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THE EUROPEAN UNION**

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Subject: Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on public procurement for a better environment
– Adoption of Council conclusions

1. The above communication, submitted by the Commission on 18 July 2008 as part of the Sustainable Consumption and Production and Sustainable Industrial Policy Action Plan¹, aims at providing guidance on how to reduce the environmental impact caused by public sector consumption and to use Green Public Procurement (GPP) to stimulate innovation in environmental technologies, products and services. It addresses specific aspects such as the establishment of procedures for setting common GPP criteria, information for purchasers on life-cycle costing of products, legal and operational guidance from the Commission, and the assertion of political support in the form of a political target, for all public procurement in each Member State, combined with indicators and close monitoring in ten priority areas identified jointly by the Commission and the Member States.

¹ 12026/08.

2. Following the presentation of the Communication, the Presidency elaborated a draft set of Council conclusions on the matter, which was examined by the Working Party on Public Procurement during its meetings on 24 July and 3 September and by Public Procurement Attachés on 15 September 2008.
3. At its meeting on 19 September 2008, the Permanent Representatives Committee (Part 1) reached unanimous agreement on the draft Council conclusions, as set out in the Annex to this Note.
3. **The Council is, therefore, invited to adopt these conclusions at its forthcoming meeting of 25 and 26 September 2008.**

**Draft Council conclusions on
"Public procurement for a better environment"**

THE COUNCIL OF THE EUROPEAN UNION,

RECALLING

- (1) The renewed EU Sustainable Development Strategy¹, adopted at the European Council meeting on 15 and 16 June 2006, which identified sustainable patterns of consumption and production as one of the major challenges of sustainable development and invited the Member States to aim "to achieve by 2010 an EU average level of Green Public Procurement (GPP) equal to that currently achieved by the best performing Member States";
- (2) The conclusions of 23 and 24 March 2006 European Council² which approved the following focuses for action: "exploration of specific actions to bring about more sustainable consumption and production patterns at EU and global level, including the development of an EU SCP Action plan, and fostering green public procurement, inter alia by promoting environmental criteria and performance targets";
- (3) The Communication³ on Integrated product policy which aimed to improve the environmental and energy performance of goods placed on the Community market, to adopt a "life cycle" approach in production, to encourage the emergence of environmentally friendly pricing, to inform consumers better, to develop tools for public purchasers to help them to integrate the environment in their orders, and which encouraged Member States to develop action plans for greening their public procurement;

¹ Doc.10917/06.

² Doc.7775/1/06 REV 1.

³ COM(2003) 302.

- (4) The Kok Report of November 2004 by the High-Level Working Party on the implementation of the Lisbon strategy for growth and employment, "Facing the challenge", which recommends action to promote environmentally friendly public procurement at national and local level;
- (5) The Communication on the implementation of the Environmental Technologies Action Plan⁴ where the Commission proposes, among the first steps, to draw up "national action plans for green public procurement Such plans should establish objectives and benchmarks for enhancing green public procurement as well as guidance and practical tools for public procurers."
- (6) The conclusions of the European Council of 13 and 14 March 2008 which state that "the transition to a safe and sustainable low carbon economy will have an impact on numerous policies and on the economic and daily life of the citizens. Coherent policies exploiting the synergies relating to Energy and Climate Change are also needed in the other three priority areas of the Lisbon Strategy as well as in other EU policy areas, including ... unlocking the business potential of eco-industries and developing a sustainable industrial policy and sustainable and globally competitive lead markets, while taking into account the impact of Energy and Climate Change measures on competitiveness"⁵;
- (7) Its integrated conclusions on a new impulse for competitiveness and innovation in European industry of 29 May 2008⁶; and its integrated conclusions on competitiveness of 22 November 2007 which emphasise the objective of making Europe a world leader in environmentally friendly and socially acceptable low-carbon and energy-efficient products, technologies and services, encouraging all enterprises to have the highest profile in those fields and to lead worldwide markets, and welcoming the Commission's intention to present an action plan on a sustainable industrial policy early in 2008⁷;

⁴ COM(2005) 16.

⁵ Doc.7652/08 CONCL 1, pt. 27, p. 21.

⁶ Document not yet numbered.

⁷ Doc.15683/07, p. 7.

WHEREAS

- (8) Changes in production and consumption patterns are crucial for the achievement of sustainable development;
- (9) Efficiency in the use of resources, productivity of resources and eco-innovation are among the main factors in competitiveness and sustainability in the European economy;
- (10) The environmental industries are a high-growth global market in which Europe occupies a strong position;
- (11) A framework of ambitious, transparent and predictable environmental references, based on due respect of the Treaties, better regulation principles, and active cooperation by industry in the internal market, encourages their adoption by industry, including traditional industries, but involves regular updating and verification;
- (12) Given the importance of public procurement in the European GDP, the greening of public procurement is one of a set of efficient tools to promote modes of production that are more environmentally friendly and stimulate a supply of goods and services that offer value for money, taking into account environmental benefits, over their whole life; GPP, in particular by means of support for eco-products and eco-technologies, can facilitate the promotion of a highly competitive and innovative European knowledge economy;

- (13) Public institutions, including Community institutions, are expected to show an example by using GPP modalities (such as selection criteria, technical specifications, award criteria, or contract performance clauses) in their purchasing procedures, thereby stimulating, at a level permitting economies of scale, the supply of products, services and works that offer value for money, taking into account environmental benefits, over their whole life;
- (14) A minimum level of tools and targets for GPP, developed in close cooperation with Member States and relevant stakeholders, could be eventually harmonised in Community legislation, in order to create a level-playing field and reduce administrative burdens for European businesses, especially SMEs whose specific situation must be accounted for. Any such proposal should be subject to impact assessment;
- (15) Many EU Member States, as well as the Commission, are involved in international activities on Green Public Procurement such as the UN Marrakech Task Force on Sustainable Public Procurement or the OECD Council Recommendation on Improving the Environmental Performance of Public Procurement (C(2002)3);
- (16) NOTES that GPP can be defined as a process whereby, within the European Union, public purchasers seek to procure supplies, services and works with a reduced environmental impact throughout their life cycle in comparison with similar products which might be supplied if environmental considerations were not specifically taken into account;

- (17) WELCOMES the Commission's intention of stepping up GPP through voluntary measures and targets based on the best technologies and practices, in cooperation with Member States; and by designating GPP as an area for cooperation in the Covenant of Mayors⁸ due to enter into force in 2009;
- (18) WELCOMES the definition of common GPP modalities for greening public procurement in ten priority sectors⁹, the introduction of two levels for setting these modalities in order to reflect differing requirements (core and comprehensive), and their potential to reinforce the objectives of Community instruments relating to the priority sectors;
- (19) WELCOMES the process of consultation of Member States, from the earliest stages, for setting the common GPP modalities for ten priority sectors, which should also involve relevant stakeholders; WELCOMES also the introduction of a formal procedure by which Member States will be asked to approve them; INVITES the Commission to publish these modalities in all European Union languages as soon as possible;
- (20) CALLS ON the Commission, in cooperation with Member States, to identify and promote the use of instruments already enshrined in Community law, including in public procurement directives, which are easy for contracting authorities to use, such as:

⁸ A Commission initiative backed by the mayors of the most innovative cities in Europe, scheduled to begin in 2009. For further information: <http://www.managenergy.net/com.html> .

⁹ Construction, Food and catering services, Transport and transport services, Energy, Office machinery and computers, Clothing, uniforms and other textiles, Paper and printing services, Furniture, Cleaning products and services, Equipment used in the health sector.

- (a) relevant parts of ecolabels or equivalents, and of other environmental standards as a reference to:
 - define needs and related technical specifications aimed at describing the environmental requirements expected of goods and services, and
 - produce award criteria relating to the environmental aspects of the contracts for the evaluation of bids;
 - (b) the voluntary Community eco-management and audit scheme (EMAS) and environmental management standards contributing to the evaluation of operators under certain specific conditions at the prequalification stage of a procurement procedure;
 - (c) contract performance clauses taking into account GPP;
- (21) CALLS ON the Member States to make full use of the potential of GPP to stimulate expansion of the market in environmental products and services, by encouraging sustainable public procurement, particularly in the areas of the EC framework research programme, and the EU cohesion policy instruments in which sustainable development was reconfirmed as one of several fundamental principles¹⁰;

¹⁰ Article 17 of Council Regulation (EC) No 1083/2006 of 11 July 2006, laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1260/1999: "Sustainable development. The objectives of the Funds shall be pursued in the framework of sustainable development and the Community promotion of the goal of protecting and improving the environment as set out in Article 6 of the Treaty."

- (22) WELCOMES the overall political indicative target of 50 % per Member State for GPP proposed by the Commission, based on the use of one or more GPP modalities as defined above and on a large choice of sectors, each Member State, from its current level of GPP, keeping the flexibility:
- to define its own targets in every sector to contribute to the overall 50% target, and
 - to apply more ambitious GPP modalities;
- (23) CALLS ON the Commission, in cooperation with Member States, to develop an evaluation methodology that is practical, flexible, and minimises administrative burdens, in order to assess with Member States the progress made in the priority sectors by 2010 and thereafter;
- (24) ENCOURAGES the Commission, in cooperation with Member States, to continue its work to develop a comprehensive European GPP policy; in particular, CALLS ON the EU institutions and the Member States to incorporate the environmental dimension, among others, when applying public procurement rules to the management of public funds, including EU funds;
- (25) CALLS ON the Commission, in close cooperation with Member States, to continue its efforts to consider harmonised provisions on GPP, where justified by an impact assessment, when proposing Community legislation, while taking account of the total life cycle cost of products and services;
- (26) CALLS ON the Commission, when defining harmonised GPP modalities, to focus, where appropriate, on defining functional specifications rather than detailed technical specifications;

- (27) WELCOMES the Commission's intention to highlight existing GPP recommendations on legal and practical issues, including the Commission's recently-published guide on "Public Procurement for Research and Innovation" as well as the GPP "Training Toolkit"¹¹, to further develop them where appropriate, and to ensure that they are circulated throughout the EU via existing national and regional cooperation platforms; to promote, in the public procurement context, the development of new high environmental-performance technologies and to set up a voluntary system within the EU for third party verification of the performance claims of new technologies;
- (28) CALLS ON the Commission, in cooperation with Member States, to continue seeking ways in which social aspects can be better incorporated along with environmental aspects in public procurement, while taking account of the total life cycle cost, and to encourage the exchange of best practices in this field, in particular by publishing legal and practical recommendations where appropriate;
- (29) CALLS ON Member States and the Commission, in dialogue with international institutions, to develop procurement policies which support and promote international agreements, such as the Voluntary Partnership Agreements with third countries in the framework of the EU Action Plan on FLEGT¹² regarding the production of legally and/or sustainably logged timber and sustainable forest management. Producers and importers from countries which have not concluded such agreements should nevertheless be allowed to present alternative kinds of proof of legal and/or sustainable production.

¹¹ http://ec.europa.eu/environment/gpp/toolkit_en.htm

¹² COM (2003) 251 of 21 May 2003, "Forest Law Enforcement, Governance and Trade – Proposal for an EU Action Plan".