

## **PART IV**

### **SUSTAINABLE AND GREEN PROCUREMENT**

## SUSTAINABLE PROCUREMENT AS A SECONDARY POLICY TOOL AND TURKEY CASE

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**ABSTRACT.** Although Turkish Public Procurement Law (PPL) does not have detailed and direct green and social provision in the current text, a draft law contains some environmental and social considerations parallel to European Union and other international legislations. But the government firmly believes that sustainable procurement is an urgent necessity for companies and contracting entities both. In this regard, this study is mostly scrutinized on the international and European Union regulations/implementations of sustainable procurement and using it mostly as a secondary policy option. Moreover, this paper will focus on Turkey case that how this country try to use sustainable procurement mechanism as a policy instrument.

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## INTRODUCTION

Environmental, social and economic (sustainable) procurement is not a new development. Companies or contracting authorities realized long ago that efficiency in energy usage, waste generation and water consumption could lower costs. But growing economic pressures, rising expectations of customers and other key stakeholders, and stringent government regulation are increasing the focus on, sustainable procurement for many companies and public entities.

Governments increasingly include environmental criteria in their purchasing decisions. For example, purchasing guidelines often require that particular products contain a minimum amount of recycled content or achieve specified levels of energy efficiency. Guidelines may also favour – through price preferences, explicit set-asides, or other mechanisms – suppliers who exceed official pollution standards, abide by environmental frameworks, qualify for environmental labels, or otherwise demonstrate their “greenness”. Such greener public purchasing policies have a natural appeal, as they couple increased concern about environmental quality with a not-unreasonable belief that governments ought to lead the way by improving their own purchasing habits.

Several factors play important roles in this evaluation. First is the general design and intent of sustainable procurement policies. Some policies seek to correct institutional deficiencies in government procurement practices that lead both to higher government purchasing costs and lower environmental quality. Sustainable policies that identify and correct such deficiencies are often described as “win-win” since they lead not only to environmental improvement but also to improved government efficiency.

A second factor is the magnitude of government purchasing. Green public procurement (GPP) will be a more effective instrument of environmental policy, all else equal, when the government sector is a large, co-ordinated purchaser of relevant products. This is certainly the case in some sectors, e.g. defence and highway construction, where the central government is the primary source of demand. In many other sectors, however, the direct impact of GPP may be quite limited either because the government sector comprises only a small portion of overall demand or because government purchases are spread across

many, uncoordinated government units. In these sectors, GPP policies will have significant impacts only if individual governments co-ordinate their actions or if private consumers and producers react in ways that reinforce the intent of the GPP policy.

A third crucial factor is the private sector response to GPP. In principle, the private sector response may either reinforce or counteract the change in government purchasing. Private purchasing may become greener if the government policy reduces the costs of purchasing green products or increases market acceptance of green products. Conversely, private purchasing may also become browner (less green) if the government policy results in higher prices for green products or lower prices for brown products. The likelihood and magnitude of these reinforcing and counteracting effects depend on specific features of the product markets.

Typically, the main goal of environmental policy is to limit the harmful effects of production or consumption on the environment. These effects fall into a category known in economics as externalities. These can be either positive or negative. A negative externality occurs when the activity of one entity adversely affects the utility and welfare of others without the effect being transmitted through market prices. In reality, these negative effects are costs of production that neither the producer nor his customers need to carry directly because they are imposed on others. These others could be contemporary inhabitants or later generations in the home country or abroad. In some cases, the environmental policy goal of correcting for externalities is fulfilled simply by imposing pollution limits or restrictions on the production causing the negative externalities. More commonly, however, the goal of environmental policy is met by steering producers or consumers towards more environment friendly practices by making the acts causing the externality more costly for them.

Various policy instruments can be applied in the enforcement of environmental policy. The types of instruments may be divided into two broad categories: market based instruments and non-market based instruments. Market based instruments are intended to work through price signals. The most common tools in this category are environmentally-related taxes, charges and fees, tradable permits, and removal of environmentally harmful

subsidies. The application of non-market instruments involves influencing the behaviour of firms, households or individuals through means other than price signals. These include command-and-control regulations, policies to support green technologies and innovation, and voluntary approaches based on the dissemination of information and negotiated agreements between government and specific industrial sectors in order to address a specific environmental concern.

Successful environmental policy leads to correct or adequate pricing of externalities that have not previously been priced or have been inadequately priced. Hence, a more efficient allocation of the factors of production, including natural resources, is promoted.

### **Sustainability as a Public Procurement Policy Tool**

Sustainable procurement should be considered an administrative policy tool. Administrative policy tools can be implemented by command and control approaches, which in the context of GPP can embrace a range of specifications concerning particular production techniques or maximum levels of hazardous emissions. However, administrative policy tools like GPP are usually not cost-efficient since among other things the procuring entity does not have complete information on all potential supplier and all available production technologies. Furthermore, the command and control approach has the drawback that it does not ensure that producers who could abate pollution at the lowest cost actually do so.

For administrative policy tools to be cost-effective all actors involved in the procurement process need to have full information on the marginal cost of reduction and the production technology of individual firms. They must also know about other technologies. However, when there is a lack of information, environmental criteria in public procurement cannot be formulated in such a way that cost-efficiency is achieved.

### **Development of Concepts**

For many years, the single most important indicator in the practice of public purchasing was the economic factor. Environmental and social factors were seldom if ever taken into

account. However, the importance of non-economic factors in public procurement increased significantly with the development of the concept of sustainable development, understood as *'Development that meets the needs of the present without compromising the ability of future generations to meet their own needs'*.

The relevance and practical application of the environmental aspects of a public procurement can be demonstrated rather easily. Green requirements can be specified in the technical demands for the production technology and the selection of materials. Performance and quality standards included in the technical specification can be easily defined and introduced at any stage of the procurement process. In most cases, environmental requirements related to the production process or the product itself are relevant to characterise a product and can hence be used to describe it in the tender documents of a public tender.

The relevance and specification of social and ethical aspects of sustainable procurement is much more difficult to demonstrate as it is often difficult to demonstrate their effect on the characterisation of the final product. Additional problems arise in terms of objective verification and quantitative benchmarking of effects and benefits that would allow for accurate and fair evaluation of tenders.

The potential of sustainable procurement as a policy instrument has been increasingly recognised, and over recent years there has been growing political commitment at national, EU and international levels. In 2002, the OECD adopted a Recommendation on green public procurement. As a follow-up to the Johannesburg World Summit on Sustainable Development (September 2002), a Marrakech Task Force on Sustainable Procurement was created with the aim of spreading sustainable and green public procurement practices. Sustainable procurement policies have been launched in many OECD countries (USA, Japan, Canada, Australia, and South Korea) as well as in rapidly developing countries (such as China, Thailand, and Philippines).

Within the EU, the potential of sustainable procurement was first highlighted in the 2003 Commission Communication on Integrated Product Policy where Member States were recommended to adopt national action plans for green public procurement by the end of 2006. The new European legal

framework for public procurement has clarified how public purchasers can include environmental considerations in their procurement processes and procedures.

## **DEFINITIONS OF SUSTAINABLE, ENVIRONMENTAL (GREEN) AND SOCIAL PROCUREMENTS**

### **Sustainable Procurement**

There is no single definition of sustainable procurement – not least because sustainability is a contested concept but incorporate extrinsic cost considerations into decisions alongside the conventional procurement criteria of price and quality. These considerations are typically divided thus: environmental, economic and social (also known as the “triple baseline”).

But any way, we can define Sustainable Public Procurement that contracting authorities take into account all three pillars of sustainable development when procuring goods, services or works at all stages of the project.

Sustainable procurement is a process whereby organisations meet their needs for goods, services, works and utilities in a way that achieves value for money on a whole life basis in terms of generating benefits not only to the organisation, but also to society and the economy, whilst minimising damage to the environment.

### **Environmental (Green) Procurement**

Green Public Procurement means that contracting authorities and entities take environmental issues into account when tendering for goods or services.

Environmental concerns are the dominant macro-level justification for sustainable procurement; born out of the growing 21<sup>st</sup> century consensus that humanity is placing excessive demands on available resources through unsustainable but well-established consumption patterns. This is a sufficiently influential issue that environment-centric procurement (green procurement) is sometimes seen to stand alone from sustainable procurement.

### **Social Procurement**

“Social issues” might broadly be defined as issues which impact on society or parts of society and cover a range of issues including equalities issues (i.e. age, disability, gender, race, religion and sexual orientation), training issues, minimum labour standards and the promotion of small and medium-sized enterprises (SMEs), including ethnic enterprises and the third sector including social enterprises.

The priority for all public procurement is to achieve the best Value for Money (VFM). It means obtaining the best possible balance between price and quality in meeting the customer’s requirements. It is important that, in seeking value for money, purchasers do not allow quality standards to fall below an acceptable level. Purchasers and contractors should not seek cost improvements by cutting corners on compliance with obligations to employees under employment, equal opportunities and health and safety legislation.

There may be circumstances where it is appropriate to consider wider social benefits (sometimes also referred to as “*social added value*”) in a procurement context. For example, when awarding contracts connected with an urban regeneration project, the purchaser may reasonably be expected to consider how those contracts might aid the regeneration project, perhaps by providing training opportunities for the unemployed.

### **Benefits and Objectives of Sustainable Procurement**

By integrating environmental and social considerations into procurement decisions, valuable contribution can be made to improve environmental and social outcomes. Integrating sustainable practices and principles into procurement is seen as integral in achieving value for money.

By considering sustainability issues, along with other government priorities, other non-cost and cost factors on a whole-of-life basis, there is opportunity to achieve improved economic, social and environmental procurement outcomes.

#### ***Some specific benefits of sustainable procurement include:***

- ✓ Reduced adverse environmental impacts arising from government procurement.
- ✓ More efficient use of public resources.

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- ✓ Improved value for money in procurement decisions, as it offers a more comprehensive consideration of the costs and outcomes associated with procurement decisions.
- ✓ Stimulus to local and global markets to innovate and produce more sustainable products and services for public and private organisational purchasers and consumers.
- ✓ Expands the market for more sustainable products and services with potential for local businesses, which should lead to an increase in the availability of more sustainable products and services.
- ✓ Improves the level of information available to buyers about the sustainability performance of products and services thus facilitating procurement choices.
- ✓ Provides government leadership to the community in demonstrating social and environmental responsibility.
- ✓ Reduces the potential negative publicity associated with the use of products, services and suppliers with poor environmental and social responsibility records.
- ✓ Improves working conditions for employees.

### **Turkey Case**

There is no direct green or social provision in our current Public Procurement Law. But, Turkey has a draft Public Procurement Law, which is fully align with the EU procurements rules, it will be submitted to the Parliament soon. This draft law contains environmental and social considerations parallel to EU directives. Also, the government firmly believes that, green and social procurement is an urgent necessity for companies and contracting entites both.

Pursuant to Turkish Public Procurement Law (Law No.4734), "In accordance with the related legislation, for the works requiring an Environmental Impact Assessment (EIA) Report, a positive EIA report must be obtained before the initiation of procurement proceedings. However, in works procurements to be made urgently due to natural disasters, EIA report shall not be required".

For consulting services in technical, financial, legal or similar fields which are comprehensive and complex in nature and which require special expertise and experience, such as preparation of Environmental Impact Assessment Reports, plan, software developing, design, preparation of technical specifications or supervision can be procured from consultancy service providers.

Also, it is possible to put some social and green provisions into the technical specification, which are comply with EU legislation and Turkish domestic rules (e.g.pursuant to a Turkish law, 2% of all workers have to be disabled persons).

Unfortunately, we have to admit that sustainability issue still is not a top item of Turkey's public procurement policy agenda. But things are changing rapidly in Turkey like elsewhere. Turkey, as a candidate country to join European Union, has some obligations to regulate its legislation and implementation in line with EU and other international principles.

We already have a project, which is directly linked to sustainable procurement issues. We expect this Project will produce some tangible and useful result at the end. One of the most important target of the project will be creating and raising awareness both in public and private sectors. In addition to that, we will prepare a draft sustainable legislative package and guideline for stakeholders.

#### **Action at the European Level**

The basic concept of sustainable procurement relies on having clear and ambitious environmental criteria for products and services. A number of national criteria and national approaches to sustainable procurement have been developed. However, as the use of sustainable procurement increases, the criteria used by Member States should be compatible to avoid a distortion of the single market and a reduction of EU-wide competition. Having a single set of criteria would considerably reduce the administrative burden for economic operators and for public administrations implementing GPP.

Environmental criteria do exist at the European level – for e.g. under the EU Eco-label; the Energy Star Regulation; the Eco-design for energy-using products Directive. Some recent proposals also aim at setting criteria which will be useful for GPP, such as the proposal for a revision of the Ecodesign for energy-using products Directive, which provides for the setting of both minimum requirements and advanced performance benchmarks,

the proposal for a Directive on the promotion of clean and energy efficient vehicles which establishes a harmonised methodology for calculating the lifetime cost of pollutant emissions and fuel consumption and the proposal for a Directive on the promotion of the use of energy from renewable sources which includes sustainability criteria for biofuels and bioliquids and may involve – in future- the setting up of sustainability criteria for biomass, including forest biomass.

The more in-depth development and setting of environmental criteria and their interrelation and potential use for GPP are core elements of the Action Plan on Sustainable Consumption and Production and Sustainable Industrial Policy. The Action Plan aims, in particular, to establish a dynamic framework to improve the energy and environmental performance of products and foster their uptake by consumers. This will include setting ambitious standards throughout the market, ensuring that products are improved by a systemic approach to incentives and innovation and ensuring that demand underpins this policy.

### **Priority Sectors**

The Commission has identified ten "priority" sectors for sustainable/green procurement. These have been selected on the basis of the importance of the relevant sector in terms of the scope for environmental improvement; public expenditure; potential impact on the supply side; example setting for private or corporate consumers; political sensitivity; existence of relevant and easy-to-use criteria; market availability and economic efficiency.

#### ***The priority sectors are:***

1. Construction (covering raw materials, such as wood, aluminium, steel, concrete, glass as well as construction products, such as windows, wall and floor coverings, heating and cooling equipment, operational and end-of-life aspects of buildings, maintenance services, on-site performance of works contracts)
2. Food and catering services
3. Transport and transport services

4. Energy (including electricity, heating and cooling coming from renewable energy sources)
5. Office machinery and computers
6. Clothing, uniforms and other textiles
7. Paper and printing services
8. Furniture
9. Cleaning products and services
10. Equipment used in the health sector

#### **Verification of Compliance with Environmental Criteria**

The public procurement directives exhaustively list a series of selection criteria that bidders can be asked to comply with. When setting selection criteria, contracting authorities need to take into account the proportionality principle and therefore the nature, quantity or importance and use of the purchased works, supplies or services.

In the case of supply contracts, the Directives refer to samples, descriptions or photographs, as well as to certificates drawn up by official quality control institutes or agencies of recognized competence attesting the conformity of products clearly identified by references to specifications or standards. In the latter case, contracting authorities shall recognize equivalent certificates from bodies established in other Member States. They shall also accept other evidence of equivalent quality assurance measures from economic operators.

In the case of services and works contracts, the Directives state that, in appropriate cases, the contracting authority may ask from the economic operator to indicate the environmental management measures that it will be able to apply when performing the contract. In that case, reference shall be made to the Community Eco-Management and Audit Scheme (EMAS) or to environmental management standards based on the relevant European or international standards certified by bodies conforming to Community law or the relevant European or international standards concerning certification. Contracting authorities also have to accept other evidence of equivalent environmental management measures.

Taking the example of a cleaning service contract with environmental features, a contracting authority could require from bidders to demonstrate their capacity to perform such contract properly through an EMAS or equivalent certificate or by other evidence of equivalent environmental management measures, such as a detailed description of the measures taken and appropriate quality control.

Contract clauses are linked to the execution phase of the contract but are announced at the beginning of the procedure, to allow purchasers to consider those conditions when establishing an offer. In the case of supply contracts, they may for instance relate to the mode of transport of the products (by train, by ship, by truck) or to the need to assure that the products delivered are compliant with certain legal requirements, such as respect of ILO (International Labour Organisation) conventions. In the case of services and works contracts, performance may involve appropriate environmental management measures.

In the case of environmental service or works contracts, the contracting authority may specify, by way of a contract clause, that the contractor should implement an environmental management system, in order to ensure correct implementation of required environmental management measures.

## **THE INTERNATIONAL AGREEMENTS**

Today, the officially stated general purpose of public procurement is to serve the best interests of government by acquiring goods and services on the most advantageous terms, considering price and other factors deemed to be important to the purchasing agency. Public procurement law accordingly sets out a legal framework for this, and also gives potential purchasers assurances of transparency, due process and equal opportunities for bidding in a procurement process that is articulated in government regulation.

National and subnational priorities are very apparent in government procurement law and regulation. In the United States, for instance, such priority is given to purchases of goods and services from small business, from minority-owned business, and for “green” products. The “Buy America Act” also governs many kinds of procurement. In the European Union, concurrent directives requiring devolution and direction to purchase

environmentally preferable products have encouraged “green” procurement on many sub-central levels.

Importantly, international trade agreements will not pose serious barriers to green procurement.

### **GREEN PROCUREMENT IN TRADE POLICY**

#### **Existing International Instruments – The GPA, NAFTA and the FTAA**

The most relevant international instruments affecting procurement of “green” products are the WTO agreements. Neither the General Agreement on Tariffs and Trade (GATT) nor the WTO agreements specifically cover public procurement in their general provisions. In fact, public procurement is specifically exempted from the market access commitments negotiated in the Uruguay round. However, the WTO’s Government Procurement Agreement applies directly and other WTO agreements, including the Sanitary and Phytosanitary Agreement (SPS), and the Agreement on Technical Barriers to Trade (TBT), are relevant to definitional aspects of green procurement.

#### **The WTO’s Government Procurement Agreement**

The WTO’s Government Procurement Agreement (GPA) is the predominant international instrument disciplining government procurement. It was first negotiated during the Tokyo Round, entering into force on 1 January 1981, then renegotiated in the Uruguay Round, which expanded its coverage. It is intended to increase global access to the internal procurement processes and practices of each signatory country, pursuant to rules providing that these processes and practices must be conducted in ways that are 1) transparent, 2) subject to due process, and 3) do not discriminate against foreign goods and services.

The GPA is very different from other WTO agreements in that it only applies to those WTO members who elect to become GPA signatories. It has two kinds of obligations; general rules, most of which concern tendering procedures, and coverage of specific entities that are individually described in the agreement.

Among GPA members, the GPA extends basic WTO disciplines-national treatment and most-favored nation treatment-to those procuring entities that it covers. It also prohibits discrimination

against locally-based suppliers in favor of foreign affiliation and ownership or country of production of goods or services provided (if the country is a GPA member). These are among the most important WTO disciplines, and they are only applied to procurement contracts covered by the GPA since procurement is otherwise excluded from those WTO and GATT obligations.

The GPA only applies to the procuring entities specified by each country in the “schedule” of goods and services listed in the agreement and, further, it applies only to procurement contracts exceeding a given “threshold limit.” The United States uses a “negative” list to define coverage of goods and services under the GPA—meaning that it lists in its schedule the goods and services that are not covered by the Agreement. Other countries use a “positive list,” listing entities that are covered.

The GPA covers two categories of procurement not covered before—services and sub-central entities—and it is much more inclusive than its predecessor, but it does not cover food. The reasons for not including food are thought to be historical: food was not considered suitable to be globally traded, and fungible goods would not stand up to the rigors of a full-blown procurement process – often taking 40 to 60 days to complete. However, in reality, government purchases of food take place for many different reasons: as a subsidy to local or national producers, for redistribution as aid to domestic populations unable to purchase adequate supplies of food at market prices, and as foreign assistance.

#### **The North American Free Trade Agreement (NAFTA)**

The obligations set forth in the North American Free Trade Agreement (NAFTA) follow essentially the model provided by the GPA. NAFTA is a more detailed agreement, covering processes and practices not elaborated in the GPA, but it does not apply to many sub-central entities and, like the GPA, it does not cover food. NAFTA has only three signatories (Canada, Mexico and the United States). Legislation implementing NAFTA in the United States specifies that the agreement is not self-executing and that it cannot be used to override other federal statutes.

#### **The Free Trade Area of the Americas (FTAA)**

The intent of FTAA negotiators is to negotiate in the FTAA an extension of the NAFTA procurement agreement. This would also ideally contain enhanced disciplines for “offsets,” which are agreements to grant goods or services of value to the procuring entity “offered” by the recipient of certain kinds or values of contract awards. However, coverage is unknown at this time since the negotiation is still proceeding.

### **Effect on Sustainable Procurement of These Agreements**

Overall, none of the three agreements have much effect on sustainable procurement. Food is not covered, and threshold limits are high. Moreover, state and local entities are not covered in the NAFTA, will not likely be covered in the FTAA, and only some kinds of state and local procurement are covered in the GPA. Overall, “green” procurement can be encouraged at federal, state and local levels and will not likely be seen to contravene any international procurement rules, but, as discussed below, WTO rules governing how “green” products are defined could pose problems for controversial products.

### **Greener Public Purchasing**

Governments have developed sustainable procurement policies to target a broad range of environmental issues. Perhaps the most common initiatives aim to increase the recycled content of government purchases and to increase the efficiency of energy-using devices. Numerous additional initiatives target other issues, such as promoting the use of bio-based or organic products, alternative fuels, clean electricity, water conservation, integrated pest management, and lesspolluting manufacturing technologies.

Sustainable procurement policies often begin with a generalised mandate that procurement be effected in an environmentally conscious manner. Such general intentions have spawned a broad variety of specific programs.

Sustainable procurement (SP) policies are often described as “win-win”, in that they both promote environmental goals and reduce government purchasing costs. Other policies are, of course, “win-lose”, in the sense that they promote greener government purchasing even if that results in higher government purchasing costs. The simplest examples of potentially “win-lose” policies are price preferences and set-asides.

A final category of policies, and perhaps the broadest, seeks to increase procurement officials' understanding of green alternatives through information provision, training, and outreach. These programmes include the preparation of green product catalogues, workshops on green procurement, and the development and endorsement of green product labels. Some of these policies support "win-win" initiatives. For example, they may introduce procurement officials to affordable green products that have been overlooked in previous procurement decisions, or they may assist officials in making appropriate life-cycle costing decisions. Other information policies support "win-lose" policies that promote more expensive but greener alternatives. Green labelling programmes, for example, may provide the basic foundation for set-aside or price preference policies that favour labelled products.

### **The Direct Effects of Sustainable Procurement**

By influencing government purchasing decisions, sustainable procurement initiatives directly affect both environmental quality and the economic performance of the government. Unfortunately, relatively little detailed information is available regarding either of these impacts. Sustainable procurement significantly changes the composition of government purchasing and whether it influences a substantial magnitude of purchasing. Policies must have significant impacts on both composition and magnitude to generate significant direct impacts.

On the environmental side, another key driver is the extent to which policies address environmentally intensive sectors. All else equal, GPP will deliver greater environmental benefits if it is focused on sectors that raise the largest environmental concerns per unit of output. The most direct environmental benefit thus comes from focusing on environmental concerns that existing regulatory structures may have overlooked.

### **Comparing Environmental Policy Instruments**

Environmental policy instruments can be evaluated along a variety of dimensions; these include the portion of the market that they target, the burdens they place on producers and consumers, the incentives they create for product users, the incentives they create for innovation, the burden they place on the public treasury, and the degree to which they are subject to political or personal manipulation. GPP differs significantly from other policy instruments along several of these dimensions.

Perhaps the most crucial difference is that GPP directly affects only a small portion of the relevant market. Market-based regulatory systems, direct regulations, and information programmes can, in principle, reach all producers and consumers within a particular jurisdiction. Even if some producers and consumers are exempted, such policies will generally encompass the majority of activity. GPP initiatives, on the other hand, generally encompass only a small minority of relevant purchases.

GPP also differs from many environmental policy instruments by emphasising environmental decision-making by product purchasers. Emission taxes, permit systems, and direct regulations typically operate through the supply side of the market, affecting producers, distributors, and retailers most directly. Purchasers then base their decisions on their own preferences and budgets and the price and product combinations that the market provides. For reasons that have been clear for centuries, this is usually a desirable allocation of responsibilities: the government sets the standards, suppliers determine how best to respond to them, and purchasers select the best resulting products; each participant has responsibility for making decisions for which it is best qualified. The incentive effects of GPP depend on programme design. A risk, shared by many direct regulations and information programmes, is that GPP may provide little or no incentive for incremental improvements in environmental performance.

The fiscal implications of sustainable procurement depend on the prevalence of “win-win” opportunities. “win-win” initiatives reduce government costs, thereby expanding the government’s ability to provide services or reduce taxes. In this regard, “win-win” GPP initiatives are similar to pollution taxes and auctioned permit systems that raise new revenues for the government. “win-lose” initiatives, of course, have the opposite effect on the public treasury; in this regard, they are similar to subsidy systems and to regulatory systems that impose direct costs on the government

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(e.g. through monitoring and enforcement costs) or indirect costs through increased purchase prices.

A final distinction is that sustainable procurement initiatives appear to receive significantly less public scrutiny than do other environmental policy initiatives. Such reduced scrutiny reflects a combination of factors: packaging, the potential for “win-win” opportunities, and the relatively small stakes (compared with policies that directly affect entire markets). Whether such reduced scrutiny is desirable is another matter. Lack of attention may allow legislators or purchasing officials to design policies and make purchasing decisions that favour their own political or personal agendas, rather than broader social goals.

### **How Sustainable Procurement Interacts with Other Policy Instruments**

This discussion has identified key distinctions between sustainable procurement and other environmental policy instruments. In practice, of course, specific environmental problems may be addressed with multiple policy instruments. For that reason, it is important to consider how GPP may complement or conflict with other policy instruments.

A natural starting point is the earlier observation that GPP may be particularly effective at encouraging innovation but, conversely, that it may be relatively weak at sparking subsequent commercialisation and diffusion. Under these conditions, it seems natural to view GPP as an instrument focused on eliciting the development of greener products and technologies, while other policy instruments (e.g. taxes, subsidies, and direct regulations) may be focused on the broader private market-place. Comprehensive environmental policy development should emphasise the strengths of each instrument, while moderating their weaknesses.

A related observation is that the limited scope of GPP may be an asset, rather than a limitation, in achieving certain policy goals. Specifically, the government can use its own purchasing as a testing ground for environmental policies and greener products. By undertaking such testing, the government may position itself to make more informed decisions about subsequent regulations affecting broader public and private markets. GPP can thus set a foundation for better design of traditional environmental

regulations. Finally, it must be noted that GPP raises the potential for over-regulation in a world of pre-existing environmental regulations. Green procurement initiatives will generate greater social gains (and, likely, greater environmental gains) when they address environmental issues that have been poorly addressed by existing regulations.

### **Implementing Sustainable Procurement**

When a procuring entity publishes a notice for tender it must state according to which principle bids are to be evaluated. Contract assignment according to the principle of economically most advantageous bid means that despite price, weight is also given to other criteria such as environmental criteria. The environmental criteria as well as the model by which such criteria will be evaluated against price need to be specified in the call for tender.

The environmental criteria may be mandatory in the meaning that they have to be met by the bidding firm to be considered as a qualified bidder and have its bid considered. These criteria can be more or less stringent. However, environmental criteria may also be only recommending, which means that they do not have to be met. Again, criteria can be more or less stringent. Furthermore, independently of whether they are mandatory or only recommending, weights can be given to environmental criteria relative to the price of the procured good or service. This gives the procuring entity an opportunity to design its implementation of sustainable procurement in several ways, deciding to what extent the environment important is compared to the product price. That is, the procuring entity can combine environmental criteria ranging from low to high level stringency with low to large weights given to the criteria. A typical example of low criteria stringency level would be eco-labelling of some sort. Holding other things constant, low environmental criteria stringency in combination with low weights given to these relative price, will create low incentives for firms to invest in more environmentally friendly technologies and as such have no or low expected effects on sustainability.

Alternative tools are *market-based* tools, such as taxes, subsidies, and tradable permits. Taxes and subsidies have impact on emissions levels indirectly via the price mechanism. Tradable permits works in terms of quantities just as the earlier described administrative policy tools. However, a market where permits may

be traded at a certain price will be established and a relative price between a permit and marginal emission reduction will be established. This will create essentially the same economic incentive to adjust environmentally as in the case of, e.g., tax. As becoming obvious below, market-based policy tools are automatically cost-efficient as all producers facing them adjusts until they meet the same marginal reduction cost, this in spite of the fact that no producer is another like.

### **Cost-efficiency: What Does it Mean in Context of Sustainable Procurement?**

The fundamental point of departure for environmental policy should be that it shall contribute to allocate resources in such a way that welfare is maximized. Therefore, economically efficient environmental policy concerns two conditions; firstly, given perfect information essentially about pollution quantities and their environmental damages, environmental objectives have to be set optimally. Formally this means that an optimal target is met when the utility of additional environmental control effort balances the cost of implementing this additional control effort. Secondly, the environmental objectives must be achieved at least cost, which implies that cost-efficient environmental control measures must be put into practice. If these two efficiency conditions are met, resources, including the environment, are allocated in a welfare maximizing way. However, it is unrealistic to believe that agents deciding upon environmental standards have perfect information as assumed above, and therefore it is not reasonable to believe that they are able to price the environment correctly. Therefore, from a welfare point of view, it is nearly impossible to establish optimal environmental objectives. Instead desired environmental objectives are established, and the cost-efficiency condition should be the guiding rule in achieving these objectives.

When approaching sustainable procurement as an environmental policy tool it is important to reflect upon cost-efficiency and what it actually means. As a simple example, assume that an environmental problem originates from polluting firms that are different in terms of production technologies, and that the authorities is therefore about to decide upon a reduction target. Furthermore, there is no environmental policy in use targeting the particular problem. In purpose of achieving the target the authority should implement a policy tool that accomplishes the

reduction cost-efficiently. However, if the firms use different technologies they also differ in prerequisites of reducing their pollutions. This means that when the environmental objective is achieved cost-efficiently, i.e., when the marginal reduction cost for the firms are identical, they have reduced their pollutions differently in terms of quantities.

### **Using Public Procurement to Achieve Social Outcomes**

We often think of government as regulating market participants, sometimes encouraging markets through competition law, or restraining them through minimum wage laws. But governments also increasingly play a role as active participants in the market itself, purchasing public works, supplies, and services. The particular issue that is how government attempts to combine these two functions: participating in the market as purchaser and at the same time regulating it through the use of its purchasing power to advance conceptions of social justice. The term 'linkage' is used to describe this use of procurement. 'Linkage' is used in preference to 'conditionality'. Although the terms share certain similarities, the diversity of ways in which procurement and social policy have been brought together goes beyond simply awarding contracts on certain conditions, and extends to include, for example, the definition of the contract, the qualifications of contractors, and the criteria for the award of the contract.

There has been an important parallel development: using public procurement to achieve environmental goals. During the 1990s, the development of 'green procurement' policies was nothing short of dramatic, at the national level, but more particularly at the European and international levels (OECD, 2003). Such initiatives were, however, more often than not, separated from efforts to integrate social policy goals into procurement. The development of 'green procurement' came to be seen as one part of a raft of initiatives to promote the general goal of sustainable development. Given that sustainable development has taken on an important social dimension, it is not surprising that there is now a growing interest in the social aspects of procurement. More recently, therefore, there has been growing debate about how aspects of social procurement can be combined with green procurement to produce 'sustainable procurement', thus addressing both social and environmental issues. The linkage of both social and environmental purchasing under the umbrella of 'sustainable procurement' appears to be generating a renewed

interest in exploring the applicability of social linkages with procurement. There is, however, not much easily accessible information on the current extent of social procurement worldwide.

### CONCLUSION

In markets with significant private demand, sustainable procurement appears to be most promising when it focuses on developing and commercialising innovative green products for private demand. In other words, sustainable procurement will be most effective when it focuses on bringing forth new green products that the private sector has reason to adopt. Private sector adoption can, in principle, greatly amplify changes in government purchasing. This is crucial since individual governments typically make up only a small fraction of purchases in relevant markets.

Sustainable procurement will be least promising when it focuses merely on switching government purchases from existing brown products to existing green products. Such switching will generate relatively minor environmental gains, given the relatively small purchasing power of most government entities. Moreover, such switching will sometimes be offset, in whole or in part, by contrary changes in private purchasing. Such offsetting behaviour is particularly likely with products whose environmental characteristics are invisible or irrelevant to private purchasers (*i.e.* products for which there is not latent private demand for the green product). Most notable among these are products that differ only in the greenness of their production, but not in their quality for the buyer. For these products, it should be expected that private buyers will favour the best price and quality combinations. As a result, their purchasing decisions may run directly counter to changes in government policy.

It can be said that, sustainable procurement is not a cost-efficient environmental policy tool. All potential entrepreneurs considering a public tender under sustainable procurement face the same set of specified environmental criteria, although most of them have different types of production technology. Consequently, the outcome of sustainable procurement represents an equal reduction in pollution by all firms, which contravenes the cost-efficiency condition.

One of the possible advantages of sustainable procurement is that economic tools are typically limited by national boundaries. Taxes, for example, are generally decided at the national level and only target firms located within the nation's geographical borders.

It is important to note that, the effect of sustainable procurement on the degree of competition is separate from the effect on price. Implementing sustainable procurement could deter as well as stimulate entry. However, meeting the environmental criteria can demand investment costs and if so result in higher bids. As a consequence the outcome could be that bids are higher although more bids may be placed.

Pursuing environmental policies via the implementation of sustainable procurement is a complex task. Although sustainable procurement is politically appealing as a policy measure and has some advantages, it is likely to be more efficient to use economic tools, such as taxes, subsidies, fees or emission permits. Decisions about the implementation of sustainable procurement, as with any other policy tool, should be based on a welfare analysis, in which gains and losses are compared and only implemented when the net effect is beneficial.

On the other hand, the variety of social procurement initiatives raises several questions:

First, there remain tantalising issues concerning how similar 'green' procurement is to social procurement, including the extent to which these two sets of initiatives complement or cut across each other. This will clearly affect the extent to which acceptance of international or regional standards in the area of social procurement will be possible in the context of sustainable procurement.

Second, there are uncertainties about the extent to which social procurement raises different legal and policy issues regarding their compatibility with international and regional legal frameworks. To the extent that there are legal differences in the treatment of each, then discussions of sustainable procurement will be made more complex.

There are several areas that need further attention in the coming years to continue fostering sustainable procurement:

- Continuing education and awareness on the business case, success stories and best practices for green, social and sustainable procurement, including networking between

practitioners, and between private and public sector organizations.

- Further international cooperation to share standards and procurement criteria between labelling and standards organizations. This would help to promote mutual recognition and equivalency of labels and standards.
- Explore and focus education and discussion on how to “green, social and sustainable” procurement activities can be integrated into existing environmental and sustainable quality management systems by private and public sector organizations.
- Providing simple tracking and measurement techniques to quantify and help communicate the benefits of green, social and sustainable procurement activities. There is a need for measuring and reporting that enables products and services to be compared and enables private and institutional investors.

As the final word, we can say that sustainable procurement is the way of the future. A range of resources and organizations exist to assist both the public and private sector in adopting green and social procurement practices. Those procurement practices often vary and depend on the service, product, resource, material, substance or commodity being purchased. Integrating environmental, health and safety aspects of products/services into the procurement process, alongside the traditional criteria of cost, quality, safety and technical performance continues to be the major challenge with both public and private sector organizations. While several challenges remain, they continue to be identified and addressed.

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