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General Secretariat

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**WK 9563/2025 ADD 1**

**LIMITE**

**CLIMA**

**ENV**

**ENER**

**CODEC**

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## **CONTRIBUTION**

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From:	General Secretariat of the Council
To:	Working Party on the Environment
Subject:	European Climate Law amendment: follow-up of WPE on 3 July 2025 - Comments from a Member State

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Following the call for comments on the above set out in WK 9289/2025, delegations will find attached comments received from the MT delegation.

## **Malta written comments following the WPE on the Commission Proposal to Amend the European Climate Law held on 3 July 2025 (WK 9289/2025 INIT)**

Malta remains fully committed to engaging constructively in the legislative process to amend the European Climate Law. However, it is essential that the final legal text ensures proportionality, fairness, and cost-effectiveness, reflecting the diverse capacities and constraints across the Union.

In this vein, Malta wishes to submit the following:

### **1. Specificities of Island Member States**

In this context of sectoral and national diversity, Malta underlines the importance of flexibility and proportionality, especially for island Member States which encounter distinct structural constraints. To this effect, Malta proposes a modest yet meaningful amendment to the operative text of Article 4(4)(d) to explicitly incorporate island-specific considerations, consistent with the already included recital provisions.

Proposed amendment to Article 4(4)(d):

“(d) Member States post-2030 targets and efforts should reflect cost-efficiency and solidarity, in light of national circumstances, including island Member State specificities;”

This targeted modification will reinforce coherence between the recitals and the provisions of the Regulation, ensuring that the particular challenges of island Member States are formally recognized without upsetting the overall balance of the text.

### **2. Sectoral and inter-regime flexibility**

**Comment:** Malta welcomes the recognition of inter-sectoral flexibility in Article 2(c), particularly in view of differing national circumstances. However, Malta calls for a stronger guarantee of full flexibility between the Effort Sharing Regulation (ESR) and both emissions trading systems - ETS and ETS2 – especially for sectors where overlaps exist.

**Rationale:** As a small island Member State with limited domestic abatement potential, no access to modal shift, and constrained capacity for large-scale renewable deployment in certain sectors, Malta must rely on inter-regime flexibility to meet its targets efficiently and equitably. The current flexibility cap of 7% between ETS 1 to ESR is inadequate. While the proposal's recognition of flexibility is welcome, the legislative detail — including the scope, scale, and conditions — will be critical. Ensuring guaranteed, higher flexibility in general and between overlapping regimes such as ESR and ETS2 is essential for Malta to uphold environmental ambition without disproportionate socio-economic burden.

**Suggested textual amendment:** In Article 2(c), include a new clause: "Full flexibility between regimes covering the same sectors, including ESR and ETS, and ETS2, shall be made available to Member States with specific national constraints, in line with the principles of solidarity and cost-effectiveness."

### **3. Use of international credits under Article 6 of the Paris Agreement**

**Comment:** Malta supports the proposed inclusion of international credits for the 2036–2040 period but recommends removing the hard cap of 3% from the operative text and allowing such credits across the full 2031–2040 period.

**Rationale:** While Malta acknowledges the value of limiting reliance on international offsets, embedding a rigid threshold in the Climate Law at this early stage is premature and potentially counterproductive. The Commission has confirmed that the 3% figure is politically, not technically, derived. Moreover, the application level of this threshold (EU vs Member State) remains unclear. Greater flexibility is required to tailor the mechanism to national circumstances in future legislative instruments. Malta also favours the establishment of a Union framework for acquisition of international credits, considering Member States' inexperience in this area. This would also allow for opportunities to those requiring relatively micro amounts of international credits.

**Suggested textual amendment:** In Article 2(a), replace "up to 3% of 1990 EU net emissions" with: "a limited contribution, to be defined, on the basis of impact assessments, through subsequent implementing legislation, based on environmental integrity, cost-effectiveness, and equity."

#### **4. Recognition of constraints on permanent domestic carbon removals**

**Comment:** Malta notes that due to its geographical and geological characteristics, it lacks the capacity to deploy domestic permanent carbon removal technologies such as CCS or extensive land-based removals.

**Rationale:** The inability to utilise negative emissions technologies domestically should be considered in the apportionment of flexibilities and the distribution of effort among Member States. Malta calls for this limitation to be explicitly recognised when assessing cost-efficiency and fairness in the overall framework.

**Suggested addition to Recital 7:** "...recognising that certain Member States may not have access to domestic permanent carbon removal options, including CCS or large-scale LULUCF removals, due to structural limitations."

#### **5. Impact assessment at Member State level**

**Comment:** Malta reiterates its call for detailed post-2030 impact assessments at the level of individual Member States.

**Rationale:** The lack of granular assessment in the Commission's 2040 Impact Assessment risks underestimating the economic and social challenges faced by small island and peripheral Member States. The Fit-for-55 package impact assessments, where such MS-level analyses were included, led to more balanced outcomes. Replicating this approach is critical to ensure proportionality and subsidiarity in the post-2030 framework.

**Suggested textual amendment:** In Article 2(d), add the phrase: "...and based on detailed impact assessments, including at the level of individual Member States, in line with the Treaties."

#### **6. Fairness, convergence, and solidarity**

**Comment:** Malta welcomes the reference to fairness, cost-effectiveness, and solidarity in Articles 4(4)(d) and 4(4)(i), but notes the need for consistent balancing of these principles with national circumstances.

**Rationale:** Convergence implies more equal national targets, while fairness should reflect Member States' ability to pay, and cost-effectiveness relates to their ability to reduce. Malta emphasises that

any convergence and fairness considerations must also be counterbalanced by recognition of national circumstances and structural constraints, including those of small Member States.

**Suggested insertion in Article 4(4)(n):** "...ensuring fairness and convergence, while upholding the principle of cost-effectiveness and recognising specific national circumstances."

## **7. Per capita emissions and low emissions starting points**

**Comment:** Malta requests further clarity on how the proposal will reflect the relevance of per capita emissions and the limited abatement potential of low-emitting Member States.

**Rationale:** As a low-emitting country with limited emissions per capita, Malta has little scope for deep further reductions without incurring disproportionate costs or regressive socio-economic impacts. This must be reflected not only in narrative acknowledgements but also in the apportionment of post-2030 effort-sharing and flexibility mechanisms. Recognising low starting points through differentiated targets and tailored approaches is essential for a fair transition.

**Suggested textual amendment:** In Article 4(4)(d) and Recital 4, insert: *"...recognising the limited abatement potential and low starting point of certain Member States, in particular those with structurally low per capita emissions."*

## **8. Budgetary implications and external constraints**

**Comment:** Malta invites the Commission to expand its consideration of indirect budgetary impacts on Member States, particularly those facing structural disadvantages such as diseconomies of scale and import dependence for clean technology.

**Rationale:** The blanket statement in the explanatory memorandum that impacts "depend on Member States' policy choices" overlooks external constraints beyond national control.

Malta faces structural challenges in accessing EU-level climate finance due to project size and investment scale. Most projects are below the threshold for instruments like the EIB or Innovation Fund, placing Malta at a systemic disadvantage.

**Suggested addition to Recital 8:** "...with particular attention to the unique vulnerabilities of small island and outermost regions, including the impacts of import dependency, small market size, and limited technological autonomy, and systemic barriers to accessing EU climate finance."

## **Conclusion**

Malta looks forward to further technical engagement on the implementation details and welcomes the opportunity to discuss these comments further.