Green Public Procurement in international trade

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Introduction

- Directive 2006/18/EC
- Transposition deadline: 1/01/2006
- Concerns public works, services and supply contracts
- Commission “Buying green” handbook
- WTO Agreement on Government procurements (AGP)
- Consequences of these texts with regard to public timber purchasing
Awarding criteria under Directive 2004/18/EC

- Public works, services and supply contracts are usually awarded to the tender:
  - Most economically advantageous (art 53 (1) a))
  - or
  - With lowest price (art 53 (1) b)

- Most economically advantageous => Contracting authorities shall determine economic and quality criteria

Technical Specifications and environmental requirements

- Technical specification shall comply with EC environmental legislation
- Contracting authorities may take into account environmental specifications (Art 23)
- Environmental specifications shall be linked to the subject-matter of the contract
- They shall not infringe general principles of EC law (e.g: free circulation, non discrimination)
**Eco-label**

- Eco-label can be used
  - To set technical specifications
  - To verify compliance with technical specifications
  - As a benchmark for deciding upon the award of the tender

- However, contracting authorities cannot impose upon bidders the obligation to be registered under an eco-label scheme.

- Bidders must be allowed to bring about equivalent means of proof.

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**Buying green handbook**

- Section 3.4.5 addresses illegal logging

  - When setting technical criteria, contracting authorities can only take into account environmental requirements that fall under the conception of sustainable forest management

  - Contracting authorities shall not take into account any social or economic dimension
Consequences for eco-label

- Contracting authorities may refer to forest certifications such as FSC
- But Technical specifications may only include criteria regarding aspects of environmental sustainability of wood harvesting
- Specification of such schemes concerning the protection of forest-dependent people shall not be taken into account

Agreement on Government procurements (AGP)

- A plurilateral agreement (25 Members)
- Technical specifications:
  - May include environmental aspects
  - Shall be linked to the subject-matter of the contract
- No Case Law on AGP
QUESTIONS

- When Timber is purchased, is Forest management linked to the subject-matter of the contract?

- Did the Commission take a position that might be in contradiction with directive 2004/18/EC or the ECJ Case-Law?

For any further information...

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