MINISTER
MINISTRY OF ECONOMIC AFFAIRS

His Excellency Mr Stéphane Séjourné
Executive Vice-President for Prosperity and Industrial Strategy
European Commission
BRUSSELS

The Hague, 2 June 2025
98859629

Your Excellency,

Thank you for the opportunity to collaborate on the revision of our regulatory framework on public procurement. I very much appreciate your willingness to engage in co-construction, as it is essential to modernise the framework and effectively address emerging geopolitical, economic, and sustainability-related challenges. It is equally important that we refocus the rules whilst ensuring that the net benefits as regards competition and the single market are not compromised.

A comprehensive revision of the public procurement directives is needed in order to deliver rules that are simpler, more flexible and in alignment with strategic objectives. Contracting authorities and businesses want practical and clear rules that will enable them to navigate the increasingly complex challenges they face. However, case law and sectoral legislation have made the regulatory framework more complicated. As also concluded by the European Court of Auditors in its 2023 report, the increasing use of public procurement as an instrument for multiple, often conflicting policy objectives has brought about a shift in the goals being pursued, and risks adding complexity for practitioners. The question is: are these rules meant to prevent governmental corruption, to protect the single market or to promote sustainable procurement? The new rules should be clear on what their goals are and on where those goals are in alignment or in conflict.

In line with your first objective of a major simplification to enhance clarity, this revision should prioritise simplification as its guiding principle and give contracting authorities and businesses more agency in how to conduct the tendering process. Specifically, this means applying simplification as a litmus test for every proposed amendment:

1. building on the proven legal concepts of the current directives – with targeted tweaks to remove bottlenecks that undermine effectiveness;

2 . eliminating unnecessary overlaps between directives, in general choosing the most flexible interpretation and preventing divergences with respect to sectoral legislation;

3. avoiding the creation of new legal concepts unless absolutely necessary; and

4. preserving existing freedoms – and thus avoiding taking steps backwards (e.g. for below-threshold regimes or for social and other specific services).

For example, we should remove barriers to the use of certain procedures, such as innovation partnerships, and streamline those procedures. We should also simplify processes and documents such as the European single procurement document. In addition, we should ensure that minor mistakes by businesses or contracting authorities during procurement processes do not lead to major problems. It should be made easier for businesses and contracting authorities to correct minor errors in tenders and submissions during the process.

I also support your second objective of turning public procurement into a tool to steer investment in order to address challenges related to resilience, sustainability or social themes. Furthermore, introducing a European preference for specific strategic sectors would deliver considerable benefits in terms of Europe's strategic position and resilience. We must, however, remain mindful of the potential negative effects. As part of the discussion, these negative effects should be carefully weighed against the benefits. Introducing a European preference may lead to an increase in prices, poorer quality and less choice for contracting authorities in the sectors concerned, at a time when the challenges they face as public bodies are greater than ever. While strengthening Europe's strategic autonomy, we must ensure that our measures remain transparent and balanced towards trusted allies and trading partners, such as the United Kingdom, Japan and Canada. Additionally, any reform of the EU procurement rules should be fully in line with the international commitments of the EU, including those of the World Trade Organization (WTO) and the EU Free Trade Agreements (FTAs). A European preference could therefore be an interesting initiative, but only if it is carefully considered in terms of both scope and content.Furthermore, we should safeguard a coherent approach in the application of such a principle.

A third important objective I would like to add is incorporating protections against national security risks in public procurement processes. I propose that an exclusion ground, similar to that in Article 39 (2)(e) of Directive 2009/81/EC, be incorporated in the public procurement directives. In addition, contracting authorities should be given greater scope for controlling or limiting the use of certain goods and services, especially by subcontractors, and security should be made an integral part of the directives.

I agree that local and regional authorities should play an active role in the revision process, and that we should therefore establish a collaborative process with them. In the Netherlands, I have invited all relevant stakeholders to participate in this revision process and I would ask you to take note of their reflections on the challenges contracting authorities and businesses face in public procurement.

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Given the rapid pace of technological and geopolitical developments, circumstances can change quickly, which can have an impact on processes and contracts. The new public procurement rules should enable contracting authorities to meet their needs as public bodies, offering them flexibility to choose procedures and requirements and to amend contracts and processes when necessary to adapt to rapid changes, without incurring unnecessary delays. The focus should be on efficiency and effectiveness rather than rigid adherence to rules. For example, more flexibility is needed in relation to substantial modifications, especially for works and related services. The directives should also allow contracting authorities and businesses to innovate during the procurement process and subsequent contract phase (e.g. to capitalise on sustainable innovations), and they should remove certain barriers for cooperation between contracting authorities and businesses. There should be greater scope to focus on innovative, sustainable or social procurement. We need to ensure that contracting authorities can meet their needs while reducing administrative burdens for both authorities and businesses, particularly for those contracting authorities with a low administrative capacity and for SMEs.

As a final point, I agree that it is necessary to revise the public procurement rules swiftly in light of the challenges outlined above, but I do wish to express my concerns about the short timeframe for the current evaluation process that has been set by the European Commission. Rushing through this process could compromise the quality of the evaluation and jeopardise our goal of achieving a meaningful revision for the coming decade. In line with your proposal for co-construction, I suggest that we adopt a step-by-step approach, under which the European Commission and Member States, with input from public procurement practice, work collaboratively to identify, prioritise and address key issues in order to formulate targeted solutions. In some cases, this process may be completed quickly, but when it comes to more complex issues, additional time may be required to identify effective solutions. Therefore, it is crucial that this co-construction process continue after the evaluation concludes in the third quarter of 2025.

I would like to convey my sincere appreciation for your efforts, and I look forward to further cooperation in the revision process.

Yours sincerely,

[redacted]

Dirk Beljaarts
Minister of Economic Affairs