

Cefic Views on the Evaluation of the Public Procurement Directive

Draghi [proposes](#) “low-carbon criteria and minimum environmental sustainability requirements for public procurement” in his recommendations for energy-intensive industries. Concretely, Green Public Procurement (GPP) can incentivise or mandate the use of circular and low-carbon chemicals by companies being awarded the procurement contracts (B2B channel). Compared to sectors that are directly involved in procurement, the potential for chemicals is rather indirect and complex. Appropriate mechanisms to create incentives for the companies participating in tenders to use low-carbon and circular base materials / intermediates in the final products they are supplying should be evaluated to create a pull effect through value chains (e.g. *in which form can specific Product Carbon Footprint (PCF) requirements incentivise the use of low-carbon chemicals in the procured goods?*). The benefits of any specific criteria need to be balanced with administrative burden and complex traceability requirements.

The chemical industry is part of a diverse and complex range of value chains, producing over [70 000](#) different products, which are involved in most manufactured goods, and supplying [more than 15 industrial sectors](#). Demand pull potential varies by chemical subsector. Companies producing e.g. a high share of chemicals for construction could see a much stronger effect from GPP than such producing mainly for the detergent sector. The effect will also depend on the share of chemical content in a final product procured and e.g. its contribution to the overall PCF. Public procurement can therefore only complement other, more powerful demand side policies. The impact assessment on public procurement can help establish more clarity on the pull potential for chemical value chains. In this context, we want to highlight our broader asks on market pull measures, e.g. the need to combine demand side measures with supply side support.

Non-price criteria should be effective, implementable, and focused. We support an inclusion of carbon-footprint requirements for (chemicals in) final products, based on ISO 14067:2018 (*Cefic is currently assessing various aspects and details connected to the implementation of this methodology for different product categories including, more specifically for chemicals, in the form of the Together for Sustainability Product Carbon Footprint Guideline for the Chemical Industry*), and circular feedstock (referring to products using waste, biobased and CO₂-based raw materials as feedstock) requirements. All criteria in GPP should be material neutral, science- and lifecycle based. To ensure a level-playing field, the EU needs to ensure that imported goods (or services) eligible for public procurement fully comply with the set requirements: this means controls at the borders must be improved and requirements must be verifiable beyond ‘paper/electronic declarations’.

Green Public Procurement criteria need to be designed with a level-playing field in mind, meaning that companies producing in Europe can get a fair share of the new market opportunities, given that, for the time being, it can be cheaper to transition to low-carbon and circular production in particular in regions where energy- and feedstock costs are more favourable. Green Public Procurement criteria not considering

this risk may have a negative impact for production in the EU as it can be relatively easier for competitors producing in other jurisdictions to fulfill them.

We are aware of the Commission's intention to work on some type of "European preference", as mentioned in the Competitiveness Compass. A careful evaluation should be conducted to determine whether produce/invest in EU policies, resilience criteria, or a set of qualitative parameters reflecting the social external value of producing in the EU / aligned countries, could be helpful to support the business case for the EU chemical industry and its downstream value chains. Such an evaluation should assess workability issues (e.g. also products supplied by EU producers commonly have a mixed origin, and strict criteria requiring separated storage can be costly), the step of the value chain where requirements should be applied, compatibility with existing international commitments and potential effects on external trade. In particular, any such considerations should be aligned with obligations from Free Trade Agreements with Procurement Chapters, as well as the WTO Agreement on Government Procurement in which 22 parties (including the EU, the US, the UK, Canada, Japan and South Korea) agreed to mutually opening procurement markets. In general, a European preference would not be needed if Europe was competitive.

Any considered criteria should be oriented on what can be feasible in markets (e.g. feedstock availability) and avoid overburdening both participating companies, especially SMEs/small midcaps, and tendering authorities, including local ones. Market-based mechanisms should be prioritised wherever possible, to minimise bureaucracy and ensure supply/demand balancing. We therefore recommend to exclusively focus chemicals related criteria for final products on the elements mentioned before. This is also related to avoiding an disproportionate increase in burden on purchasers. Harmonised digital tools could be developed to support the selection of contractors/suppliers.

Inspiration for effective GPP policies can come from other jurisdictions, e.g. the US bio-preferred policy, US IRA financial support for procurement of low-carbon construction materials, or the Japanese Act on the Promotion of Procurement of Eco-Friendly Goods where goods produced with low GHG-emission parts & raw materials are one of the promoted categories. Further learnings on what worked and what did not can come from Member States implementing GPP schemes and the experience of involved private and public actors.

The [Antwerp Declaration](#) calls for market pull measures to "*boost the demand for low-carbon and circular products*" as one of the 10 interconnected elements of a European Industrial Deal. Our recent position paper spells out under which conditions such demand side measures can work for the chemical industry. Public procurement can represent one lever to stimulate demand for sustainable products, supplementing policies that support private demand. However, public procurement alone will not be able to support climate-friendly transformation of the chemical industry on a broad scale. While a well-guided procurement reform, taking into account the considerations elaborated below, may have a positive impact, especially on certain sub-sectors, the preferable policy action would in principle be to improve competitiveness of the supply side (which covers all downstream markets for chemicals) compared to just targeting a limited number of downstream markets via public procurement. Hence, other measures both on the supply and the demand side are needed to provide a more impactful boost.

In the different sectors in scope, it will be critical to manage complexity in the implementation, to limit the risk that additional administrative burden outweighs pull effects or to trigger adverse side effects. With the same considerations in mind, we ask the Commission to ensure coherence between GPP criteria developed for different policies (e.g. ESPR, NZIA, procurement directive). Legislative misalignment creates unnecessary administrative costs, uncertainty and confusion for both private and public actors. Ensuring

coherence is therefore a key part of the necessary “new spirit of law-making” the Antwerp Declaration calls for. Furthermore, fragmentation creating uncertainty and costs while harming the Single Market should be reduced by increasing EU level harmonisation (e.g. creating a procurement regulation).

For more information please contact:

Yannick Scharf

Manager Trade & Customs Policy

ysc@cefic.be

About Cefic

Cefic, the European Chemical Industry Council, is the forum of large, medium and small chemical companies across Europe, accounting for 1.2 million jobs and 13% of world chemicals production.

On behalf of its members, Cefic’s experts share industry insights and trends, and offer views and input to the EU agenda. Cefic also provides members with services, like guidance and trainings on regulatory and technical matters, while also contributing to the advancement of scientific knowledge.