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CEMR's response to the background document on the promotion low energy and low emission road vehicles

Introduction

1. As the representative organisation of local and regional government in Europe, federated through national associations in over 30 countries, CEMR is happy to provide DG TREN with its initial views on the proposed initiative to promote clean and energy efficient vehicles.
2. As appeared clearly from the responses to the Commission survey that CEMR received from over 50 local and regional authorities across Europe, local and regional authorities are both very interested in taking measures in favour of clean and energy efficient vehicles within municipal fleets and are committed to doing so, as part of their objectives to promote sustainable development and implement local agenda 21.
3. Local and regional authorities are increasingly faced with environmental and health problems related to inefficient and unsustainable energy use in transport. Although the scope of these problems goes way beyond municipal vehicle fleets alone, it is fundamental for local authorities to show the example by striving to ensure on the one hand that municipal vehicles are 'environmentally friendly" and on the other that public transport is indeed a sustainable alternative to the car by ensuring that bus fleets have low-emissions. Many pilot projects, a number of which are funded by the EU, testify to the widespread interest within local and regional authorities to create environmentally friendly vehicle fleets and transport solutions.
4. One of the principle barriers to implementing such measures, however, is the prohibitive cost of energy efficient and clean vehicles in relation to conventional vehicles. The lack of clarity in EU rules on public procurement as regards purchasing more expensive and environmentally friendly vehicles was also identified by our members as being an obstacle.
5. CEMR therefore very much welcomes the Commission's objective to stimulate the market for more efficient and sustainable vehicles. As regards the means that the Commission should use to achieve these objectives and the scope of its action, CEMR would like to make a number of comments and proposals, set out below.

Preliminary remark

6. In its background paper, DG TREN refers to 'public authorities" as the possible target for EU action in this field. It is however not clear what the term 'public authorities" covers. Local and regional authorities tend to own and run large fleets of vehicles; we therefore believe that they are particularly targeted by this initiative. We would however urge DG TREN to undertake a study of the sector and the scale of purchasing of vehicles by the different levels of government, before carrying out specific action in this field.

The format of EU action

7. CEMR believes that a legal instrument, as suggested by DG TREN, which would set out binding requirements on public authorities is neither desirable nor compatible with EU rules on public procurement. The reasons for this are as follows:

- As low-energy and emission vehicles are generally much more expensive than standard vehicles, it would not be feasible to require all public authorities to purchase a certain proportion of these vehicles;
- Local and regional government has to follow strict rules, based on the EU public procurement directives, when purchasing products and services. This is a complex process, and authorities are often faced with considerable legal uncertainty as to what can and can't be done. Additional sectoral rules such as special legislation on procurement of vehicles would complicate the matter further.
- Public procurement law does not regulate what contracting authorities buy, but rather how they should buy it. On this point CEMR has advocated, in particular in the revision of the public procurement directives, that the rules should be flexible enough to enable local and regional authorities to choose more environmentally friendly products and services. Currently, as the Helsinki Bus Case has demonstrated, there is significant legal uncertainty in this respect, as the rules can be interpreted as favouring narrowly economic criteria in procurement and thus the cheapest option. Furthermore, proposals currently being formulated by the Council and the Commission in the revision of these directives go in the opposite direction to the proposals made by DG TREN in the background paper : they suggest that the rules should be more restrictive as regards green procurement on the basis that environmental objectives should be reached through Environmental policy not Internal Market policy. CEMR clearly opposes these positions, which go against

Article 6 of the EC Treaty.

8. We would therefore welcome procurement legislation that clearly enables local and regional authorities to purchase more environmentally friendly vehicles, but could not accept legislation that would place obligations upon them as to what they should buy.

Alternative proposal

9. We would like to propose that the Commission initiates a voluntary agreement between manufacturers, local and regional authorities and possibly private companies with large vehicle fleets, with the aim of promoting clean and energy-efficient vehicles, by stimulating the market and thus reducing costs. As part of such an agreement, local and regional authorities (and possibly private companies) would on a voluntary basis commit themselves to purchasing a certain proportion of energy-efficient and/or low emission vehicles and alternative fuels, while manufacturers would commit themselves to selling such vehicles at lower prices. CEMR would be willing to support such an agreement, and would be able to use its extensive network to ensure that as many local and regional authorities as possible sign up to the agreement. Other more specialised networks of local authorities might also be willing to take part in view of the commitment of their members to more sustainable and energy-efficient transport solutions. The POLIS network has already expressed interest in the idea, and Energie-cités could also be a potential partner.

10. We believe that this alternative approach to promoting clean and energy-efficient vehicles could achieve very positive results, whilst providing benefits to manufacturers and purchasers

alike. CEMR would therefore urge DG TREN to give this proposal serious consideration and would be happy to discuss this with them.

11. Such an approach could be developed in parallel to a non-binding instrument aimed at promoting energy-efficient and clean vehicles. Further comments as to the scope and content of such an instrument are set out below.

Additional comments

Content

12. As set out above, CEMR does not favour an instrument that would involve binding requirements upon local and regional authorities in this field nor do we think it is feasible under current procurement rules. Instead, we would welcome an initiative, based on the objectives set out in the background paper, which would promote clean and energy-efficient vehicles by means of a non-regulatory approach.

13. CEMR believes such an initiative should include the following in particular:

- Guidelines to help local and regional authorities purchase such vehicles without breaching community legislation;

- Recommendations for voluntary targets to be set by public authorities;
- Action as regards disseminating and exchanging good practice;
- Action as regards fiscal incentives and instruments.

14. CEMR believes that the question of fiscal incentives and instruments is not sufficiently addressed in the proposal. Using economic instruments to offset the competitive advantage of unsustainable transport modes, has been on the agenda of the Commission for a number of years, and is already addressed in a number of proposals. CEMR believes that it is fundamental for any EU initiative aimed at promoting energy-efficient and clean vehicles to include action as regards such instruments.

Who should the initiative be addressed to?

15. Although it is understandable that the Commission should want to address any such proposal to public authorities because of their large fleets and societal obligations, CEMR would argue that there are many private companies as well as hire/leasing companies who should also be encouraged to purchase more energy efficient and cleaner vehicles. Furthermore in a context of increased liberalisation in the transport sector, where it is argued that private operators should have access to providing transport services, on an equal footing with public operators, any action in this field should also be targeted at private operators.