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**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN
PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL
COMMITTEE AND THE COMMITTEE OF THE REGIONS**

Public procurement for a better environment

IMPACT ASSESSMENT

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EXECUTIVE SUMMARY

Lead DG: ENV - **Other involved services:** SG, LS, MARKT; ENTR; TREN, EMPL, OIB, ADMIN, AGRI, RELEX, DEV, TRADE, SG; REGIO

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Our current consumption in the EU causes environmental damage at rates that are unsustainable. If the world as a whole followed traditional patterns of consumption, global resource use might quadruple within 20 years. It is necessary therefore to stimulate the faster development and diffusion of environmentally beneficial products.

Public authorities yearly spend a sum which equals 16 % of EU GDP, particularly in sectors with relatively high environmental impacts and at the same time serious scope for improvement (transport, buildings and building fittings..).

Considering this purchasing power, Green public procurement has been identified as a cost-effective tool for "leading by example", "greening" the supply side and pulling environmentally beneficial goods into the market place.

Green public procurement (GPP) is defined as a process whereby public authorities seek to procure goods, services and works with a reduced environmental impact throughout their life cycle when compared to goods, services and works with the same primary function that would otherwise be procured. It is a process that promotes, but not necessarily leads to, the purchase of a "green" product and which fully respects the EU legislation on public procurement.

Research carried out in 2006 has shown that only 7 Member States were practising a significant amount of GPP and that in the remaining 20 Member States, GPP was applied much less, or not at all.

Following problems have been identified as hindering EU wide uptake of GPP:

- (1) Lack of awareness of benefits, misperception of the extent of costs, and lack of political priority for GPP
- (2) Lack of legal clarity
- (3) Lack of information and tools for GPP, inadequate training structures, lack of knowledge of priority areas and absence of easy to apply GPP criteria
- (4) Lack of similarity between GPP procedures and criteria across the EU, which also results in increased administrative costs in particular for SMEs and hindering the internal market

In the light of these problems, the Commission has identified a series of actions and measures aimed at radically increasing the quantity and quality of GPP in the EU 27. Those actions can be bundled into different policy options.

- Option 1 relates to "Business as usual": the Commission would continue to provide guidance on its GPP website, including relevant studies and the GPP Handbook, and hold regular meetings with national GPP experts to exchange best practice. Only minor improvements may be expected because the underlying problems will not be properly addressed.
- Option 2 would address problems 1 to 4, through the provision of a package including political support, legal and operational guidance, recommendations and concrete actions on establishing GPP criteria and GPP training in view of increased and improved GPP, some of which would be delivered through a Communication.

- Option 3 would necessarily complement the previous option by maximizing political support through a legal instrument setting mandatory targets for GPP. It includes various alternative sub-options, ranging from mandatory targets for life cycle costing (3A), over mandatory targets for "basic" (not necessarily outcome based) GPP (3B), to mandatory targets linked to compliance with GPP criteria set in comitology procedure (3C).
- Option 4 would also seek to maximize political support through a legal instrument which would make GPP mandatory, either for certain types of contracting authorities when purchasing certain types of products (Option 4A), either for contracts above the thresholds of the Public procurement Directives (Option 4B); either for certain types of environmental criteria to be included in services and works contracts above certain thresholds (Option 4C)
- Option 5 would be complementary to all other options insofar as it would seek to ease the burden of monitoring for the Member States and the EU, by proposing a modification of the Commission Directive on standard forms for use in public procurement, to include also information on the environmental aspects of tenders in the contract advice and contract award notices

The impact assessment has shown that option 2 is the most timely option which addresses different problems hindering the uptake of GPP. The Commission therefore proposes, as a result of the current impact assessment, to adopt a Communication proposing voluntary GPP targets and providing operational and legal guidance and kicking off a process of co-operation with the Member States to identify GPP criteria. This option therefore includes quantification of the (voluntary) GPP target set forth by EU leaders in their renewed Sustainable Development Strategy, namely that by 2010, the EU level of GPP should be at the current level of GPP in the best performing Member States.

However, the impact assessment has also shown that, increased political support would maximize the aggregate benefits of the measures proposed under option 2. Options 3 and 4 include various alternative options which would have the effect of raising political support to varying degrees, ranging from mandatory targets for GPP to mandatory GPP for all contracts covered by the public procurement Directives. Option 5 finally would be complementary to any of the other options, as it would make it mandatory for contracting authorities to include information on environmental considerations into the standard forms used for contracts above the thresholds of the public procurement directives.

The current impact assessment also shows that further research needs to be undertaken into the impacts of Options 3, 4 and 5 to allow selection of the most appropriate policy measures, if any, to increase political support. The Commission will therefore not propose these measures now, but carry out additional impact assessment of options and publish its conclusions.

1. INTRODUCTION

1.1. Procedural issues

This impact assessment examines the benefits and costs of various policy options to raise the quantitative and qualitative level of Green public procurement, in line with the Commission Legislative and Work Programme for 2007 and relevant roadmap published in the light of this¹.

1.2. Consultation and use of expertise

This impact assessment is drafted on the basis of relevant studies (Annex 1), the input of an Inter Service Group gathering relevant Commission services including DG MARKT, ENTR, SG, LS, TREN, EMPL, REGIO, TRADE, AGRI, AIDCO, DEV, ADMIN, BUDG, RELEX, established for the purpose of the impact assessment and consultation with stakeholders (Annex 2).

1.3. Integration of the Impact Assessment Board's recommendations

On 11 October the Impact Assessment Board adopted an opinion on the draft version of the Impact Assessment of the Communication.

All the recommendations for improvements have been fully integrated into the impact assessment as outlined below:

(1) The IA report should be more conclusive in its –at least qualitative- assessment and comparison of a number of comprehensive policy options, and be more explicit on which options to be withheld, rejected or put up for further study

The policy options have been bundled into 5 comprehensive policy options, including several sub-options (replacing prior 10 options). It has been made clear that Option 2 is the currently preferred option but that it could be complemented, in the future, with one or more mandatory measures envisaged under options 3, 4 and 5, subject to additional, future impact assessment to be carried out, including a preliminary subsidiarity test.

(2) Need for better assessment of the economic impacts of a higher GPP uptake in general and of the various options in particular

The revised report better highlights the impact on competition and international competitiveness and includes reference to possible side-effects such as "crowding out"; whilst also better illustrating the effect on administrative burden.

(3) Need to elaborate on the context of the proposed set of actions, which can impact their effectiveness

The revised report points at expected differentiated impacts linked to the type of product/service addressed as well as the level of government agencies targeted. The heterogeneity of the types of goods and services potentially covered by GPP has led to the identification of priority product and service groups, based on an assessment of their financial and environmental impact. The probable differentiated impact of the policy on central and local government has led to the proposal of differentiated targets for GPP.

¹ COM(2006)629 final of 24.10.2006

2. PROBLEM DEFINITION

2.1. Background

2.1.1. *Background: the unachieved potential of Green Public Procurement*

Green public procurement (hereafter referred to as GPP) is defined here as a process whereby public and semi-public authorities seek to procure goods, services and works with a reduced environmental impact throughout their life cycle when compared to goods, services and works with the same primary function that would otherwise be procured.

It is a process that promotes, but does not necessarily lead to, the purchase of a "green" product² and which fully respects the EU legislation on public procurement³.

GPP procedures can bring a number of different benefits, the extent of each benefit below depending on both the product group and the criteria used in purchasing.

- **Direct financial benefit to purchasing authorities**

For products that consume resources over their lifetime, the purchase of more resource efficient products can significantly cut costs for users, even where the initial expenditure is higher. Examples are office equipment, lighting, vehicles, buildings.

Example: A Life Cycle Cost evaluation of alternative HVAC Systems (Heating, ventilation and airconditioning systems) carried out in the US in 2005, has led a public authority to buy a HVAC system, based on an alternative energy-efficient "green" technology, whose energy consumption was markedly lower so that cost savings outweighed higher capital and maintenance costs as well as yielding environmental benefits in terms of reduced greenhouse gases and other air pollutants⁴.

Example: A recent study carried out for the UK Government showed that the use of sustainable construction techniques in the Newport Southern Distributor Road resulted in benefits valued at £2.1 m (€3.1m), part of which came through reduced purchase cost of recycled materials.

- **Stimulating development and diffusion of environmentally beneficial technologies**

Our current consumption in the EU causes environmental damage at rates that are unsustainable. If the world as a whole followed traditional patterns of consumption, global resource use might quadruple within 20 years.⁵ It is necessary therefore to

² For simplicity of presentation, the impact assessment only mentions products: this should be taken to include also services and works

³ Directive 2004/18 of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts (hereinafter: Directive 2004/18) and Directive 2004/17 of the European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors (hereinafter: Directive 2004/17).

⁴ Fuller, Sieglinede and Stephen R. Petersen, 1996 *Life-Cycle Costing Manual for the Federal Energy Management Program*, referred to in 2003 OECD Report on the environmental performance of public procurement

⁵ Estimated population growth of 3 billion people (a 50% increase) by 2050 : *World Population Prospects: The 2006 Revision* and *World Urbanization Prospects: The 2005 Revision* Population Division of the Department of Economic and Social Affairs of the United Nations Secretariat, <http://esa.un.org/unpp>

stimulate the faster development and diffusion of environmentally beneficial products.

GPP rewards firms that develop such goods and provides incentives for the future development of technologies, promoting innovation that supports the EU economy.

There are two effects:

- Environmentally better goods are often niche products for which increased demand will lead to economies of scale, allowing products to move into mainstream markets. Ultimately, the economic benefits from the reduced costs may accrue not to the public procurer but to other buyers.
- The pull of public procurement may stimulate greater and faster technological innovation or breakthrough that will ultimately lead to lower unit costs and mass market availability.

A recent OECD Report on the Environmental Performance of Public Procurement (2003) refers to several examples of green product invention in response to procurement initiatives, including the development of highly energy efficient clothes dryers, electric motors, and office copiers (Westling 2000).

According to an expert study⁶ on Technology procurement, the US Department of Energy, early 1998, set out to develop the market for a new generation of smaller, brighter and less expensive CFLs – a sub-compact lamp, through procurement. The initial sales goal of one million lamps was exceeded by more than 50 percent and as a result of the programme, 16 new lamp models have been introduced into the US market at reasonable prices.

A recent study carried out for the Commission on cost/benefits of GPP⁷ refers to the procurement of public railcars with particle filter for the Taunusbahn, Germany (2004-2005). The Eco-Technology ‘particle filter for diesel railcars’ corresponds to recent technologic developments whose objective is to reduce emissions by improving the engine technologies in order to reach high emission standards that will come into force in 2012. The ‘Taunusbahn’ procurement approach not only stimulated R&D to develop economic efficient eco-solutions at Alstom, MTU and Hug Engineering, but also provided a business case that ended in a breakthrough of this Eco-Technology on international markets.

- Cost efficient achievement of environmental goals

Where GPP leads to the purchase of greener products, the reduced environmental impact from those products will contribute to achieving existing environmental goals – and could do so more cheaply than other available policy instruments. This would lead to a reduction in the cost of achieving those environmental goals.

For example, it may be cheaper for an authority to meet local air quality standards through the additional cost of purchasing cleaner buses than by setting (more costly) restrictions on pollution from domestic boilers.

⁶ "Experiences with Technology Procurement as an Instrument for Changes on the Market", report written by Hans Nilsson, 2003-02-19, FourFact

⁷ Costs and Benefits of Green Public Procurement in Europe, Final Report, 26 July 2007, by Öko-Institut e.V. and ICLEI

The above mentioned study on costs/benefits of GPP compared prices of "green" and "non green" goods in the EU and concluded that it cannot be generalised that green products always have higher purchase prices than non green product versions, suggesting great scope for cost-effective action to achieve policy goals through GPP.

The RELIEF project⁸, which has measured the environmental impact of GPP in EU 15, has for instance calculated that, if all public authorities used water saving toilet cisterns, this would result in an annual saving of an amount of 190.407.539 m³ of drinking water per year. The use of water-saving devices with the water tap could economise a further 60.639.140 m³ of drinking water. Considering the water prices, this would moreover allow public authorities to save 527.110.000€ annually.

- **Maximising social benefit from public expenditure**

Environmental problems impose costs on society, for example through sickness from poor air quality or social costs from waste disposal. As the goal of public expenditure is to improve social benefit, where purchases contribute to environmental problems, they are reducing the real social benefit from the expenditure. GPP helps to reduce the environmental problems resulting from public purchases, better achieving the efficiency of public spending. It is rare that the operation of good GPP would lead to a decision that did not increase the social benefit.

By way of example, a recent German study has established that, for instance, the "green" electricity generated by renewable electricity producers who received €2.4bn through Germany's "feed in" preferential tariffs in 2005, allowed to avoid €2.8bn of social costs that would have occurred if it had been produced in fossil fuel power stations⁹.

2.1.2. *Background: The Scope for Impact of Green Public Procurement*

Public authorities in Europe have a purchasing power equivalent to 16% of the EU GDP (approximately 1800 billion EUR)¹⁰. Office machinery, transport, food and catering, energy, construction, waste management are all areas with major environmental impacts where public authorities, because of their relatively large spending power in those areas, have the capacity to trigger the supply of products with improved environmental performance and reduce their own environmental impact.

Example 1: Public procurement represents for instance about 33 % of the European bus market: specifying requirements aimed at reducing CO² and pollutant emissions

⁸ Project funded by the EC under the 5th Annual Framework Programme, by full name "Environmental Relief Potential Of Urban Action On Avoidance And Detoxification Of Waste Streams Through Green Public Procurement" (September 2003); more information at <http://www.iclei-europe.org/index.php?id=1781>

⁹ "Externe Kosten der Stromerzeugung aus erneuerbaren Energien im Vergleich zur Stromerzeugung aus fossilen Energieträgern" by Wolfram Krewitt, DLR, Institut für Technische Thermodynamik, Abteilung Systemanalyse und Technikbewertung, Stuttgart and Barbara Schlomann, Fraunhofer Institut für System- und Innovationsforschung (ISI), Abteilung Energiepolitik und Energiesysteme, Karlsruhe, 6 april 2006

¹⁰ See 2004 Commission report on the economic gains of public procurement at: http://ec.europa.eu/internal_market/publicprocurement/studies_en.htm

could be expected to significantly improve the offer of cleaner busses to the mass market as economies of scale are achieved within this market segment¹¹.

Example 2: Buildings account for approximately 40 % of the final energy consumption in Europe. For most public authorities, construction and renovation works, and running costs of buildings represent a major share of annual expenditure, in some cases over 50 %. By applying stricter standards to those public buildings, overall energy consumption could be importantly reduced.

2.1.3. Background: Political recognition of Benefits

The European Commission, the Council and the European Parliament have recognized the importance of GPP as a means of stimulating sustainable consumption and production and pulling environmental technologies into the market place¹².

In June 2006, the Council has adopted the renewed EU Sustainable Development Strategy¹³ including the goal to bring the average level of EU GPP up to the standard currently achieved by the best performing member states by 2010.

Directive 2006/32/EC on Energy efficiency and energy services¹⁴ provides that the public sector should fulfil an exemplary role by adopting at least two measures from a list in Annex aimed at procurement of energy efficient equipment and buildings.

The new Energy Star Regulation¹⁵ obliges central government to apply, in their procurement procedures for office equipment, at least the energy efficiency requirements as included in Energy Star Standards, for contracts situated above the thresholds of the Public Procurement Directives (which, for supply and service contracts is 137.000 EUR, for works contracts 5 million EUR).

¹¹ Impact Assessment of the proposal of the Commission for a Directive on the support of clean vehicles by public procurement (COM(2005)634); see also the study carried out for the revised Proposal on the promotion of clean and energy efficient vehicles at: http://ec.europa.eu/transport/clean/index_en.htm

¹² The Commission Communication on Integrated Product Policy (IPP) of 18 June 2003 encouraged Member states to "draw up publicly available action plans for greening their public procurement". The Environmental Technologies Action Plan (ETAP) of 24 January 2004 identified GPP as a priority instrument to stimulate the development and diffusion of environmental technologies. The EP, in a resolution of 5 July 2005 on the Communication on the implementation of ETAP (COM(2005) 16 final), expressly "Calls on the Commission to set an ambitious target with regard to the role of public procurement, the goal being to establish as a general rule that all public procurement should include environmental criteria and that Member States should develop standardised guidelines for the most important products and services by 2007 as well as provide training to public procurers on these guidelines"; () and "Welcomes the work done by the Commission with regard to creating a handbook on environmental public procurement and is looking forward to an assessment of its impact in order to see if more binding rules would be useful". In its spring summit (23/24 March 06) conclusions, The European Council endorsed the following lines 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, by examining the proposal for a Directive on the promotion of clean road transport vehicles as soon as possible and by making progress with the realization of an ambitious European source based policy*"

¹³ http://ec.europa.eu/sustainable/sds2006/index_en.htm

¹⁴ OJ L 114, 27/04/2006

¹⁵ http://ec.europa.eu/energy/demand/legislation/energy_star_programme_en.htm

2.1.4. *Background: The Current situation*

The EU currently lags behind its global trade partners in implementation of GPP. In the USA, federal state department is required to acquire environmentally preferable products and services, referred to in a database¹⁶. In Japan, a 2001 Law on Promoting Green Purchasing requires public purchasers at all levels of government to implement green purchasing activities and encourages the inclusion of environmental considerations "whilst giving due consideration to appropriate use of the budget"¹⁷. In Canada, the Green public procurement legislation focuses on government purchasers, emphasizing in particular life cycle costing as a way to ensure the cost effective uptake of environmental requirements in procurement¹⁸.

An EU wide study carried out for the Commission in 2006 (here-after the "Take-5" Study)¹⁹ concludes that only 7 Member States (Sweden, Finland, Denmark, Austria, Germany, the Netherlands and the UK) are currently practising a significant amount of GPP, with over 40 % of all tender documents examined for the purpose of the study including environmental considerations. Even so, many of those "green" tenders proved non compliant with EU procurement legislation as environmental requirements were often formulated in a non transparent way. In the remaining 20 Member States, GPP was applied much less, or not at all.

Despite the strong recommendation of the Commission, in its 2003 Communication on Integrated Product Policy, for Member States to adopt national action plans on GPP by the end of 2006, only 13 Member States have, to date, adopted such plans.

2.2. **Specific Problems**

The Commission, through consultation and expert studies, has identified the specific problems which hinder the realisation of the potential benefits of GPP:

2.2.1. *First problem: Lack of awareness of benefits, misperception of the extent of costs, and lack of political priority for GPP*

There is a common misperception that GPP will always lead to additional costs. In many cases, this perception results from sub-optimal budgeting practices or from a lack of life cycle costing²⁰ in award procedures.

Lack of appreciation of the benefits partly arises from uncertainty on how to take account of wider non-monetary benefits from green purchasing: this is for instance the case of organic food, where the economic benefits are indirect and acknowledged through reduced health care costs at a later stage.

¹⁶ [Executive Order 13101](http://www.epa.gov/epp/pubs/about/about.htm) and [Federal Acquisition Regulation \(FAR\)](http://www.epa.gov/epp/pubs/about/about.htm) - more information at <http://www.epa.gov/epp/pubs/about/about.htm>

¹⁷ More info at <http://www.env.go.jp/en/laws/policy/green/index.html>. The Japanese Green Purchasing Network (GPN) has developed a series of purchasing guidelines and a database with product information on more than 10,000 products from approximately 600 companies. <http://www.gpn.jp/English/index.html>

¹⁸ As of 1 April 2006, Canada applies a green procurement policy, which applies to all departments within the meaning of section 2 of the *Financial Administration Act*, unless specific acts or regulations override it. For more information see <http://www.pwgsc.gc.ca/greening/text/proc/pol-e.html>

¹⁹ TAKE 5 Study : more information at: <http://ec.europa.eu/environment/gpp/studies.htm#state>

²⁰ Whole life cost should cover the purchase price and associated costs (delivery, installation, commissioning...), operating costs (including energy, spars, maintenance) and end of life costs such as decommissioning and removal

According to the above mentioned OECD 2003 Report, financial barriers relate primarily to the implementation of public expenditure management systems and not to financial costs per se. Following main causes were identified :

- usual practice of not attributing responsibility for operating costs (energy and water use, paper consumption..) directly to the relevant operational level; this is, in environmental terms, particularly important in the case of energy and water use, but also in other cases such as paper consumption in administrative offices. When operating costs are borne by a central fund rather than the managers who are able to exercise influence over the means by which energy-using and water-using are used, then there are incentives to use them inefficiently;
- historical reliance on single-year budgeting procedures, resulting in an inefficient use of funds within public authorities

In general, a lack of high level political support results in a lack of resources for implementing GPP. Where strong government support exists, as in the UK, France and the Netherlands -who have all issued ambitions to be amongst the leaders in Sustainable public procurement- resources are made available to make studies, draft criteria, monitor implementation, facilitate country wide uptake of GPP.

A lack of a strong centralised political message on GPP is reflected down the individual purchasing organisations who display a lack of management support for GPP by their purchasers, which further increases the effects of the problem.

The "Take-5" study reveals that 33 % of public authorities surveyed state that lack of management support is a barrier.

The lack of political support may result from a lack of clarity on the leadership and accountability for GPP, at ministerial level as well as within procuring authorities: Finance or Economics departments are responsible for the correct implementation of procedures within certain budgetary and legal constraints, whereas Environment departments are responsible for reducing the environmental impact of procurement.

2.2.2. *Second problem: Legal Problems*

All Stakeholders have raised the need to clarify certain outstanding legal issues (Annex 2). In particular, it needs to be clarified to what extent purchasers can include in their tender documents environmental criteria which relate to the production process. According to the Public Procurement Directives, production process related criteria can be used as technical specifications or award criteria, on the condition that those criteria are relevant for characterising the product. Technical specifications are minimum conditions that all bids need to comply with. Award criteria will be used by the contracting authority to compare the offers against each other and choose the bid offering best value for money. If given a significant weighting, most bids will comply with an environmental award criterion, but not necessarily. If the "relevance" for the product is to be determined on a life cycle basis, this may include for instance the inclusion of criteria related to emissions to water and air during the production process. It also needs to be clarified how to specify methods of proof (to verify compliance of claims by suppliers with technical specifications or selection criteria). Member States are not in a position to give concrete guidance on GPP if they are uncertain about these legal issues.

2.2.3. *Third problem: lack of information and tools for GPP, inadequate training structures, lack of knowledge of priority areas and absence of easy to apply GPP criteria*

Lack of implementation tools, in particular access to GPP criteria

In many Member States, there is a lack of implementation tools, such as freely accessible environmental databases for criteria, guidance, helpdesks, training. This results in poor quality of GPP both in terms of legal compliance and quality of environmental specifications. This leads to added costs and less GPP activity.

The EC Commission has adopted a Handbook on Environmental Public procurement in 2004 and translated it into all EU languages²¹. The Handbook clarifies the possibilities provided under the new public procurement Directives to include environmental specifications in a procurement procedure. It gives several good practice examples. However useful, the results of the stakeholder consultation clearly show that not all legal issues have been clarified. The EC services have recently launched a new website on GPP²², including examples of GPP criteria. However, the website is in English only and it does not seem the appropriate tool for implementing GPP in local authorities. Several GPP workshops have been organised in 5 Member States, evidencing the willingness of in particular local authorities to practice GPP, subject to training and information on cost/benefits.

The "Take-5" study shows that a large number of tenders analysed included badly defined environmental criteria which were unlikely to result in a greener purchase. Lack of information and tools were however felt to be less of a barrier in the best performing Member States. Member States who have set high ambitions in the field of GPP, such as the UK, France, the Netherlands, have or are in the process of developing databases including GPP criteria²³, which are essential for implementing GPP. Sweden and Denmark, which have the longest tradition in the field of GPP, base their policy on extensive databases with environmental specifications, established in co-operation with industry.

Lack of knowledge of priority areas

Public purchasers who want to start implementing GPP should focus on areas where the best results can be expected in terms of cost-effectiveness and environmental improvement. However, many contracting authorities don't know how to prioritise certain sectors in view of applying GPP.

In the UK, the Sustainable²⁴ Procurement Task Force has raised the need for giving clear indications on where to focus efforts first: this has resulted in a "prioritisation" of sectors, based on a review of procurement spend data sources and evidence of associated environmental and socio-economic impacts, aimed at identifying the "largest, quickest and easiest" sustainable procurement opportunities. Similarly, the aforementioned "Take-5" study has also identified 11 product groups which can be considered as most suitable for greening, based on the environmental impact of

²¹ SEC (2004/1050) see http://ec.europa.eu/environment/gpp/guideline_en.htm

²² http://ec.europa.eu/environment/gpp/index_en.htm

²³ More information on national databases can be found in the overview of national GPP policies and guidelines at: http://ec.europa.eu/environment/gpp/national_gpp_strategies_en.htm

²⁴ The UK, as well as other Member States such as France, the Netherlands, Belgium, apply the notion of "sustainable" public procurement, which covers both "environmental" and "social"

greening, the availability of green products in the market place and the analysis of good practices of Member States.

2.2.4. *Fourth Problem: A lack of similarity between GPP procedures and criteria across the EU*

Current GPP activity tends to be set locally. Different environmental criteria apply in different geographical markets (different areas and levels of environmental performance, different measurement methods), causing following problems:

- Increased administrative costs for replying to different procurement requests, which may involve re-measurement, or restatement of environmental attributes. This can be an economic cost for the business, or it may reduce the number of offers and thereby the efficiency of the process. SMEs may be particularly disadvantaged, because administrative costs are a larger part of their costs. SMES being frequently amongst the most innovative companies, this presents a particular problem for the effectiveness of GPP. If for instance Member State X refers in its GPP guidance for paper to the underlying criteria of the European Ecolabel (or equivalent) and Member State Y to the underlying criteria of the Nordic Swan criteria (or equivalent) and Member State Z to the underlying criteria of the Blue Angel criteria (or equivalent), a company preparing bids for contracting authorities in those 3 different Member States will have to prove compliance with slightly different technical specifications, providing evidence of compliance through slightly different verification methods. Administrative costs linked to certification are relatively higher for SMEs.
- Barriers to the free movement of goods and services in the internal market. Although the EU Treaty obliges contracting authorities to recognize –as a matter of principle- goods and services legally produced or provided in other Member States, the Court of Justice has explicitly stated that the protection of the environment may justify certain market restrictions (Judgment of the Court of Justice in Case C-513/99 Concordia Bus case). In the absence of harmonised criteria, a contracting authority could therefore restrict intra-community trade by setting national environmental criteria which are not currently met by products in other Member States, justifying this by reference to the need to protect the environment.
- Reduced rewards from innovation to suppliers whose greener products may only meet some of a wide variety of environmental criteria and reducing the clarity of the public sectors requirements, both reducing incentives to innovate. It will be much more stimulating for a supplier to invest in eco-innovation and seek to comply with high environmental standards if this will raise his chances of competing in not just one but different national procurement markets, based on the same sets of environmental standards.

2.3. **Affected Parties**

Global citizens are affected by reduced chances to achieve sustainable production and consumption through lack of development and uptake of environmentally beneficial products.

Purchasing authorities are missing opportunities to reduce costs and provide better value as a whole to their citizens as a result of their activities.

Member States and purchasing authorities already applying green purchasing policies are affected by a relative lack of competition in the 'green' segment of the market which would otherwise be likely to lead to lower prices.

Companies supplying more environmental performing products are affected by the lack of demand for such goods, which hinders innovation. As companies tend to trade more in their domestic markets than export markets, the comparative lack of demand compared to the GPP policies of our trading partners weakens EU companies development of environmentally efficient products when compared to trading partner competitors. Companies not in a position to supply green products may see their ability to compete in international trading partner markets, already applying GPP, restricted.

2.4. Does the EU have the right to act?

Under Article 6 of the Treaty, environmental protection requirements are to be integrated into the definition and implementation of Community policies, in particular with a view to promoting sustainable development.

GPP is about integrating environmental considerations in the Internal Market policy of public procurement, which seeks to open up European procurement markets to EU wide competition, whilst ensuring non-discrimination, equal treatment of bidders, free movement of goods and services and best value of tax payer's money. The EU new public procurement directives of 31st March 2004 allow public authorities to include environmental elements into their procurement procedures.

Increased GPP would contribute to achieving the EU environment and energy policy, in particular to the target adopted by the EU leaders at the 2007 Spring Council, of cutting 20 % of EU greenhouse gas emissions by 2020.

EU Action is also required to tackle the fourth problem above which adversely affects achievement of internal market, energy and environment goals, but which can not be readily solved by Member States action.

In the absence of EU action in this field -except for those [7] Member States with high levels of political support and experience with GPP- the extent of GPP is likely to increase slowly from low or zero levels, and as it does, in all Member States, the lack of similarity between procedures is likely to exacerbate administrative costs for tendering firms. In the continuing absence of legal security, of transparent environmental criteria and of evidence of cost effectiveness, Member States are likely to refrain from stepping up efforts in this field, and will not allow to reach the environmental objectives resulting from more and better GPP.

3. OBJECTIVES

3.1. General policy objectives

- increase innovation in environmental technologies and products, strengthening the EU economy and reducing the environmental impact of EU consumption;
- reduce the environmental damage caused from public sector consumption;
- reduce internal market barriers caused by non harmonised GPP criteria;

through the achievement of *appropriate quantities* of GPP of a *quality* that will lead to these goals, by raising the number and value GPP procedures with 50 % by 2010.

3.2. Specific objectives (linked to the defined problems)

- increase understanding of the benefits and political support for GPP
- reduce legal barriers to GPP
- provide new, and support the provision of existing, implementation tools
- increase similarities between GPP criteria across the EU to improve market signalling, guarantee a true internal market and reduce administrative costs

3.3. Consistency with other EU policies and horizontal objectives

GPP will contribute to the following EU policies by:

- promoting energy-efficient procurement in view of reaching the binding targets on climate protection and clean energy agreed upon by the EU leaders at their Spring Summit on 9 March 2007²⁵
- supporting Directive 2006/32/EC on energy end-use efficiency and energy services, which obliges the public sector to play an exemplary role in taking energy efficient improvement measures by using public procurement
- reinforcing the objectives of the Environmental Technologies Action Plan²⁶ and contributing to the Lisbon Strategy²⁷, by offering large scale markets for newly developed environmental technologies
- contributing to the establishment of a proper Sustainable Industrial Policy and the proposed development of "lead markets" in the field of 'sustainable construction', 'recycling' and 'bio-based products
- contributing to the objectives of the EU Sustainable Development Strategy, in particular the forthcoming framework of Sustainable Consumption and Production
- reinforcing the implementation of EMAS²⁸ and Ecolabelling schemes²⁹, which are voluntary policy tools aimed at improving the environmental performance of organisations and products, currently under revision
- contributing to the objectives of the Community health and social policies, in particular by taking into account several EU policies in this field when establishing GPP criteria (the new chemicals regulation REACH, the renewed Community strategy to reduce CO₂ from light vehicles)

The identification of suitable GPP criteria will be co-ordinated and complementary to new and existing Eco-label, Energy Star and EuP Regulations³⁰, as well as with other

²⁵ 30 % greenhouse gas reduction for developed countries by 2020, at least 20 % GHG reduction for EU by 2020, 20 % energy efficiency savings by 2020, 20 % binding target for renewables by 2020 and 10 % binding target for biofuels by 2020, http://ec.europa.eu/councils/bx20070308/index_en.htm

²⁶ http://ec.europa.eu/environment/etap/index_en.htm

²⁷ http://ec.europa.eu/growthandjobs/reports/index_en.htm

²⁸ More information at : http://ec.europa.eu/environment/emas/index_en.htm

²⁹ More information at : http://ec.europa.eu/environment/ecolabel/index_en.htm

³⁰ Regulation 1980/2000 of the European Parliament and the Council of 17 July 2000 on a revised Community Eco-labelling Award Scheme, OJ L 237, 21/09/2000, currently under revision; Directive 2005/32/EC of the European Parliament and the Council of 6 July 2005 establishing a framework for the setting of ecodesign requirements for energy-using products, OJ L 191, 22/07/2005; Energy Star Regulation to comply with Council Decision of 18 December 2006 concerning conclusion of the

EU initiatives aimed at setting voluntary environmental product or production process related criteria, including reference to standards for the assessment of the energy performance of products and services (as foreseen under Energy Performance in Buildings Directive and Construction Products Directive)³¹.

4. POLICY OPTIONS

4.1. Option 1: Business as Usual

Under this option, the Commission would continue to provide the existing guidance on its GPP website, including the Handbook on environmental public procurement, reference to existing national and international product databases and to relevant studies. It would continue to hold regular meetings with national GPP experts to exchange information and best practice.

4.2. Option 2: adoption of a package of guidance, support, recommendations and future actions, some of which would be delivered through a Communication proposing voluntary targets, legal and operational guidance and a process of co-operation for establishing GPP criteria for priority product groups

4.2.1. *Proposing voluntary targets for GPP, based on a quantification of the EU wide target set forth in the EU renewed Sustainable Development Strategy*

The Member States have committed to a formal GPP target in the renewed Sustainable Development Strategy, stating that by the year 2010, the average level of GPP should be at the current level in the best performing Member States.

Against this background, the Commission would propose a common political target of 50 % use of GPP by 2010, without giving it any legal force.

This target is in effect a quantification of the above mentioned Sustainable Development Strategy commitment. The baseline for setting the percentage results from an assessment of the situation in the best performing Member States in 2005-2006, carried out in the "Take-5" study. According to the results of this study, between 40 to 60 % of all analysed tender documents in the relevant Member States included green criteria. Taking into account precision rates, it is proposed to set the target at the average level of 50 %.

4.2.2. *Provision of new and highlighting of existing implementation tools*

- Highlight the most useful existing guidance and tools on GPP through description in an Annex to a Commission Communication. This will facilitate the exchange of best practice.
- Develop and publish additional guidance on:
 - Life cycle costing as an award criterion, including the provision of easy-to-use calculator tools

³¹

Agreement between the Government of the United States of America and the European Community on the coordination of energy-efficiency labelling programmes for office equipment
Directive 2002/91/EC of the European Parliament and of the Council of 16 December 2002 on the energy performance of buildings, OJ L 1, 4/1/2003; Council Directive 89/106/EEC of 21 December 1988 on the approximation of laws, regulations and administrative provisions of Member states relating to construction Products.

- budgetary practices facilitating the uptake of GPP, including the use of performance contracting or similar financing models, where the risks for installing new and more energy efficient equipment is left to the private investor who will be paid through sharing of savings
- joint procurement to reduce administrative costs and stimulate innovation
- how to define environmental award criteria for products for which no EU or national environmental performance levels have been identified
- a management model facilitating uptake of GPP within an organisation
- how to use GPP to stimulate the diffusion of new eco-technologies, based on the recently published Guide on Procurement and innovation³²
- Develop and publish a Training programme, based on the recently developed web based Training Toolkit on GPP, on EC funded "train the trainer" workshops and integration of GPP into regular procurement training.
- Highlight existing co-operation platforms to facilitate greater regional and local dissemination of GPP and integrate GPP in the implementation of other EU policies, for instance by using the networks set up or promoted under the EU Urban Strategy, or the co-operation networks in the field of the implementation of the Structural Funds.

For instance, the activities financed under the URBACT II 2007-13 programme (The Urban Development Network Programme) could be used as building blocks for the exchange of experience on GPP. The programme generally aims to provide structured information on urban issues to local authorities across Europe through networks of cities in the Member States, as part of the Cohesion Policy for the period 2007-2013³³.

4.2.3. *Provision of key information on prioritisation and easy to use core and more advanced GPP criteria for priority sectors*

- Provision of a list of 10 "priority" sectors covering product and service groups, considered most suitable for starting to apply GPP by reason of their environmental/financial impact and scope for improvement

On the basis of abovementioned DEFRA and "Take-5" studies and analysis of existing national GPP strategies, the Commission would propose the following priority sectors: Construction (both construction works and products including raw materials such as wood, cement, aluminium, steel); Food and catering services; Transport (cars, light and heavy duty vehicles, buses, metro's, trams and trains) and transport services; Energy; Office machinery (computers, monitors, printers and copiers); Clothing (uniforms and other textiles); Paper and printing services; Wood and wood products; Cleaning products and services; Equipment used in the health sector. Both studies have been subject to wide stakeholder consultation. The prioritisation study carried out for DEFRA has been subject to discussions in the UK Sustainable Public Procurement Task Force, which was a private sector led task force, gathering representatives of both private and public organisations and companies. The final results of the Take-5 study are based on draft reports which

³²

<http://www.proinno-europe.eu/index.cfm?fuseaction=page.display&topicID=89&parentID=0>

³³

<http://urbact.eu/urbact-programme.html>

have been discussed at several stakeholder meetings. The list of priority product groups and services was also included in the document which was sent out for consultation to over 200 stakeholders (results of the consultation are in Annex).

These priority products cover a substantial part of total expenditure, particularly by larger authorities. In the UK, similar product groups have been singled out based on a slightly different methodology, covering 59 % of total procurement. For example, construction is one of the heaviest posts, with £ 22.3 billion in 2003/2004. Public transport services cover more than 2 billion EUR, Health and social care cover £ 21.3 billion, Transport £ 5.4 billion, Office machinery and computers £ 6.5 billion, Food £ 3.2 billion. Also in the Netherlands, construction and maintenance, and road and water construction are the most important central government expenditure areas, with a budget of 6 to 10 billion €. Public transport services cover more than 2 billion €

- Provision of "core" and more advanced/comprehensive environmental criteria for use in GPP

The core criteria would be designed to allow *easy* application of GPP, focussing on the key area(s) of environmental performance of a product and aimed at keeping administrative costs for companies to a minimum.

The more advanced or comprehensive GPP criteria would take into account more aspects or higher levels of environmental performance, for use by authorities that want to go further in supporting environmental and innovation goals.

To date, the Commission services have established criteria for 11 product and service groups. The criteria have been developed by a contractor in close co-operation with stakeholders (including Member States and industry). The Commission would seek to formalise the process by re-submitting these criteria for formal endorsement by the Member States. Formal endorsement would imply their uptake in national action plans and guidance on Green public procurement. The Commission would continue its work on criteria setting, and gradually propose criteria for more and more product and service groups suitable for GPP. The Member States and relevant stakeholders would be involved from the beginning and the Minimum Standards for Consultation of interested parties fully respected. The Communication would, by way of example, publish in Annex GPP product sheets with core and comprehensive criteria for 4 product groups (cleaning products and services, paper, electricity and food and catering services). The criteria have and will be put together on the basis of the extensive environmental criteria information already available³⁴ in the EU and elsewhere and from newly commissioned work. The definition of criteria will consider the product market in question. Stakeholder expertise would be essential to providing criteria – and would be obtained through an informal, but structured, process of co-operation. The draft GPP criteria would be submitted for advice to relevant stakeholders (national GPP experts, Advisory Committee on Public Procurement, the EUEB = the European Union of Eco-labelling Bodies which include amongst its members national eco-labelling experts and stakeholders from industry and civil society). The final set of criteria would be endorsed on the occasion of regular meetings organised with an expert group of national GPP experts.

³⁴ See also references under Section 3.3 on "Consistency with other policies". For example, Eco-label criteria or Euro standards for vehicles before they become mandatory

The Commission monitoring exercise would focus on priority product groups and relevant core GPP criteria, which would stimulate their EU wide uptake. Criteria would be published in a data-base in each MS working language.

4.2.4. *Legal guidance*

- Clarify to what extent production process related criteria, such as emissions to air and water during the production process, can be included as technical specifications or award criteria; in this context, it would also clarify which elements of a production process may be considered relevant for characterising a product as "sustainable".
- Clarify whether public purchasers can request from bidders, by way of a contract performance clause, that they need to start up an environmental management system when awarded the contract.

When providing legal guidance, the Communication would ensure that the interpretation clarifies and was also fully in line with the World Trade Organisation and the Government Procurement Agreement concluded within the WTO. For more details on international aspects of GPP, see Annex 4.

4.2.5. *Recommend Member states managing authorities to use GPP when implementing projects funded through Structural funds and other EU funding mechanisms*

A recommendation for Member States and managing authorities designated in view of the management and monitoring of Structural programmes (which is the sole responsibility of the Member States) to make the award of Structural Fund projects and other EU funds dependant upon compliance with GPP (where relevant).

4.3. **Option 3: Setting mandatory targets for GPP**

This option would tackle the problem of lack of political support by setting targets for certain levels of GPP to be achieved by Member States and Community Institutions by certain dates. Targets would be set as a percentage of procurement, (measured by value and numbers of procurement procedures/contracts).

Various forms and levels of targets could be set:

Sub-option 3.A) mandatory targets for life cycle costing

Sub-option 3.B) mandatory targets for "basic" GPP

Sub-option 3.C) mandatory targets for "outcome-based" GPP

For the purposes of judging achievement of the targets under sub-option B, GPP and "basic" GPP would be taken to be:

Use of a procurement process which either:

sets minimum environmental criteria comparable with the minimum specifications described in the core criteria provided by the Commission; or which

grants a significant weighting to environmental criteria in assessing tender bids.

This definition of GPP would be chosen because it reflects the two methods by which environmental considerations can easily be incorporated into procurement and because it gives flexibility to procurers. It would therefore also include procedures which do not necessarily lead to a "green" outcome and would avoid that the use of GPP would result in significantly greater financial costs for authorities.

Where environmental criteria are set as minimum technical specifications, they would relate to the core GPP criteria established under Option 2. Where for instance

a minimum 15 % environmental award criterion is set, this could be done either by awarding 15 % to offers complying with the core GPP criteria established under Option 3, or by weighing the different offers to for instance a maximum of 15 % (of overall award percentage) based on their relative environmental performance against certain well described and verifiable environmental impacts. In the latter case, there would be no direct link to the core GPP criteria as established under Option 2. By providing this flexibility as regards ways to reach the targets, it would be possible to set mandatory targets without there being a need to link those targets to compliance with core GPP criteria agreed in a comitology process. Stakeholders state that a weighting of 15% would nevertheless still promote the development of better performing products.

Mandatory targets under sub-option 3.C would require the purchase of products meeting set minimum standards for a proportion of public purchasers. For the purpose of judging achievement of targets, the notion of “outcome-based” GPP would cover only those procurement processes in which minimum environmental criteria as described in the core criteria provided by the Commission have been set as minimum technical specifications (to be met by all offers). This option would be the only one to guarantee in all cases a “green” outcome. Because of the mandatory character of the GPP criteria, they would need to be established through a comitology process.

The Commission would intend to review targets for GPP, however set, every 5 years to encourage or oblige Member States to reach a level of GPP equal to the quantitative and qualitative level that had been achieved by the best performing Member States 5 years before.

Sub-Option 3.A): mandatory targets for life cycle costing

Life cycle costing is the consideration of the full financial cost to an authority of purchasing a product: the initial purchase price, the running and maintenance costs over the lifetime and the costs at the end of life (for example disposal).

Under this sub-option the Commission would propose targets for use of life cycle costing for a % (by value) of all procurement contracts for which it was appropriate. Although it cannot be considered an environmental criterion as such, given the fact that the life cycle cost would just replace the initial purchase price in the award procedure, it comes close –as to its effect- to a mandatory environmental award criterion where a certain number of points would be awarded for energy efficiency. Translating the energy efficiency immediately into the price of the product would ease its acceptance by public purchasers. Legislation setting targets would include a description of the areas covered, focussing on resource using products, such as vehicles, electrical equipment, lighting, buildings.

Sub-Option 3.B) mandatory targets for "basic" GPP

The Commission is developing a precise method for calculating levels of GPP, based on compliance with GPP criteria in priority sectors. It will implement this method in the seven best performing Member States, which would allow to translate the SDS target into a mandatory target, namely that, by the year 2010, the average level of GPP would be at the current (= 2006) level in the best performing Member States. . The target would need to be reached in terms of numbers and (estimated) value of "green" tendering procedures which have led to "green" contracts. If one would only consider the value, it would be sufficient to "green" a small number of big contracts.

If only the number would be considered, it would be sufficient to "green" a lot of small contracts without making a real environmental difference. Therefore, the target should be reached in terms of number and value.

These targets would be based on the definition of "basic" GPP mentioned above. The option would be linked to the proposed process for prioritisation and criteria setting under Option 2. Considering the fact that achievement with the targets may also be attested by procurement procedures in which environmental award criteria have been set without specifying certain minimum levels of environmental performance, there would be no need to identify those criteria by way of a comitology process.

Sub-Option 3.C) mandatory targets for "outcome-based" GPP

Considering the mandatory character of the target and outcome-based definition of GPP used, the Commission would conduct additional research to propose appropriate targets for priority product groups and linking those to cost-effective minimum levels of environmental performance. Where the life cycle cost of environmental products is lower than that of the non-"green" version, targets could be set at a higher level. These minimum standards and targets would be set in advance at EU level in a Comitology procedure, based upon recommendation from the Commission working with stakeholders where appropriate.

4.4. Option 4: Make GPP mandatory for certain types of purchasing authorities and for certain specific products, or for certain types of contracts, or for certain types of public spending

Various forms of mandatory GPP can be identified:

Sub-Option 4.A: Make GPP mandatory for certain types of contracting authorities when purchasing certain specific products

Sub-Option 4.B: Make GPP mandatory for all purchases above the thresholds of the public procurement directives

Sub-Option 4.C: Make it mandatory for all contractors in service and works contracts above certain thresholds, to implement an environmental management system

Sub-Option 4.D: Make it mandatory to use GPP in the implementation of EU funded projects, where appropriate

Sub-Option 4.A. Make GPP mandatory for certain types of purchasing authorities and for certain specific products

By analogy with the recently adopted new Energy Star Regulation (as presented under Option 1), such option would make outcome based GPP mandatory (100 % target) for central government purchasers and for certain products, where advanced GPP criteria have been identified and the market is such that 100 % GPP by central government would be appropriate, taking into account a transitional period sufficient to allow the market to adapt to change. It is not yet possible to specify the products and services which would be covered by such proposal, as an additional impact assessment needs to be carried out to identify those product groups.

Sub-Option 4.B. Make GPP mandatory for all purchases above the thresholds of the public procurement directives, by making the environmental award criterion mandatory

The public procurement Directives lay down the rules that need to be followed by public authorities when buying goods, services or works. One of the basic rules is that purchasers can, when choosing the bid offering best value for money, either base themselves on the lowest price, either choose the “economically most advantageous bid”, meaning that, on top of the price, the purchaser will take into account one or more award criteria, such as the technical quality, the delivery time, the energy efficiency and so on. The Directives provide for a non exhaustive list of possible award criteria, including environmental award criteria. Under this option, public purchasers would be obliged to include, amongst the award criteria, a minimum environmental criterion (for instance 15 %). Hence the option of awarding a contract based on the lowest price only would no longer exist. This option would not prevent purchasers from also specifying minimum environmental technical specifications. In addition, the award of the contract would always need to be based upon, amongst other criteria, the relative environmental merits of the offers. This option would provide a strong incentive for innovation.

Sub-Option 4.C: Make it mandatory to include, for all service and works contracts above certain thresholds, a contract performance clause which obliges the winning bidder to set up an environmental management system during the performance of the contract

This option would also imply a modification of the public procurement Directives in view of making it mandatory for public purchasers to include a specific performance clause in all important services and works contract (above certain thresholds, which could be the threshold currently applying for works contracts which is 5 million €). Considering the significant environmental impact resulting in particular from the execution phase of these contracts, it is important to oblige the contractor to set up and run an environmental management system during its performance, as this will contribute to guaranteeing minimised environmental impacts.

Sub-Option 4.D: Modify the rules governing the award of EU funding in view of making it mandatory to use GPP when implementing EU funded projects, where appropriate

A change in the EU rules governing the award of structural funds and other EU funding mechanisms to make the award of funds dependant upon compliance with GPP, where relevant.

4.5. Option 5: Modify the Commission Directive on Standard forms for use in public procurement

Modification of Commission Directive on the use of standard forms in the publication of public contract notices³⁵.

³⁵ Commission Directive 2001/78/EC of 13 September 2001 amending Annex IV to Council Directive 93/36/EEC, Annexes IV, V and VI to Council Directive 93/37/EEC, Annexes III and IV to Council Directive 92/50/EEC, as amended by Directive 97/52/EC, and Annexes XII to XV, XVII and XVIII to Council Directive 93/38/EEC, as amended by Directive 98/4/EC (Directive on the use of standard forms in the publication of public contract notices)

This Directive lays down the mandatory forms that have to be used by purchasers when publishing their intention to tender, as well as the results of any tendering procedure, covered by the public procurement Directives. The modification would oblige purchasers to indicate in both the contract advice and contract award notices information on relevant environmental specifications or award criteria. This will allow Member States to easily monitor the situation and identify the amount and number of procurement procedures where environmental criteria have been included and compare them to the amount and number of procurement contracts which have actually also lead to the purchase of a "green" product or service.

5. ANALYSIS OF IMPACTS

Presentation of the impact analysis presents difficulties. Each of the options below is likely to have direct and indirect impacts – and because of the nature of GPP, the indirect impacts (the outcomes that result from greater uptake of GPP) are the most significant. However, these are also the most difficult impacts to quantify, as the end result depends on a chain of action³⁶.

Additionally, the options are not mutually exclusive and their impact will depend on the interaction between options.

Impact would also depend on the process used. Administrative practices may vary greatly between Member States. Procedures setting high minimum standards or weights for the environmental criteria are more likely to result in the purchase of substantially greener products and steer the market towards innovation. A high level of ambition of the environmental standards set and the procedural stage at which these standards are introduced –either as a mandatory technical specification which all offers have to comply with or as a relatively important award criterion on the basis of which offers will be compared against each other at the award stage, will give the strongest signal to the market place.

Impacts would be product or market specific and depend in particular on: the share of public procurement in that market; the potential for innovation for that product type; the difference in environmental performance between the best and the average performing products; and the difference in initial price and life-time costs between the best environmentally performing and the other products.

To deal with these difficulties, the analysis of Options is divided into a description of the likely impacts of the aggregate effects of increased GPP across the EU, then descriptions of the (additional) specific effects of different options.

5.1. Aggregate impacts of increased GPP

The overall impact would of course depend on the change in scale of uptake of GPP. To give an idea of the potential impact in case of a 25 % uptake of GPP: Total public procurement in the EU is estimated at around €1800bn a year. In the UK, priority areas have been estimated to account for 59 % of total central government procurement. Based on this example, and considering the fact that the priority product groups proposed by the Commission are very similar to the ones identified in

³⁶ Commission action influences political motivation in central government which influences procurement procedures in regional authorities which then influences (but does not determine) the level of uptake of certain types of greener products, with the impact on the environment and the economy from the purchase of those products itself depending on the nature of the product and structure of the market.

the UK, and whilst reducing slightly the UK percentage to take into account relative differences between Member States, public expenditure on the priority areas could be estimated to be around 50 %, covering thus 50 % of €800bn. If GPP procedures were used for 25% of the procedures in those priority sectors, this would mean that €225bn worth of green tenders would be produced a year – offering substantial incentives to the market to offer greener products. Going an assumption further, if 50% of those tenders did result in the purchase of greener goods, €12,5bn would move from less green to greener purchases.

ECONOMIC IMPACTS

Direct Economic Impacts

Direct financial impacts on authorities:

- Savings or additional costs from purchases

The net direct financial benefits or costs will depend on the savings or costs from the "green" products purchased over their life time (compared to those that would have been purchased without GPP processes) and whether these more than compensate for or add to, administrative costs.

The above mentioned study on Costs/benefits of GPP has compared prices of "green" and "non green" goods in the EU and concluded that, for most product groups, the 'make' or brand of the product or other features have a much higher influence on the purchase price than green criteria. For example, cleaning products vary very much, both within the green or non green versions and between the selected Member States. The resulting average purchase prices of the green versions are partly higher, partly lower than the prices of the corresponding non green version.

The future costs of greener goods, in particular of energy efficient goods may not remain constant. Some stakeholders call for reduced VAT rates for these goods. This would lower their purchase price.

Equally significant, GPP leads to better consideration of the whole-life costs of the product. In particular in cases of resource efficient products, buying "green" products can also mean buying "cheaper" products for the purchaser over their lifetime. For instance, the RELIEF project calculated that, if all public authorities used water saving devices, this would result in annual savings of €527m.

A recent Study carried out a Cost Benefit Analysis of Sustainable Public Procurement for the UK government³⁷, showed for instance that the use of sustainable construction techniques in the Newport Southern Distributor Road resulted in benefits valued at £2.1 m (3,100,000 EUR), part of which came through reduced purchase cost of recycled materials.

By focussing on the function to be delivered, the cost differences between some green and non green versions are put in relation to the overall costs to fulfil a certain function. This is most obvious for product groups used in service contracts (such as for instance 'painting' and 'cleaning products and services') where costs are highly dominated by labour costs. However, also for products like coffee, the share of the ingredient which can be 'greened' (coffee beans) only contributes to a minor degree

³⁷

See final Report to the UK Department for Environment, Food and Rural Affairs, completed by SQW Ltd May 2006 (Cost Benefit Analysis of Sustainable Public Procurement)

to the overall costs of the end product. In these cases, the magnitude of the potential cost increase through GPP will be highly overestimated by only looking at the direct cost differences of certain products or ingredients but not at the full costs of the service or end product.

- Start-up administrative and organisational costs

The above mentioned study on cost/benefits of GPP has concluded that the administrative costs for setting-up and implementing GPP in a local authority in Europe are higher than for standard procurement. The biggest cost driver is the continuous awareness raising, training and support for procurers. Costs for setting up the policy are low compared to the overall procurement budgets. There may be additional costs resulting from the search of environmental criteria in procurement.

The level of these costs depends on the current management of the authority's procurement and the practices it follows to put in place GPP processes. In cases where the adoption of GPP also streamlines existing complex procurement practices, there may be cost savings resulting from more effective procurement as such.

The study found evidence that GPP does generate monetary savings after the initial period of developing a GPP strategy and integrating administrative tasks into the procurement process. Thus potential savings through lower (life cycle) costs for green products and services might outweigh the additional administrative costs.

Administrative costs could be minimised through sharing good-practice, using only core environmental criteria, using training and other tools developed by more experienced authorities.

By way of example, it can be stated that, at the level of the Danish government, Environment Ministry, purchasers use ¼ to 1/3 person a year for including green criteria/requirements in calls for tenders and informing decentralised purchasers on green requirements for product groups which are not purchased commonly.

In the Netherlands, the administrative costs for implementing the national strategy have been estimated at 6 to 7 m € over a period of 4 years. The administrative costs for individual organisations to set up green purchasing policies, gather information and ensure appropriate training of purchasers are considered negligible and part of regular organisational management.

The above study shows that individual purchasing authorities setting up and implementing GPP spend on average 223 Euro per 1 000 inhabitants (this takes into account both initial onetime costs and average annual costs) over a period of 2 to 6 years. Those costs would cover the costs of setting up and implementing a GPP and costs for training. According to the study, based on an analysis of the situation in 20 EU public authorities of varied size and experience in GPP, the costs for setting up a GPP policy would amount to on average 69 additional Euro per 1000 inhabitants of the respective city or region. The costs for implementing the GPP policy relate to costs for assessing procurement practices, adapting tenders, developing criteria, analysing environmental impacts of products, verifying bids, participating in working groups and managing audits. They would amount to on average 41 Euro per 1000 inhabitants. Costs for miscellaneous tasks and activities (dissemination, newsletters, raising awareness of employees and suppliers) have been estimated to be at an average level of 28 Euro per 1000 inhabitants. Finally, on training, local and regional authorities spend on average 38.854 Euro for training and events (equivalent to an average of 157 Euro per 1000 inhabitants). Most of the costs for training and events

(95%) derive from in-house staff training with people attending different training in GPP.

Direct financial impact on vendors of products:

In any procurement process, one bidder wins business and others lose. GPP would not change this. Currently, large firms win a disproportionate percentage of public procurement contracts. A shift towards environmentally friendly products may support producers who are smaller, newer, and who are not specialised in traditional mature products. Alternatively, the shift may also take place within large firms towards 'green' products. However, it seems likely overall that SMEs will be no worse off and, more likely, at least marginally advantaged.

This would be subject to there being uniform environmental criteria applied throughout the EU; if not, bidders and in particular SMEs (as bidding costs tend to burden SMEs disproportionately) would run into additional administrative costs for preparing bids in different Member States or for different procuring authorities. They would need to prove compliance with different sets of criteria, which would result in additional administrative costs.

Indirect Economic Impacts

Promotion of Innovation

It is likely that 'green' products will be relatively new in the market and not currently enjoy economies of scale. Niche products will be given the demand that allows them to expand and cut unit costs and so move into mainstream markets. Ultimately, the economic benefits of this may accrue not to the public procurer but to other buyers.

According to above mentioned OECD 2003 Report, the benefit will be significant if the government demand is large enough to allow the realisation of significant scale economies. Further, GPP would be most promising when it focuses on product attributes, such as energy efficiency, that will clearly be of interest to private buyers. Finally, GPP may act as advertising or certification of the green product and set a moral example that some private purchasers may choose to follow.

Increased Macro-economic Resource Efficiency and Cheaper Achievement of existing environmental and economic goals

As described above, GPP is likely to promote innovations in products that spread more quickly through the private market and most promising when focussing on product attributes, such as energy efficiency, that will clearly be of interest to private buyers. It may set a moral example that some private purchasers may choose to follow. The faster adoption of resource saving products across the economy would have a macro-economic effect, reducing in particular energy consumption³⁸, inflationary pressure and energy imports.

Even in case of increased direct costs for the public sector, GPP could well be saving the financial costs for the economy as a whole. Both the public and private sector currently face certain costs to meet diverse environmental and innovation goals: where GPP can help achieve these goals, it could do so at a lower cost than would be required to achieve the goals through other policy instruments, implying other types

³⁸

An economy-wide rebound effect may reduce the aggregate energy savings, but seems unlikely to exceed 25% of those savings.

of costs for the public and private sector. For example, GPP of less polluting vehicles or buses may avoid imposition of (more expensive) restrictions on boilers.

Increased Competition

The application of GPP criteria will trigger a new form of competition (focussing on the environmental aspects of bids) in public procurement procedures and increase transparent and competitive procedures throughout the EU. A recent study on the impact of public procurement legislation³⁹ has identified that "Open, non-discriminatory and transparent procedures can also help boost the competitiveness of firms operating in public procurement markets. Only firms confronted by foreign competitors at home will be able to perform efficiently and compete successfully in foreign markets and withstand foreign competition at home". GPP will boost the competition between firms operating in GPP markets. This was also recognized in the Commission's broad based innovation strategy for the EU⁴⁰, in which the Commission called for actions stimulating competitive demand, such as public procurement and standards, to facilitate the development of new lead markets for innovative products and services in Europe.

Benefits for international competitiveness

The promotion of innovation for green products, which are often growing markets worldwide, is likely to increase the future power of EU industry to compete in global environmental product markets. EU firms dominate the market for public procurement and hence innovative EU firms will gain greatest support. The aim of the Lisbon strategy for Growth and Jobs is to find solutions not only for the continuing underinvestment in R&D, but also to improve Europe's ability to convert new inventions into new products and jobs. The US is currently spending \$50 Bn per year in public procurement of R&D, an amount which is 20 times higher than in Europe. In addition to improving the quality and efficiency of public services, this has often played an important role in the emergence of globally competitive companies⁴¹. For instance, in the area of energy and the environment several public institutions in US and Japan have significantly reduced the installed system cost of fuel cell stations through R&D procurements. In China last year's national long-range science and technology plan officially introduced public technology procurement in China as a means to stimulate innovation⁴². EU wide Green public procurement is needed to give same strong signals to the markets and secure international competitiveness of EU industry.

Potential negative side effects

The aforementioned OECD Report of 2003 refers to the potentially counteracting effect of GPP due to crowding out of private consumption of a certain "green" product as a result of increased public demand. Crowding out could occur if suppliers are slow to respond to increased demand for their greener product but quick to respond to demand for the "brown" product, In this case the "green" product that the government buys might otherwise have been purchased by a private buyer, who

³⁹ More information at http://ec.europa.eu/internal_market/publicprocurement/studies_en.htm

⁴⁰ COM(2006)502final, Putting Knowledge into practice: a broad-based innovation strategy for the EU

⁴¹ "US Defence R&D spending: an analysis of the impacts", EURAB report ERA scope & vision, PREST, 2004

⁴² Draft Communication on pre-commercial procurement

will now turn to the brown product and the net impact on sales of greener products is reduced.

The problem is not likely to be widespread for GPP. Higher prices caused by demand from GPP will typically stimulate greater supply, particularly as demand for greener products from GPP will increase gradually across the EU and be signalled in advance to suppliers. Where there are supply constraints, prices will rise, which – as these are also taken into account in GPP decisions – would limit any crowding out.

When considering GPP in markets where the production is yet insufficient to cover both private and public demand and will be slow to change, for instance in the case of "green" electricity, explicit consideration should be given to stepwise approach e.g. not to aim at an immediate 100 % "green" electricity purchase.

ENVIRONMENTAL IMPACTS

Reduction of environmental harm resulting from public purchases

The extensive environmental damage from current government activities would be reduced. For instance:

The UK Government Sustainable Procurement Action Plan includes a package of actions to ensure that supply chains and public services will be increasingly low carbon, low waste and water efficient, respect biodiversity and deliver wider sustainable development goals. It is directly linked to the targets for sustainable operations on the Government Estate, aimed at materialising substantial changes in the fields of carbon emissions, energy efficiency, waste and recycling, biodiversity and water consumption. Action in the field of procurement is thus considered crucial to achieving the Government's operations targets, which will deliver around 1 million tonnes of carbon dioxide savings by 2020.

The French national action plan on sustainable public procurement also links the actions on GPP to the achievement of targets for reducing certain environmental impacts, such as reducing –by 2010- the carbon emissions linked to transportation activities by the government with 10 % and reducing carbon emissions from public buildings with 10 %.

The RELIEF project has calculated that the application of organic farming requirements for domestic production aimed at public consumption of wheat, beef, pork, and milk would reduce nutrification impacts equivalent to the nutrification impacts of over 2 million people.

The Canada's Federal Buildings Initiative (FBI), focussing on the purchase of "green" power has led to a significant reduction of Green house gas emissions in targeted buildings. The average FBI project realised an estimated energy reduction of 25 % and GHG emission reduction of 20 %. Projected energy savings (up to 2012) result in a projected CO₂ emission reduction of 884 000 tonnes or about 2 % of the total Federal energy-related emissions⁴³.

Increased Diffusion of Greener Products reducing societal impacts

The public sector is estimated to buy approximately 150.000 GWh of electricity per year, representing about 6 to 7 % of the market. If –theoretically- this market would

⁴³ See OECD Report 2006 on the environmental performance of public procurement

shift to green electricity, this could save up to 60 million tonnes of CO² emissions or 18 % of the EU Kyoto commitments⁴⁴.

Public Procurement represents about 33 % of the annual European Bus market. GPP may drive this market towards less pollutant and more energy efficient buses.

The buildings sector accounts for 40% of the EU's energy requirements. It offers the largest single potential for energy efficiency. Research shows that more than one-fifth of the present energy consumption could be saved by 2010 by applying more ambitious standards to new and when refurbishing buildings. Public buildings covering an important share of those buildings, public sector has been identified for its important role in terms of leadership in this field⁴⁵.

Promotion of new sustainable business models.

GPP can promote resource saving business models: e.g. in case of cleaning, the use of dosage devices might lead to appropriate, lower dosage of cleaning products, reducing the amount of chemicals flushed in the sewage system and reducing the amount of products bought.

In Barcelona, a tender for the purchase of 500 new bus shelters and adaptation of all 1200 existing bus shelters has led to the development of a unique bus shelter prototype, referenced to as the '*Barcelona bus shelter model*'⁴⁶. The firm who won the tender on the basis of a package of installation and maintenance of the shelter has extended the offer of that successful package to other municipalities.

Support for other environment and economic policies

As described in Section 3.3 "Consistency with other EU policies and horizontal objectives.

SOCIAL, DISTRIBUTIONAL AND EMPLOYMENT IMPACTS

In November 2005, the European Commission issued a report analysing the links between employment and environment policies⁴⁷ in which it was held that studies show that environmental policy does not decrease employment but instead has neutral or even mildly positive impact on the number of people in work.

A more recent study aimed at analysing the link between climate change and related energy efficiency policies and employment has come to the conclusion, that the net gain in employment would be of the order of 1.5%. Employment in the energy production sector is sensitive to energy-saving policies. However, the jobs created from the development of energy savings options would largely outweigh the number of jobs lost in the coal sector. In the transport sector, the development and dissemination of clean technologies could give a significant technology lead to EU

⁴⁴ The Procura+ Manual : A guide to cost effective public procurement, ICLEI

⁴⁵ The Commission working document annexed to the Energy Efficiency Action Plan, considers proposing an expanded role for the public sector to demonstrate new technologies and methods, based on an impact assessment to be carried out in 2009

⁴⁶ The roof consists of a beehive-shaped fibreglass material, strengthening it and making it easier to disassemble at the end of its life cycle and recycle it; the advertising panel is unique for using 3 highly efficient T5 lamps of 35W each instead of 4 inefficient lamps. The new cleaning system uses osmosed water, avoiding the need to use soap/detergents - 2007 study on Costs and Benefits of Green public procurement in Europe, Öko-institut

⁴⁷ SEC (2005) 1530, of 17 November 2005, more information at http://ec.europa.eu/environment/integration/employment_en.htm

industry and represents thereby a huge potential for job creation. The building and construction sector represents a major source of employment, but it has to tackle the challenges of training in sustainable building and innovation⁴⁸.

Increases in efficiency of public services, in particular increases in the energy efficiency of housing, are more likely to create benefits to the less-well off classes of society whose costs of heating and cooling (whether paid direct or by public services) are likely to become relatively lower.

Although GPP is in the first place about stimulating the use of environmental specifications in tender documents, legal guidance on GPP may imply advice on the inclusion of both environmental and social aspects and hence open the door also to more 'social' public procurement. Legal guidance would indeed include guidance on how to take into account aspects related to the legality of production processes, which may include respect of environmental, social or economic aspects.

5.2. Specific economic, social and environmental impacts of each of the Options

5.2.1. Option 1: Business as Usual

The option of continuing with the present approach (dissemination of Handbook, website, regular meetings with national GPP experts) is not likely to result in significant increases of GPP in the EU. Evidence of this comes from an assessment of trends in uptake in recent years.

Although Member States had been recommended to adopt national action plans on GPP by the end of 2006, up to date, only 14 Member States have adopted such action plans, with varying levels of ambition. Further, when comparing the results of a GPP survey carried out in EU 15 in 2003⁴⁹ and in EU 25 in 2005⁵⁰, the situation remains grossly unchanged. Following the 2003 study, the highest level of GPP was that 50 % of all purchasing authorities (of a certain Member State) interrogated would include environmental criteria in more than half of their tender documents. According to the 2005 study, the highest level of Green tenders in a certain Member State amounted to 60 % of all tender documents analysed for the purpose of the study. However, many of those tenders scored very poor on legal compliance.

Benefits

Slow and scattered increase in GPP with occasional benefits as mentioned above.

Some recent and upcoming initiatives could benefit the uptake of GPP:

The recently adopted new Energy Star Regulation will adapt the implementation of the "Energy Star" programme to the new EU/US Energy Star Agreement (applicable 5 years-entry into force 31.12.2006). It obliges central government and Community Institutions to specify, in their supply contracts covered by the public procurement Directives (above the threshold of 137.000 €), energy-efficiency requirements not less demanding than the Energy Star Common Specifications. This initiative may

⁴⁸ More information in Report "Climate change and employment" <http://www.tradeunionpress.eu/Web/EN/Activities/Environment/Studyclimatechange/rapport.pdf> (2007)

⁴⁹ See ICLEI study on state of play of GPP in Europe at <http://ec.europa.eu/environment/gpp/studies.htm> based on questionnaire sent to some 6300 contacts – reply rate of 10 %

⁵⁰ See Take-5 study under <http://ec.europa.eu/environment/gpp/studies.htm#state> based on an analysis of responses to 860 on line questionnaires and by analysing the use of environmental criteria in more than 1000 tender documents.

have considerable environmental impact, taking into account the success of a similar obligation applied in the USA under the previous Energy Star Regulation. The latter has allowed overall penetration of Energy Star computer equipment and is estimated to have reduced total US energy needs by more than 200 billion kilowatt hours since 1995 which translates into an estimated carbon reduction of 9 million tonnes⁵¹.

Increased energy efficiency requirements are also likely to provide whole-life cost reductions for these products and lower costs for public purchasers.

In the field of transport, the EC has recently adopted a proposal for a Directive on the promotion of clean and energy efficient vehicles. The approach is based on the internalisation of operational lifetime costs of vehicles in the procurement award process. Common rules are defined for calculating lifetime costs for energy consumption, CO₂ emissions, and pollutant emissions linked to the operation of vehicles. These operational lifetime costs should be included as award criteria for all procurement of vehicles or transport services by public authorities. The application of these criteria will be optional in a first phase and mandatory from 2012. Covered by the proposal are all road transport vehicles procured by public authorities and by operators providing transport services under contract, license, permit or authorisation by public authorities⁵².

Costs

As uptake of GPP slowly rises, differences between the practices of Member States are likely to create increased market distortions and additional administrative costs for suppliers and only provide very limited stimulus for eco-innovation. In particular in the field of timber and timber products, Member States are adopting different approaches in their procurement policies, focusing sometimes on legal only, or on sustainable only, or on legal and sustainable and referring to different verification schemes; This follows from the stakeholder consultation mentioned in annex and various contacts with this sector. On top of that, there are great differences between the different certification schemes, which are not equally recognized in all member States.

The obligation for central government to buy only Energy Star products will lead authorities to undertake training and change their procurement processes – which will incur initial administrative costs.

International competitiveness in eco-technologies is likely to decline as domestic markets will not provide European companies with the stimulus to develop new green technologies that are found in trading partners. This won't be the case for energy star products, because of the mandatory implementation of minimum Energy Star requirements in central public procurement contracts.

As demonstrated under Section 4.4, public purchasers are important market players, in particular in sectors with huge environmental impact, such as buildings and transport. If the situation would be left unchanged, public authorities would continue to importantly contribute to the emission of Green house Gases and pollutant emissions and an ever faster consumption of natural resources, including jeopardising energy security.

⁵¹ See Energy Star website http://ec.europa.eu/energy/demand/legislation/energy_star_programme_en.htm
⁵² More information at: http://ec.europa.eu/transport/clean/promotion/index_en.htm

- 5.2.2. *Option 2: A package of options: proposing a voluntary target, providing operational and legal guidance, establishing a process of co-operation with the Member States to identify GPP criteria for priority product and service groups and providing for increased awareness raising and training on GPP, through dissemination of a training toolkit on GPP and use of GPP in the implementation of EU funded projects*

Benefits

Voluntary target for GPP

The additional value is to put in place the means for quantifying and benchmarking the achievement of the target already agreed by the Member States in the renewed Sustainable Development Strategy.

The agreement of a better defined target may also have a political meaning, stimulating Member States towards reaching the SDS target. Considering that the SDS commitment already exists, it seems probable that Member States who are (almost) not implementing GPP now, will not significantly change their political motivation on the basis of voluntary targets.

Further, as the monitoring of target achievement for EU level benchmarking will be based on an assessment of GPP for the product groups covered by GPP criteria which the Commission proposes to develop in co-operation with the Member States under, there may be an important incentive for Member States to recommend the use of the GPP criteria.

Highlighting of existing and provision of new guidance

This may help Member States to build up their own GPP strategies and increase GPP. It could substantially reduce the costs typically associated with setting up and implementing GPP processes.

It may also lead authorities to other ways to reduce their costs and increase the effectiveness of their GPP. For instance, joint procurement (combining the procurement actions of two or more public authorities) may lead to economies of scale through bundled demand and reduce administrative costs by exchanging experience on GPP criteria and on new products available on other than local markets. Guidance on the inclusion of whole-life-costing as an award criterion will also encourage purchasers to apply GPP, as it will show that GPP is in many cases nothing else than efficient procurement, allowing to save money in the long run.

The increased uptake and effectiveness of GPP would be likely to increase the contribution of GPP to economic and environmental benefits.

Central EU guidance may also reduce costs for Member States to develop its own rules and contribute to consistency.

Training

Training on GPP is essential to its wider uptake, in particular by regional and local authorities who are more difficult to target with general guidance. Integrating environmental guidance in general public procurement training will allow to cost-effectively target many if not all relevant purchasers. Inversely, a "Train the trainer Toolkit on GPP" will add to the general public procurement knowledge of trained purchasers, as it would follow the structure of a public procurement procedure and draw the attention of trainees to legal compliance issues.

Information on Prioritisation

The identification of 10 product groups considered most suitable for "greening" based on economic and environmental impact, will enhance targeting and the cost effectiveness of the whole process, inviting Member States to focus on areas where the biggest environmental improvements can be expected, without the costs of carrying out the research themselves. The selection of product groups will also give a strong market signal to relevant industry.

Provision of criteria

The provision of core-criteria would remove one of the greatest hindrances to GPP, removing one of the greatest costs and causes of difficulty for practitioners.

It would be likely to provide greater consistency in the product characteristics asked for by authorities and give greater transparency to producers and so better signalling of rewarding innovation opportunities, whilst also reducing their administrative costs from having to provide environmental product information in different procurement processes.

Industry stakeholders who carry out green procurement for their own purchases have indicated that the provision of core criteria could also raise their levels of green procurement, by reducing the costs and difficulties of identifying suitable criteria. This would particularly be the case if the public sector was widely seen to adopt and successfully use the criteria as part of a system.

Provision of legal clarity

By providing the necessary legal certainty and guidance to purchasers, the latter will no longer be refrained from adopting GPP policies.

Recommend to use GPP when implementing EU funded projects

This recommendation would be particularly effective at initiating the uptake of GPP by local authorities, main beneficiaries of Structural funds, who are traditionally more difficult to reach in view of raising awareness on GPP, providing political support, guidance and training. It would furthermore ensure cost effectiveness of an important part of the EU budget, meet the requirements of Art. 6 of the EC Treaty and give strong signals to local companies taking part in the calls for proposals and contracts awarded under those Structural Funds.

Costs

Proposing voluntary GPP targets

Without political co-ordination from central government, the uptake of GPP by local authorities, is unlikely to take a harmonised approach.

Highlighting and provision of guidance

Much guidance already exists, both at EU and Member State level, from both central government and other organisations, for instance the pro-inno guide on innovation and procurement⁵³. The costs of providing additional guidance to fill the gaps will be negligible compared to the sums involved in GPP, and borne by the Commission.

⁵³ http://ec.europa.eu/environment/gpp/related_policies_en.htm

Training

The Commission has developed a Training Toolkit on GPP which could feed into the additional training programmes to be set up in each Member State, subject to translation and adaptation to the national situation. The LIFE+ budget provides for support for capacity building to facilitate the implementation of Community environmental policy at the local and regional level.

Information on prioritisation and provision of criteria

The work to identify priority groups has already been undertaken and there would be no further costs.

A huge amount of information already exists in various Member States and at European level, as well as in the product programmes of trading partners. Environmental product criteria are being established in various frameworks, such as the Energy-Using products Directive, the Eco-label Regulation, the field of Energy labelling and Euro standards for vehicles. The costs for criteria setting will therefore be shared with those other policy instruments.

By way of example, the costs for developing new eco-label criteria may vary between 30.000 to 60.000 EUR. The costs for making new Energy using Product criteria (mandatory and based on a full LCA) would be over 300.000 €

An on-going contract will provide core criteria for 10 product groups (150.000 € contract). Under the revised eco-label regulation, whenever Eco-label criteria are being developed GPP criteria will simultaneously be developed. The Commission will sign a 150.000 € contract to establish GPP criteria for 10 more product groups.

Provision of legal clarity

The provision of legal guidance would not involve any additional costs for the Commission. For Member States and public authorities, it would involve some training and additional guidance. Where GPP would be integrated into existing public procurement training, there would be no additional costs.

Recommendation to use GPP when implementing EU funded projects, where appropriate

A recommendation to the Member States would not imply any additional cost for the Commission. It may involve some training and additional guidance to be provided by the national managing authorities of the Structural funds.

5.2.3. *Option 3: Setting of mandatory targets for GPP*

General Benefits of Targets

Targets would act as a political driver for Member States to step up their efforts in the field of GPP, the strength of which would depend on the seriousness with which the Member States (and Community Institutions) viewed the targets. Other Options are very likely to have a bigger and more important impact if complemented by a target that generates political support. Targets would be likely to encourage the establishment and use of central guidance on GPP, coupled to internal targets and/or to political or legal instructions to selected (or all) regional and local authorities.

The existence of targets would also provide an indication to industry of the likely direction of demand for greener products in coming decades, allowing them to early respond to this new demand and plan innovation.

General Costs related to Targets

A) The costs of Member State action in providing national, regional or local advice on GPP. This would be reduced if the Commission services provided Member States with the guidance and practical tools considered under Option 2.

B) Costs of putting in place means to monitor achievement of internal targets, responsibility for which would lie with the Member States. This would create administrative cost on the public administration.

For instance, the Swedish National Action Plan on GPP identifies ambitious objectives and proposes a series of measures to achieve those objectives. The total cost of these proposals for the duration of the three-year action plan (2007-2010) is estimated at approximately SEK 18 million (approximately €2 million).

In the Netherlands, costs for implementing the action plan which makes GPP mandatory for central government and sets a mandatory target of 50 % for all other purchasers by 2010 (including costs for establishing criteria, communicating the policy etc.), amounted in 2006 to approximately €6 to 7 million. Further, money is spent by the government on subsidies to organisations that contribute to the implementation (through training for instance): some €5 million over a period of 5 years. Costs for purchasers to implement GPP (training/monitoring/setting up action plans etc.) are considered costs which are inherent to management.

The cost resulting from monitoring would be similar whether targets are voluntary or mandatory. Those costs could be reduced by a Commission proposal to modify Commission Directive on Standard Forms in Public procurement so as to include information on environmental criteria in contract advice and contract award notices. It would also be reduced as the Commission would bear the administrative cost of identifying suitable indicators and methods for calculating (details in Section 7).

Differences in impacts between sub-options

Sub-Option 3.A) Mandatory targets for life cycle costing

Benefits

This sub-option would be likely to lead to political and administrative action in Member States to change procurement practices. It would lead to increased identification of the real costs of products and to very significant costs savings for public authorities. By making procurers familiar with the concept of looking at resource use during procurement, this would be likely to make adoption of GPP procedures much easier in future, with a large number of shared concepts between the two systems. It would both directly cut resource use – particularly energy and water use – and provide incentives for industry to innovate in these areas.

The introduction of life cycle costing is likely to promote new business models in which products or services are shaped in such a way as to reduce the whole-life costs. The adoption of these practices in the public sector is likely to stimulate their offer and adoption in the wider private sector, as they are seen to be cost-efficient. This in turn has the potential to bring substantial economy wide cost savings, increasing international competitiveness.

For sectors where mandatory requirements on energy efficiency exist (for instance Energy Star Regulation for central government purchases, as well as all product groups that will gradually be covered by the Energy Using Products Directives), the

benefits of the proposed option would be reduced as the obligation to take life cycle costing into account could be redundant, due to the fact that energy efficiency requirements achieve the same effect as life cycle costing.

Costs

There would be costs resulting from training courses for procurers, in view of introducing new procurement procedures in relevant areas. There would also be a need for post-purchase testing of products by authorities to be extended to the resource use characteristics (for example energy consumption).

The scale of impacts of such targets is likely to be hugely bigger than the administrative costs.

Sub-Option 3.B): Mandatory targets for basic GPP

Benefits

- Create the political obligation for Member States to set up and implement GPP policies allowing to achieve targets. It would promote action at both central and regional/local level if separate targets were to be set.
- Promote greater consistency of EU wide implemented GPP criteria, as targets would be linked to the GPP criteria established by the Commission and the Member States as under Option 2. Whilst under this option Member States and public authorities would have the flexibility to comply with targets by including an environmental award criterion not directly linked to the GPP minimum criteria provided under Option 2, it is likely to create greater similarities than a voluntary approach.
- Stimulate training programmes.
- Provide a clear signal to industry, indicating both the longevity and trend in the market for consideration of environmental impacts, reducing the risk of investments in eco-innovation and increasing the potential rewards.
- Stimulate, through successful demonstration of GPP, greater uptake of green procurement practices by the private sector.
- The faster adoption of environmental improvements in products through increased GPP not only creates a level of performance for future years, but allows future increases in performance which will bring additional environmental benefits. The purchase of greener products in the EU is likely to affect supply chains, production and design outside the EU stimulating the offer of better environmental performing products in non-EU countries.

Costs

Training costs for GPP would be additional to existing training and could be integrated into rolling on-going public procurement training.

Costs of procurement may be significantly lower, as:

- Member States have the option of meeting the targets by applying GPP to those contracts within the priority product groups which are most likely to lead to reductions (rather than increases) in whole-life costs.
- The definition of "basic" GPP used does not require the purchase of greener goods when they are much more expensive as it would consider to be GPP also

procurement procedures in which sufficient weighting is given to the environmental characteristics (eg. 15%) of the purchased product. With weightings like this, price will still be the main determinant of product selection. This may be particularly important in regions characterised by a relatively small market of "green" goods at still more expensive prices.

Sub-Option 3.C): Mandatory targets for "outcome-based" GPP

Benefits

- The impact on political support for GPP may be higher in some Member States – who see this sub-option as more tightly binding, and therefore requiring greater activity to meet the perceived stricter compliance.
- The official and binding character of targets will allow for easier, more objective monitoring and benchmarking.
- The Comitology procedure would include an impact assessment of each set of criteria developed, including trade-offs between any additional whole-life costs of a product and the environmental and economic benefits likely to result from its wider uptake. Minimum criteria are unlikely to be put in place where the costs to authorities exceeded the benefits to society.
- The costs of participation in the comitology procedure are likely to be small compared to the economic costs and benefits of implementation of GPP. The discussions for many product groups could be based on information gathered under other related product policies.
- The adoption of minimum GPP criteria in comitology would be likely to ensure harmonised GPP across the EU, in full compliance with public procurement legislation for those product groups where criteria are being developed. Member States or purchasing authorities would in any case have the possibility to set higher environmental standards or award criteria.
- Setting clear minimum EU wide standards for a certain proportion of contracts would send a very clear signal to industry on the levels of performance to be met. Where applied to large percentages of purchases, this would be very likely to promote innovation, including the knock-on effects in promoting green private procurement.
- This stimulus would be re-enforced where targets for GPP in future years were set and commitments were given to review the minimum standards for GPP after a set number of years, to reflect technological progress.

Costs

- In some Member States, the obligation to apply precise requirements might reduce enthusiasm for GPP.
- The comitology procedure for setting GPP criteria would require agreement of Member States to areas and levels of environmental performance. Difficulties in reaching agreement accommodating national and industry stakeholder considerations may slow the process and lead to a lower common standard being adopted than would be adopted where the minimum standards were not binding. It may also lead to practical difficulties for revising criteria in a way that keeps them relevant and useful for the fast-moving product groups.

- Regional differences might not be well picked up in a comitology impact assessment and could still lead to costs exceeding benefits in some regions.
- The cumbersome GPP criteria setting process may reveal, in the future, unnecessary or badly designed, considering the on-going initiatives in the field of environmental criteria setting; it may be appropriate to await the outcomes of those initiatives before deciding on what type of procedure would be best for GPP criteria setting or the process may be limited to endorsement of environmental criteria developed in other frameworks.
- The Budgetary autonomy of regional/local authorities may make it more difficult for Member States to implement mandatory targets linked to mandatory GPP criteria.

5.2.4. *Option 4: Various forms of mandatory GPP*

Sub-Option 4.A): Mandatory GPP for certain types of purchasing authorities and for certain "niche" products

Benefits

A 100 % target for central government would provide, for the relevant product groups, a very clear signal to the market, and have the biggest potential for triggering change of the supply side towards ever better performing products, with strong knock-on effects also on private consumption. Benefits are of a similar nature to but at the same time expected to be greater per product group than the benefits that can be expected to result from Option 3.C) "mandatory targets for outcome-based GPP".

This Option would be similar to the obligation for central government included in the recently adopted Energy Star Regulation, to only buy office equipment complying with energy-efficiency requirements not less demanding than the Energy Star Specifications (described under Option 1). However, it would focus on other products than office equipment covered by the Energy Star Regulation. To estimate the benefits of this option, an additional impact assessment is necessary, to identify suitable sectors and estimate the potential benefits.

Costs

There would be costs for the Commission or the Member States related to the transposition of a regulatory measure and the monitoring of compliance.

Considering the 100 % target, the measure would focus on cost-effective procurement, involving no extra costs for purchasing authorities, taking into account whole-life-costing.

Sub-Option 4.B): Make GPP mandatory for all purchases above the thresholds of the public procurement directives, by making the environmental award criterion mandatory

Benefits

This integrated approach would give a very important political signal as it would integrate GPP directly into the relevant internal market legislative tool. It would draw the attention of all purchasers to the importance of integrating environmental concerns into public procurement, even for purchases below the thresholds, because many countries apply the same legislation or principles also for those procedures.

In order for it to guarantee those benefits and not lead to unclear and non transparent procurement procedures, it would need to be complemented with relevant guidance on potential environmental award criteria for priority products and guidance on how to specify an environmental award criterion in the absence of such criteria.

It would not in all cases lead to the purchase of green goods.

Costs

Costs for Member states related to transposition and monitoring of compliance.

It would certainly need to be complemented with relevant tools and guidance on environmental criteria, as described under Option 2, including costs as described there. In the absence thereof, it may lead to non transparent procedures, discrimination, reduced competition and increased costs for purchasers as a result.

Such proposal would call for a separate impact assessment.

Sub-Option 4.C): Make it mandatory to include, for all service and works contracts above certain thresholds, a contract performance clause which obliges the winning bidder to set up an environmental management system during the performance of the contract

Benefits

This option would be expected to constitute a cost-effective way of reducing the environmental impact resulting from important services and works contracts. The biggest environmental impact of such contracts indeed occurs during its execution (use of resources during performance, transportation issues, waste management and so on). The implementation of an environmental management system by the winning bidder would ease the burden of verification for the purchasing authority and provide additional guarantees as to its compliance with environmental performance standards. It would also help the contractor to comply with high environmental standards of the contract.

Costs

Considering the fact that the obligation would only apply to contracts above a certain financial threshold (which could be the current threshold for application of the Directive to works contracts, namely 5 million €), the costs for the winning company to set up and run an environmental management system can be considered relatively small. When added up, the overall costs for all winning companies may be relatively important though. For a full examination of costs and benefits of implementing an environmental management system, reference can be made to the impact assessment for the on-going revision of the EMAS Regulation on the European Environmental Management and Audit Scheme⁵⁴. Costs for the Member States related to transposition and implementation of modified procurement Directives.

This proposal would equally call for a separate impact assessment, to set appropriate thresholds or consider the possibility of applying a similar obligation to subcontractors.

⁵⁴

Costs for registering under the EMAS scheme basically involve registration fees and auditing and verification fees (paid to consultants). Registration fees differ per Member State and range from 18€ to 2234 € Consulting costs for a medium-size organisation with about 50 employees, are average about 12.000 € whereas the cost for verification range from about 500 to 8000 €

Sub-Option 4.C): Mandatory GPP for the implementation of EU funded projects

Benefits

Making it mandatory to use GPP, wherever appropriate, that is in all cases where public authorities are implementing EU funded projects through use of a public procurement procedure, would be particularly effective at initiating the uptake of GPP by local authorities, main beneficiaries of Structural funds, who are traditionally more difficult to reach in view of raising awareness on GPP, providing political support, guidance and training. It would ensure cost effectiveness of an important part of the EU budget, meet the requirements of Article 6 of the EC Treaty and give strong signals to local companies taking part in the calls for proposals and contracts awarded under those Structural Funds.

Costs

Current EU rules governing Structural funds have been adopted late 2006 for the period 2007-2013, after 2 years of difficult discussions. A proposal to modify would need to wait the adoption of the new rules for the next period (2014-...). Discussions may start in 2010. This would allow the Commission to carry out a separate impact assessment. A similar assessment would be made of the possible change in the rules for the award of other EU funding mechanisms (such as LIFE +, R&D grants etc.)

5.2.5. Option 5: Modification of the Commission Directive on the use of Standard forms in public procurement

Benefits

Contracting authorities have to make use of these Standard Forms for all contracts above the thresholds of the public procurement Directives. Contract advice notices are published to invite potential bidders to request tender documents and submit bids. They include information on the selection criteria and on the estimated total value of the contract to be conclude, and may also include information on the award criteria. Contract award notices are published after the award of the contract and include information on the final total value, contractor withheld, award criteria used.

The Standard forms are used for the collection of statistical evidence on number, value, type of contracts concluded. The inclusion of environmental information in those forms would allow to also collect statistical information on this aspect of public procurement procedures. This would seriously reduce the burden of monitoring of GPP for both the Commission and the Member States, the latter being in any case legally obliged to report public procurement statistics to the Commission.

Costs

There will be administrative costs for authorities from the provision of additional information in the standard forms. However, as the use of standard forms is already mandatory for contracting authorities and as Member States are already subject to statistical obligations in the field of public procurement, the fact of having to include environmental information (for the contracting authority) and of having to include in the public procurement statistics also information on GPP (for the Member States) would be the most efficient means of information provision to monitor the implementation of targets for GPP. It would involve the transfer of the information that they have already published (e.g. on award criteria) into a Standard Forms which they already prepare.

6. COMPARING THE OPTIONS

6.1. Which are the best options for tackling the identified specific problems?

Information and Tools

For the problems associated with **lack of information**, policy development has focussed on identification of the information that is missing, together with consideration of the best form in which it can be supplied. Options 2, 3 and 4 all tackle –to a certain extent– the problem of lack of information. Option 2 would provide the most complete solution for the raised problem on lack of information, as it would provide information on costs and benefits, propose GPP criteria, provide legal guidance and operational guidance which are essential building blocks of any national GPP strategy and imperative for achieving more and better GPP.

The impact assessment above indicates that the generation and/or publication of information about GPP practices and tools to facilitate GPP at lower cost will remove or reduce some of the barriers to GPP and would do so at negligible cost compared to the potential benefits of the policy.

Options 3 and 4 would partially solve the problem of a lack of information, as under both options (sub-options 3.B), 3.C) and sub-option 4A)), GPP criteria would be recommended or imposed for use in GPP. However, those options would not solve the other problems raised regarding legal uncertainty and lack of information on costs and benefits and implementing tools.

On the other hand, additional information and tools do not appear likely to be sufficient to greatly increase uptake of GPP whilst there is a lack of political motivation to push GPP uptake. Provision of greater information about the advantages and disadvantages of GPP and different ways to put it into practice could have some effect on political support for GPP. Yet, in Member States where there is currently little interest in GPP, the provision of information is unlikely to have an impact, and may go unread.

Generation of Necessary Political Support

- Targets

Mandatory targets appear to complement Option 2 and raise the political support in Member States needed for wider uptake of GPP. There are various alternative sub-options for the target setting for GPP, each with different advantages and disadvantages, mentioned above.

For instance, mandatory targets with minimum standards set by Comitology would be likely to provide clearer, innovation-prompting signalling to industry, but might lead to lower levels of environmental performance and greater up-front costs of implementation in Member States. Targets only for life cycle costing would ensure cost savings for authorities, but have comparatively weak environmental benefits. Purely voluntary targets would be likely to stimulate some degree of greater Member State activities, but with more mixed stimulus to innovation and potential friction in the internal market.

Administrative process concerns must also be taken into consideration: For instance, a lack of mandatory use of criteria may make the informal process of co-operation proposed for criteria setting more successful by reducing strategic behaviour, though on the other hand may reduce the incentives for parties to co-operate.

The analysis of sub-options indicates that all would bring net benefits and that therefore targets should be proposed. However, the evidence gathered up to now does not indicate which form of targets would maximise net benefits and therefore no recommendation is made on the adoption of mandatory targets. Greater investigation of the impacts of options for mandatory targets in the form of a separate legislative instrument is needed, that includes market analysis of relevant product groups, performance levels and whole-life-costs.

Therefore, whilst acknowledging the importance and usefulness of setting mandatory targets, an additional impact assessment will be carried out in order to identify the most appropriate sub-option(s), if any. In the meantime, quantification of the existing renewed SDS Strategy GPP target in a Commission Communication, as proposed under Option 2, may prove helpful as a cost-effective way of triggering political support.

- **Mandatory GPP**

As an alternative or in addition to mandatory targets, Option 4 provides 4 alternative regulatory sub-options also aimed at raising political support for GPP. Additional impact assessment is needed to determine whether one or more of these options could be complementary/a suitable alternative to mandatory GPP targets.

Mandatory GPP for central government for certain product groups

Option 4.A): Whilst such approach would yield the best results in terms of triggering market transformation and continuous improvement towards better performing products, it would be limited in coverage. Additional impact assessment is being carried out to estimate its cost-effectiveness for any product group.

Modification of public procurement Directives

Option 4.B), 4C) and 4D) would in any case need to be complemented with relevant tools and guidance on environmental criteria, as described under Option 2, including costs as described there. In the absence thereof, it may lead to non transparent procedures which could result in discrimination and reduced competition and increased costs for purchasers as a result of this. As regards option 4 C) on mandatory implementation of environmental management systems, it would be useful to examine the feasibility of applying such obligation also to subcontractors. Option 4 D) would imply a change of the EU rules governing structural funds. The Commission will further examine costs and benefits of those options before making a proposal, examining both subsidiarity and administrative burden.

Modification of a Commission Directive on Standard forms for use in public procurement

Option 5 is a stand-alone option which is complementary to all other options, as it seeks to facilitate the monitoring of GPP for procedures above the thresholds of the Public procurement Directives. Appropriate monitoring is a pre-condition to any form of political target setting and an incentive for implementation. The Commission proposes to carry out an additional impact assessment to assess whether to develop this option into an appropriate proposal.

7. MONITORING AND EVALUATION

7.1. Establish suitable indicators and methods for calculating

To identify the baseline of the renewed SDS target, according to which the average level of GPP in the EU should, by 2010, be at the (2006) level of the best performing Member States, it's necessary to measure the level of GPP in 2006 in the best performing Member States.

The "level of GPP" can be assessed through several types of indicators.

Process-oriented indicators allow to assess for instance whether a national GPP policy has been established, whether guidance exists, whether and what sources of GPP criteria exist, levels of GPP training. The Commission will regularly calculate those indicators, through contacts with national GPP experts.

Quantitative indicators allow to assess uptake and progress of the policy, by comparing the level of GPP (expressed in numbers and value of Green tendering procedures) to the overall level of public procurement. To assess also the effective impact on the supply side, the Commission proposes to calculate in addition the value of green contracts concluded as compared to the overall value of public procurement contracts.

The Commission will establish a statistical method for calculating those indicators. To guarantee uniform monitoring and benchmarking, the monitoring exercise will focus on the priority product groups and corresponding core GPP criteria referred to under Option 3.

Impact-oriented indicators allow to assess the environmental and financial gains delivered by GPP. An example of such indicator would be "the estimated environmental (and financial) benefit of a purchase of a certain "green" product volume, as compared to the purchase of a similar "neutral" product volume. The Commission will develop such indicators and integrate them in the monitoring exercise.

7.2. Core indicators

- Raise political profile of GPP - Indicator :
 - number of action plans/strategies adopted and implemented by 2010.
- Raise, by 2010, the average level of GPP in the EU to the current level of best performing Member States – Indicators:
 - number and value of "green" tendering procedures as compared to total number and value of tendering procedures
 - value of green contracts as compared to total value of contracts

7.3. Additional indicators related to Operational objectives

- Improve quality of GPP –Indicators :
 - number of product groups covered by GPP criteria
 - number of tenders compliant with public procurement legislation, resulting from revision of the situation in 2010

7.4. Monitoring by the EC

The EC will monitor the situation in the best performing Member States in 2008 (based on 2006 figures so as to establish the baseline of the renewed SDS target). The Commission will monitor the situation in the whole EU 27 in 2010, on the basis of the indicator(s) and appropriate calculation methods (under development). As the EC monitor would take as a reference GPP procedures which are compliant with recommended GPP criteria, Member States should be encouraged to apply those GPP criteria in their respective countries. This would ease the administrative burden for Member States, who will thus be able to focus on guidance and training.

ANNEX 1: STUDIES AND BACKGROUND DOCUMENTS CONSULTED

Most relevant studies and background papers are:

- TAKE-5 study carried out for the Commission in 2005-2006 and aimed at measuring the state of play of GPP in the EU and analysing barriers for further uptake of GPP, final report August 2006 at http://ec.europa.eu/environment/gpp/studies_en.htm
- "Procuring the Future, the Sustainable procurement Task Force National Action Plan" and its underlying studies, launched 12 June 2006 to give advice to the public sector on how it can be amongst the EU leaders in Sustainable Procurement by 2009, more information at <http://www.sustainable-development.gov.uk/government/task-forces/procurement/index.htm>
- 2003 OECD Report "the Environmental Performance of Public Procurement": http://www.oecd.org/document/21/0,3343,fr_2649_34487_37414933_1_1_1_1,00.html
- Report on "Costs and Benefits of Green Public Procurement in Europe", Öko-Institut and Iclei, final report July 2007; http://ec.europa.eu/environment/gpp/index_en.htm.

ANNEX 2 : STAKEHOLDER CONSULTATION : SUMMARY

The TAKE-5 study has been drafted in close cooperation with Commission services and interested parties, in particular Member State representatives. In a first stage, the Study proposed to develop a GPP definition. Stakeholders have been involved throughout the study. A workshop was organised in October 2005 by the UK Department for Environment, Food and Rural Affairs (Defra), to collect the opinions of representatives of the Member States and other stakeholders on the intermediary report of the TAKE-5 Study. All recognised the need for improvement of the situation, through national guidelines and action plans. The intermediary report of the TAKE-5 Study was approved as a good basis for future actions and policies, although it was recognized that it could have given a too positive view of the level of GPP in the EU, due to the risk of biased answers to the questionnaire and to the fact that, even in the case of established GPP, the identified "green" criteria were often not clear or not ambitious enough. All stakeholders furthermore recognized the particular role for the EU to provide coherent and easily accessible information, enable networking and exchange of good practices, gather evidence on environmental and economic benefits of GPP, hold regular benchmarking exercises on the basis of tender analysis and involve the supply side. As regards the identified priority sectors, those have been established on the basis of the measurements carried out in the framework of the study, experience, practical know-how and analysis of the Take-5 Consortium, taking into account the environmental impact of greening, the availability of green versions of these products in the market, the available examples.

A stakeholder meeting was organised on 25 June 2007, based on a background document proposing a definition of GPP (not only outcome based but covering also procedures including green award criteria), a list of priority product and service groups and listing main options for improvement, including the voluntary and mandatory measures subject of the current impact assessment. The document was sent out to the "Green public procurement expert group", gathering over 80 Member States representatives in the field of GPP, as well as to the European Union Eco-labelling Board gathering the competent bodies of the Member States responsible for eco-label issues as well as relevant stakeholders (representatives from industry, suppliers, civil society, ngo's) and to a list of other potentially interested stakeholders, in particular from forestry and paper sector, Food industry, Textiles industry,

Packaging industry, IT industry, Plastics industry, SMEs. The members of the Advisory Committee on public procurement have also been consulted in writing.

The web-based consultation on the proposed Sustainable Production and Consumption Action Plan (closed 23/09/2007) also included some questions as to the possibility of making GPP mandatory, by setting an overall target or focussing on specific sectors (http://ec.europa.eu/enterprise/environment/sip_en.htm).

In summary, the idea of setting voluntary GPP criteria was well received, subject to

- Need to involve industry at an early stage of the criteria setting process
- LCA approach
- Product specific approach, rather than materials (wood sector)
- Call for simplicity of tender documents
- Co-ordination with other EC initiatives
- Call for more guidance on LCC
- Strong call for more legal clarity, in particular as regards procurement of legal and sustainably harvested wood/wood products

More specific comments by stakeholders and Member States:

Construction sector

- "construction" cannot be considered a product group as such
- Need for taking into account local and climatic differences
- Points at useful on-going standardisation procedures concerning the environmental performance of buildings and construction products
- Focus on energy efficiency and LCC – allow "green" variants to stimulate innovation
- Need for training on LCA and LCC
- Opposed to additional third-party certification schemes
- Would consider modification of public procurement directives to impose in all cases award of contracts on the basis of the economically most advantageous (as opposed to the cheapest) offer, including LCC and energy efficiency, and to require contracting authorities to accept variants in all cases (where relevant), to stimulate innovation

Food and Drink industry

- Organic Food Regulation only considers environmental impact on Agriculture; there is a need to also consider social and economic criteria and health issues

American Forest and Paper Association

- Need to consider equivalent environmental standards and verification methods
- Concern over inclusion of CO² criteria for paper and wood which may be inconsistent with WTO
- Supports a neutral approach towards various mentioned certification schemes (to assure compliance with WTO)
- Recommends work of UK's Central Point of Expertise on Timber (CPET)

CEPI

- welcomes a harmonised EU wide approach
- GPP criteria to be set for all products made from wood, ranging from paper to bio-energy, as well as for competing products
- Insists on a "risk based" approach and not a "proof all" approach
- Strong call for more legal clarity on the use of production process related criteria, raw material criteria, social criteria, on the use of EMS in criteria-setting, on the way to use references to ecolabels, certification systems and third party verification
- Opposed to GPP award criteria (prefers minimum technical specifications)

CITPA : International Confederation of Paper and Board Converters

- Packaging would be inappropriate for GPP : combining an assessment of the product and the packaging is complex and could lead to misconceptions, if to be included, need to base itself on full LCA or require verification that packaging conforms to the essential requirements of the Packaging and Packaging Waste directive

Finnish Forest Industries Federation

- EU guidelines should be general; detailed instructions are country specific
- Avoid discrimination (for instance in terms of forest certification)

Plastics Industry

- Favours voluntary GPP approach but with mandatory GPP criteria and "result based" definition of GPP
- Use of plastics in construction, food and transport can save energy
- GPP to be based on all three pillars: economic, social and environmental

PROMPTEX (Fédération européenne pour la promotion des marchés publics – Textile et Cuir)

Satisfied with the inclusion of "clothing and textiles" amongst the priority groups for which GPP criteria will be identified. Giving examples is absolutely necessary.

EUAPME

- Is opposed to GPP if to lead to additional administrative burdens for SMEs (to provide for instance complex life-cycle calculations or expensive certificates)
- Is opposed to inclusion of full life-cycle-assessment into the definition of GPP
- Prioritisation should take into account impact on SMEs
- Difficulty to continuous update GPP criteria
- Opposed to recommended use of national databases
- Prefers minimum environmental technical specifications over award criteria
- Opposed to additional third-party certification schemes; recommends use of EPDs

UNIEP(International Federation of Painting and Decorating Associations)

- Raises potential difficulties for SMEs
- Avoid linking GPP to the general activities of a company, as this would adversely affect SMES

- Life-cycle certificates are not appropriate in relation to the services sector
- Favours voluntary promotion of environmental standards by business over GPP

Finland

- Calls for greater legal clarity
- In the field of wood products, one cannot allow only certified wood; further examination of this issue needed, involving all market players

France

Against the inclusion of "medical devices" as a priority group, too sector specific

Hungary

The Environment Ministry welcomes proposal, but proposes to exclude the notion of "utilities" in the definition

The Economy and Finance Ministry considers that concrete legal obligations in the field of GPP would increase the efficiency of the policy. The Ministry further agrees with proposed selection of priority sectors and welcomes the process for identifying GPP criteria. As regards monitoring, the Ministry would support a modification of the Standard forms for public procurement. The Ministry welcomes the additional guidance proposed. The Ministry agrees with differentiated and gradually implemented voluntary targets for central and local/regional government. However, when setting targets, account would need to be taken of the fact that GPP may imply some additional burdens, which would weigh in particular in Member States with less advanced economies.

Italy

- Suggests to raise political profile by linking GPP to financial support schemes
- Co-operation with the Member States to be based on efficient working methods, involving stakeholders
- Opposed to the inclusion of medical devices amongst the "priority" groups; could be replaced waste management or urban management services

Slovak Republic

- need to clarify EU funding possibilities for implementing GPP
- welcomes work on a uniform methodology for monitoring GPP
- questions effectiveness of a voluntary approach

UK

- Proposes to replace, in the definition, the notion of "public/semi-public authorities" by "contracting authorities"
- Unnecessary to keep as a minimum 'beyond legal requirement', because some Member States may have very restrictive legal requirements;
- Asks for clarification of the reasons for choosing the proposed definition and the reason for rejecting the earlier "outcome based" definition agreed upon in the framework of the "Take-5" study
- Would favour a structured process of championing best practice

- GPP criteria to be based on cost/benefits evidence and broad stakeholder consultation, linked to other EU policies, and to ensure legal compliance – leaving it up to the Member States to mandate their use – draws the attention to several risks resulting from using complex ecolabel criteria not originally drafted for the purpose of GPP
- Offers to share experience, in particular as regards timber procurement, as there is a clear need to agree on minimum standards for this commodity and assist Member States in adopting harmonized policies
- Welcomes examples of GPP criteria for 4 product
- Services may call for a different, case-by-case approach
- Welcomes co-operation with Member States
- Welcomes the quantification of the SDS target but does not see a need to differentiate between central government and local government nor to set targets for different product groups – Member States should be encouraged to set their own targets enabling them to contribute to the EU target
- Welcomes EU activity to benchmark performance and champion best practice
- Proposes to develop impact related indicators (for example reduced CO2 emissions from the government estate); notion of "benchmarks" preferred over "targets" to underline voluntary character and allow assessment of progress
- Potential administrative burden due to data collection;
- Welcomes policy coherence
- Welcomes economic and legal guidance on boundary issues

Romania

- welcomes the proposal, considering however that a regulatory approach would yield better results
- welcomes idea of giving examples of GPP criteria Agrees with proposed indicators raises the need to address the issue of verification of compliance

ANNEX 3 – INTERNATIONAL ASPECTS

A [Government Procurement Agreement](#) (GPA) has been signed in the framework of the World Trade Organisation (WTO). It is a so-called plurilateral agreement, characterised by a narrower group of signatories than general WTO agreements.

The GPA itself does not contain any reference to environmental protection. However, the Sixth Recital of the Preamble to the WTO Agreement recognises the need to act in accordance with the principle of sustainable development and to protect and preserve the environment. Therefore, it is broadly accepted that the GPA allows contracting entities to take into account environmental considerations when defining technical specifications (including process and production methods) and selection and award criteria, on condition that they are not discriminatory, and are sufficiently objective and verifiable.

One sector with particular international relevance is the wood sector. In this sector, frequent use is made of international concepts of "legality" and "sustainability" and of many, slightly differing, international certification schemes attesting the legal and/or sustainable origin of the

harvested wood. In relation to this sector, it needs to be clarified whether and to what extent the concepts of "legality" and "sustainability" can be used to define GPP criteria and which types of proof or certification can be asked from bidders to attest compliance with those criteria. Many different international certification schemes exist and clarity needs to be created as to the potential reference to those schemes in the field of GPP. The EU Forestry Action Plan adopted in 2006 foresees as one of its actions co-operation and exchange of information between Member States in view of reducing market distortions due to preference given to different types of certification schemes by different Member States. The notion of sustainable harvesting basically refers to compliance with environmental and social aspects of the harvesting process, whereas the notion of legality refers to compliance with elements of national legislation during harvesting. Insofar as national legislation may also include environmental and social aspects, both concepts can be overlapping; they are both used in the field of Green and/or sustainable public procurement. In relation to the concept of "legality", account needs to be taken of the EU FLEGT action plan (Forest Law Enforcement Governance and Trade) which seeks to reduce the importation of illegally harvested wood (tropical wood) in the EU, by concluding bilateral agreements with developing countries. If public authorities in the EU are increasingly buying legally logged wood, this may be an important incentive for trader partner countries to sign those agreements.

Another international issue is the fact that GPP may have the effect of making market access more difficult for products from developing countries, which are less inclined to comply with certain environmental standards. However, this effect may be mitigated by the fact that, at an international level, the Marrakech Task force on Sustainable Procurement seeks to develop and implement a training toolkit on SPP in 12 to 14 developing countries, with the aim of drawing conclusions for further uptake and dissemination in more developing countries at the WSD in 2010 (more information at: <http://marrakech.taskforces.ewindows.eu.org/>).