POSITION PAPER

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The Role of Public Procurement under the Circular Economy Act

Summary: By leveraging their purchasing power, governments and public institutions can create and support demand for circular[1] and low-carbon materials[2], as elaborated in Cefic's position paper on the public procurement revision. Such a contribution to a steady and minimum demand for more sustainable products would not only support the transition of European industries but also foster innovation and economic growth. **Cefic believes that demand creation policies are urgently needed to support the business case for the transition to low-carbon and circular production in Europe; however, such policies shall go beyond public procurement.**

Authorities can implement green public procurement (GPP) policies that set criteria for the environmental performance of products and services. These criteria can include the use of circular (biomass-[3], recycled-, CCU derived) and low carbon materials (defined by their Product Carbon Footprint) in final products, lifecycle assessments, and certifications, as appropriate for the specific product category. The concrete selection of appropriate mandatory minimum criteria per product category should include market considerations, strategic industrial policy decisions, and socio-economic factors. Additionally, training and capacity-building initiatives can help to educate procurement officers and suppliers about the benefits and availability of circular and low-carbon materials.

Exhaustive research, publications, and guidelines already exist that indicate best practices, provide information about specific products, and, in general, provide instruction for public institutions on how to implement green public procurement for circular products. Among others, specifically for biomass-derived products, see [4] [5] [6] [7].

Different EU Member States are implementing GPP policies. Examples include the Spanish Green Public Procurement Plan 2025-29, the Dutch Manifesto for Socially Responsible Commissioning and

[1] In line with the definition of circular carbon, i.e., all carbon not derived from a virgin fossil feedstock, and which is currently present in the biosphere, atmosphere and anthroposphere. This includes biomass, waste and recycled materials, CO_2 captured from industrial processes or from the atmosphere, even if they originally come from a fossil source. See Cefic paper on the topic.

[2] Low-carbon products are defined by their product carbon footprint (or equivalents). Circular products, in the context of this paper, refers to products using waste-, biobased, and CO_2-based raw materials.

[3] Biomass-derived products are products wholly or partly derived from biomass, encompassing bio-based and bio-attributed products. Bio-based products are those for which the share of bio-based content can be measured via established radiocarbon methods These may be fully or partially bio-based. Bio-attributed products are those for which the use of bio-based feedstocks, substituting part of the raw material needed in the manufacturing process, has been attributed to the product via the mass balance method and is certified according to a third-party certification scheme.

[4] SUSTAINABLE PROCUREMENT PLATFORM | Sustainable Public Procurement

[5] Green Business - Library

[6] Bringing Bio-Based into Green Public Procurement: Lessons from Catalonia and Zeeland - Bioregions

[7] Guidance for bio-based products in procurement - European Commission

Purchasing, the Italian Action Plan for the Environmental Sustainability of Consumption in the Public Administration Sector, the recent Spanish initiative on green public procurement under the State Pact on Climate Emergency, or the German requirement to consider lifecycle GHG emissions in procurement. While EU legislation, such as the Net-Zero Industry Act (NZIA), the Industrial Decarbonisation Accelerator Act (IDAA), or the Ecodesign for Sustainable Products Regulation (ESPR), aim at creating streamlined mandatory GPP requirements in certain areas, a harmonised approach at the European level is so far missing. In this context, coherence between targeted initiatives, including under the Circular Economy Act (CEA) and the revision of the procurement directives, which can create common requirements, is key. Specifically for biobased products, countries like the US already have a longstanding (since 2002) dedicated public procurement program, namely the so-called US Biopreferred. The dedicated website contains useful information, including a list of 139 product categories, infographics, and a company mapping feature, among other resources.

We recommend leveraging knowledge that is already available, both inside and outside the EU, and adapting it to yield a fit-for-purpose green public procurement proposal. A coordinated and coherent approach between different initiatives to that end, in particular the revision of the Public Procurement Directives, the Circular Economy Act, and the Ecodesign for Sustainable Products Regulation, is crucial.

To this end, we propose the following implementation.

Setting up the system

- List all sectors and products that should be included in the GPP tendering process.
- Establish category or product fact sheets listing the minimum product-specific criteria.
- Make the inclusion of GPP criteria mandatory for all public contracting authorities in tenders for products belonging to the selected sector/categories.
- Minimum criteria that should be included, where appropriate for the specific product category, should be based on a combination of the following elements:
    - Being a circular product (using waste-, bio-, or CCU-based raw materials as feedstock) and the share of circular material used[8].
    - Product Carbon Footprint[9] of the final product or components of final products (where applicable) along the value chain.
    - Minimum EU content requirements in procurement, in line with international obligations[10], and considering the whole value chain.
    - End-of-life criteria.
- The selection of concrete appropriate criteria per product category should also be adjusted based on industrial transition, market and affordability priorities.
- Provide support to national and local authorities in the implementation of GPP. The support could be in the form of documentation (guidance material, fact sheets, best practices, ...) and/or

[8] Policy-makers could additionally create aspiration figures to be reached by a certain year which can guide the implementation of requirements.

[9] Or equivalent.

[10] Which can mean that rather being a “strict” EU preference, the criterion should also include partner countries implementing the WTO Agreement on Government Procurement (GPA) or Free Trade Agreement partners where a procurement chapter has been concluded.

through structured training programs helping procurement teams build the necessary knowledge and competence, and identify products available on the market meeting the minimum criteria.
- Foresee an adaptation phase during the initial implementation of the updated GPP rules.
- Since GPP may be a brand-new concept for some public authorities, pilot testing of procurement and supporting the implementation of monitoring criteria allowing for continuous improvement should be foreseen.
    - To this end, introduce a form of regulatory sandboxes to allow procurement authorities to test.
- Define possible exemptions and flexibility from Green Public Procurement Rules on grounds of technological or market limitations and excessive costs to allow the system to remain effective without compromising the functionality of public procurement.
- Develop a supply and demand IT tool, so capacity build up and investments decisions can be accelerated, while price can be reduced due to acceleration of economy of scale.

Evaluating tenders

EU GPP guidelines should set a minimum weight and score to be assigned to at least some of the mandatory non-price criteria identified per product category (e.g., share of circular material used). Minimum EU content, in line with international obligations, and considering the whole value chain, should be a pre-qualification criterion where appropriate. EU GPP guidelines should be flexible enough If EU content is not available for certain types of materials. This should provide sufficient flexibility to account for the fact that a multitude of products with different properties need to be purchased, ranging from bitumen to plates and cutlery to road furniture and cleaning products. A clear scoring system should also provide the necessary transparency to the procurement process. To prevent unintended negative effects on EU industries, criteria should be material-neutral and avoid favouring one material over another (e.g., plastics vs. paper) but focus on the objective, science-based sustainability characteristics of the products, such as circularity and carbon footprint. Furthermore, to create a level-playing field, the EU needs to ensure that imported goods (or services) eligible for public procurement, where applicable, fully comply with the set requirements.

It should be recognised that some products, like packaging, can originate from different circular carbon sources or a combination of them (e.g., recycled and biomass-derived), while for others, like detergents, they mainly originate from one circular carbon source (e.g., biomass-derived). The GPP scoring system and criteria should be able to account for these cases.

When dealing with circular products, public authorities may be dealing with relatively novel products and markets, sometimes requiring different specifications compared to their conventional counterparts. Therefore, too restrictive, overambitious, and detailed specifications should be avoided to allow tenderers/bidders space for innovative and more adaptable approaches.

- First of all, any product, regardless of its origin, should match the desired performance for the product usage. This could be a cut-off criterion.
- The overall selection criteria should favour environmental performance over lowest-cost only, or at least give a significant value to environmental performance criteria.
- Additional points should be awarded if a product exceeds the minimum requirements (e.g., through the implementation of a stepwise or tiered approach).

A fictional example, adapted from the InnProBio good practices [11], solely to illustrate how such a scoring system could look, the range of parameters that a public authority may need to handle, and the necessity of flexibility to adapt to the local requirements, is reported in the box below.

EXAMPLE

Disclaimer: values and characteristics are chosen purely to illustrate a potential implementation and are not a position or endorsement by Cefic.

A public hospital needs to purchase disposable items such as surgical gloves. Important factors for the hospital, specified in the tender, are:

- Technical performances (e.g., cut and puncture resistance, sterility assurance,…).
- Share of European production for the final product or for components of final products (where applicable) along the value chain.
- The supply should be recurring and timely executed; therefore, supply timing and supply reliability are key.
- The hospital aims to reduce its environmental impact and evaluated that 10-15% of its impact is determined by disposable products. Therefore, lifecycle product carbon footprint and the use of circular materials for the gloves are relevant.
- The hospital does not have an infinite budget for gloves, hence the price is a key parameter.

The weighing given to the different tender requirements, to evaluate different bidders, could for example, be:

- Performance, minimum EU production: cut-off criteria
- Price (40% of total score)
- Function, design, and quality of gloves beyond the minimum performance (5% of total score)
- Lifecycle product carbon footprint of the final product (25% of total score). Supposing that the minimum for EU GPP is 20%.
- Share of circular material[12] (20% of total score). Supposing that the minimum mandated share from EU GPP for that product category is 25% and that the minimum weight factor is 20% of the total score, the hospital decided that a higher proportion would be awarded following a bonus/malus system.
- Delivery time from order and timing of delivery for recurring orders (10% of total score)

[11] InnProBio_Goodpracticecase_Skane.pdf

[12] As elaborated in the Cefic position on the Bioeconomy Strategy, we support separate targets for recycled- and biomass-derived products. The share of circular material is the general criteria to be adjusted by product category or as mandated in specific product legislation, e.g. PPWR.

For more information please contact:
Marco Pellegrini
Bioeconomy Manager
mpe@cefic.be

Yannick Scharf
Manager Trade & Customs Policy
ysc@cefic.be

About Cefic

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