a quality criterion that needs to feature in the BPQR Table with minimum weighting of 15% (can go up to 40%), and that it is therefore important that such a term is properly defined and qualified. Further clarification on this criterion is appreciated. What does Security of Supply set out to achieve? Could the Commission provide clear and concrete examples of how the Security of Supply will need to feature. Will the parameters of this requirement be guided by the Commission?

Regarding the proportion of the products or tenders originating in third countries, Malta would like to seek clarification as to what is acceptable, and what is not.

As for the reference to 'in compliance with relevant international law' in article 3c(1), we would like to see a reference to the WTO agreement as per usual practice. We suggest the following language '*the agreement should be fully consistent with the WTO Agreement and other relevant international law*' (for eg text taken from Critical Minerals Agreement negotiating directives).

Malta seeks further information about the use of the International Procurement Instrument (IPI) which the Commission says could be triggered to protect the EU market in respect of third parties to ensure the openness of public procurement markets. We would like information on the circumstances that would lead to this being triggered. Moreover, we harbour some concerns on whether the use of IPI would actually be necessary in view of the possible deterioration of trade relations with third countries.

We acknowledge that the commission has clarified that Article 3c is not related to the clean vehicles directive and that there is no direct relation between the two acts in general. We would like to seek clarification on how this act aligns with the Clean Vehicles Directive, specifically concerning

HDVs. Could you please provide insight into whether this new act will supersede or complement the Clean Vehicles Directive's provisions for heavy-duty vehicles? Furthermore, considering the EU Green Public Procurement (GPP) criteria, which strongly emphasises the use of alternative fuels, how would this influence the public procurement requirements for HDVs?



Council of the European Union
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CONTRIBUTION

From:	General Secretariat of the Council
To:	Working Party on the Environment
Subject:	Revision of CO2 standards for heavy duty vehicles: follow-up to the WPE meeting on 26 May 2023 - comments from a delegation

Following the call for comments (WK 7004/23), delegations will find attached the contributions received from the MT delegation.