

INCEPTION IMPACT ASSESSMENT			
TITLE OF THE INITIATIVE	Revision of Directive 2009/33/EC on Clean and Energy-efficient Road Transport Vehicles – Clean Vehicles Directive (CVD)		
LEAD DG – RESPONSIBLE UNIT – AP NUMBER	DG MOVE – UNIT C1 – 2017/MOVE/002	DATE OF ROADMAP	11/08/2016
LIKELY TYPE OF INITIATIVE	Legislative proposal		
INDICATIVE PLANNING	<i>Insert hyperlink to forecast report</i>		
ADDITIONAL INFORMATION	<i>Insert link to "Commission decides" or to the specific website for the initiative</i>		
<p>This Inception Impact Assessment aims to inform stakeholders about the Commission's work in order to allow them to provide feedback on the intended initiative and to participate effectively in future consultation activities. Stakeholders are in particular invited to provide views on the Commission's understanding of the problem and possible solutions and to make available any relevant information that they may have, including on possible impacts of the different options. The Inception Impact Assessment is provided for information purposes only and its content may change. This Inception Impact Assessment does not prejudice the final decision of the Commission on whether this initiative will be pursued or on its final content.</p>			

A. Context, Problem definition and Subsidiarity Check
<p>Context</p> <p>In the light of the Paris Agreement reached at the COP 21 to limit global warming to 2 °C, the transport sector has an important contribution to make to the achievement of the climate goals. According to the Commission's Communication "A European Strategy for Low-Emission Mobility"¹, by mid-century, GHG emissions from transport will need to be at least 60 % lower than in 1990 and be firmly on the path towards zero concerning both GHG and pollutant emissions in order to meet the EU's emissions targets.</p> <p>The Clean Vehicles Directive ("CVD") is part of the EU transport policy and a sectorial complement of the horizontal EU procurement legislation also establishing a methodology for procurers to follow under the operational life-cycle costing approach. It supports the environmental and climate policies of the Union focussing on the main aims of transport policy concerning environmental, decarbonisation and trade challenges by aiming at stimulating the market for clean and energy-efficient vehicles by requiring various public bodies to take account of lifetime environmental and energy impacts when purchasing road transport vehicles.</p> <p>The ex-post evaluation of the CVD under the REFIT programme has concluded that the initiative is relevant but not fit for purpose, not effective and not efficient. At the same time it lacks coherence regarding certain aspects of the monetisation methodology used. Considering the above, a review has been announced for 2017 in the framework of the Energy Union Package and features in the Commission's Low Emission Mobility Strategy Action Plan². The initiative contributes to the 3rd Commission General Objective i.e "A resilient Energy Union with a forward-looking Climate Change Policy"</p>
<p>Problem the initiative aims to tackle</p> <p>All citizens and public bodies are affected by adverse health effects of pollutant emissions and climate change. Increasing the roll-out of clean vehicles will contribute in addressing these issues producing more general benefits.</p> <p>The purpose of this initiative is to tackle three main problems that were detected by the ex-post evaluation of the CVD concerning (1) the overall functioning of the Directive, (2) its ineffectiveness and inefficiency in reducing GHG and pollutant emissions and (3) the particularly high emphasis on fuel consumption in the monetisation methodology.</p> <p>These problems are rooted to (a) the limitations in the scope of the Directive (e.g. threshold values³), resulting in few vehicle procurements falling under its remit, (b) the availability of different options in transposing the Directive into Member States' national law leading to a great variety of national legal frameworks and causing fragmentation in procurement rules that inter alia makes it extremely difficult to monitor the legislation's impacts on an EU-wide</p>

¹ COM(2016) 501 final.

² COM(2016) 501 final.

³ As defined in Art. 3 (Scope) of Directive 2009/33/EC.

scale and (c) the current monetisation methodology providing counter-incentives to purchase/develop cleaner vehicles and on certain occasions contradicting with EU air quality targets.

The study identified a failure in the market of clean (alternatively fuelled) vehicles since the real costs of ownership are not internalised and the higher upfront costs have a negative effect on the decision to procure the vehicle. The industry is currently affected by insufficient demand and missing economies of scale leading to lack of competitiveness due to higher prices of clean vehicles.

The evaluation of the current legislation concluded that the regulatory support to the development of clean vehicle markets via harmonized public procurement can provide a cost-effective framework for industry having positive impacts on jobs and growth.

Subsidiarity check (and legal basis)

The legal basis of the Directive and of a possible review proposal is Art. 192 TFEU.

Whereas transport, environment and procurement law remain shared competences, a binding sectorial harmonization of procurement rules is an EU competence and could not be achieved by measures on other levels since Member State jurisdiction ends at the national borders. Should Member States or even regional authorities legislate their own sectorial rules, the following fragmentation will run counter both to the rationale of general EU policy aiming at greener public procurement as well as supporting alternative powertrains and the special aim of this legislation to create an extended EU-wide market for alternatively fuelled vehicles with a level playing field, thus constituting the EU-added value of the initiative.

B. Objectives and Policy options

The general objective of the Directive is to increase the demand and deployment of cleaner vehicles thus strengthening the competitiveness of the EU industry while decreasing CO₂ and pollutant emissions of transport.

To achieve this goal, the specific policy objectives of this initiative can be defined as (1) increasing the public procurement of all categories of clean vehicles, (2) adjusting the available options to provide adequate incentives to procure/develop cleaner vehicles and (3) adjusting and simplifying the existing monetisation methodology to remove counter-incentives to the procurement/development of cleaner vehicles.

As the ex-post evaluation of Directive 2009/33 states, the impact of this legislation is estimated to be low and limited to specific vehicle segments.

Baseline Scenario: The baseline scenario of retaining the existing legislation in its current form means retaining legislation that is not delivering on its aims.

Problem 1: The Directive only applies to public purchases above a certain threshold.

Measures addressing this problem:

- **Measure 1a:** Extension of the scope to all contracts procured by public authorities that have a major road transport vehicle element by removing the horizontal procurement thresholds.
- **Measure 1b:** 1a + extension of the scope to other procurements than purchase, such as renting, leasing, subcontracting etc.
- **Measure 1c:** 1b + extension of the scope to private operators providing public services.

Problem 2: The variety of options limits harmonisation.

Problem 3: The calculation methodology is conceived as overly complex, limiting its use.

Problem 4: The calculation methodology unintentionally favours certain conventionally fuelled vehicles.

Measures addressing these problems:

- **Measure 2a:** Monetise impacts with an improved monetisation methodology mandatory to follow while ensuring that it can continuously be updated via sub-legislative measures. The extension of the criteria is to be examined taking into account scientific progress regarding lifetime costs.
- **Measure 2b:** Abandon the monetisation methodology and introduce an absolute definition of clean vehicles. On the basis of such a definition which needs to be consistent and coherent with vehicle categories and the work of other Commission policies, replace the current options with mandatory procurement targets. In this context, an assessment needs to be made in sub-options whether the transition to low-emission mobility requires this legislation to
 - include lower emitting conventional vehicles or
 - incentivise the market penetration of a new generation of low/no emission vehicles or
 - a combination of both approaches.
- **Measure 2c:** Combine measures 2a and 2b establishing a mandatory choice for Member States.

The objectives could also be pursued by additional non-legislative measures. It is however questionable whether this would add significant substance as the evaluation indicates the contrary.

C. Preliminary Assessment of Expected Impacts

The proposed measures are preliminary considered to be proportional. The measures under 1 would extend the scope just to the point that is needed to have a considerable impact on the market where its failure is disadvantaging clean vehicles at the moment. The measures under 2 would streamline the legislation and make it measurable without intervening in Member State competences as well as simplifying and updating the application of this Directive thus addressing the regulatory failure.

Likely economic impacts

As the objective is to stimulate the overall market for clean vehicles by increasing their public procurement, an effective legislation to this end will lead to growth and jobs in the development and sales of clean vehicles due to increased demand. A bigger domestic market could also contribute to the worldwide competitiveness of the European industry, lead to falling prices for consumers due to economies of scale and shift fuel consumption to indigenous resources. In the short term, the higher upfront purchase costs of such vehicles could strain tight budgets of local authorities.

Likely environmental impacts

Under all measures cited above, the initiative will lead to less pollutant and GHG emissions from vehicle fleets providing public services due to an increased share of clean vehicles. Should the coherence problem highlighted by the external evaluation be tackled effectively, more positive effects on human health are to be expected.

Likely impacts on simplification and/or administrative burden

Measures 1a-c would lead to an increased administrative burden incurred by mostly local government bodies. Measure 2a would also increase the burden as it would exclude the less demanding options, yet the increase could be mitigated by simplifications as already foreseen. On the contrary the simplified approach under measure 2b would reduce the burden.

Should the revised legislation include additional reporting obligations, administrative burden would increase on MS level. This could however be minimized, e.g. by linking with the reporting obligations under the horizontal procurement legislation that need to be observed in any case.

D. Data Collection and Better Regulation Instruments

Impact assessment

An impact assessment is being prepared to support the preparation of this initiative and to inform the Commission's decision.

The assessment of the options above shall try and quantify the economic, environmental and climate impacts of each option and suggest the optimum balance (e.g. concerning a given target/scope) analysing all potential additional costs for public procurers.

Data collection

An external ex-post evaluation of the Directive is already available. It contains data sets and results from the stakeholder consultation and workshop in its Annexes. The evaluation report also draws on a previous monitoring report⁴ and the Impact Assessment accompanying the proposal for this legislation⁵. The external evaluation shows that significant data gaps remain. This is particularly true regarding the implementation of the Directive and its associated impacts. The reasons for this are (a) that there is no structural monitoring on EU or Member State level, as a result most information comes from primarily qualitative ex-post analysis, (b) that there are limited published research and stakeholder positions available and (c) that reliable and comparable manufacturer data on HDV fuel consumption and GHG emissions has been lacking in the absence of monitoring, reporting and verification mechanisms

An external support study will be launched in order to collect further information needed to substantiate the impact assessment process.

⁴ <http://ec.europa.eu/transport/themes/urban/studies/doc/2012-monitoring-report.pdf>

⁵ http://ec.europa.eu/transport/themes/urban/studies/doc/2007_ia_dir_clean_efficient_vehicles.pdf

Consultation strategy

In the course of the Impact Assessment study, similar consultations as were conducted in the framework of the ex-post evaluation will be held with a focus on the different options to be assessed, namely wide stakeholder consultation via an online consultation, individual interviews, a stakeholder workshop as well as a Member States representatives meeting.⁶

The online public consultation will be launched early during the IA support study, so the contributions can be duly taken into account. It will be accessible via the web-portal "Your Voice in Europe" and DG MOVE's consultation website for a period of at least 12 weeks. The questionnaire will be available at least in English and answers can be provided in all official languages.

A synopsis summarising all consultation activities including contributions received during the online consultation will be published on the mentioned websites and annexed to the Impact Assessment.

Will an Implementation plan be established?

Since the overall complexity of implementing this legislation will not increase under any of the options foreseen, an implementation plan will not be necessary due to the limited scope of legal obligations contained in this Directive and its possible amendments. Any of the options described above and suggested in the Impact Assessment will involve supportive actions by the Commission, such as a web-based portal at least in the case where a calculation methodology like the one currently in force is chosen.

⁶ <http://ec.europa.eu/transport/facts-fundings/evaluations/doc/2015-09-21-ex-post-evaluation-directive-2009-33-ec.pdf>
(see Annexes 2-8)