



# Buying Fair Trade

European Model on Fair Trade Public Procurement

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## Buying Fair Trade – European Model on Fair Trade Public Procurement

This model has been developed within the **Public Affairs: Mobilising action for Fair Trade Public Procurement** project, funded by the European Commission. The contents are the sole responsibility of the European Fair Trade Association (EFTA) and may under no circumstances be regarded as the position of the European Commission.

The legal information in this document is accurate to the best of our knowledge and based on current best practices. Guidance provided in this model is based on the European Union (EU) legal framework, but does not constitute an official interpretation of EU law. Contracting authorities wishing to purchase Fair Trade products are advised to take into account specific national or regional laws or guidance documents on how to introduce Fair Trade in public procurement. EFTA does not assume liability for misinterpretations or implementation.

## What is Fair Trade?

Fair Trade is a concept that was recognized by the European Parliament (EP) in 2006<sup>1</sup>, and confirmed in 2009 and 2010 by the European Commission (EC)<sup>2</sup>, the European Economic and Social Committee (EESC)<sup>3</sup>, the European Committee of the Regions (CoR)<sup>4</sup> and the EP report on new developments in public procurement<sup>5</sup>.

It is defined at International level<sup>6</sup> as:

*“(...) a trading partnership, based on dialogue, transparency and respect, that seeks greater equity in international trade. It contributes to sustainable development by offering better trading conditions to, and securing the rights of, marginalized producers and workers – especially in the South. Fair Trade Organizations, backed by consumers, are engaged actively in supporting producers, awareness raising and in campaigning for changes in the rules and practice of conventional international trade.”*

A list of Fair Trade criteria to be used in procurement procedures is also available on page 6.



1. Resolution of the European Parliament of 6 July 2006 on *Fair Trade and development* (2005/2245(INI)), paragraph 2
2. Communication from the Commission of the European Communities of the 5 May 2009: *Contributing to Sustainable Development: The role of Fair Trade and nongovernmental trade-related sustainability assurance schemes* (com (2009) 215 final)
3. Opinion of the European Economic and Social Committee of 20 January 2010 on the Communication from the Commission to the Council, the European Parliament and the European Economic and Social Committee: *Contributing to Sustainable Development: The role of Fair Trade and non-governmental trade-related sustainability assurance schemes* (REX/288 - CESE 108/2010)
4. Opinion of the Committee of the Regions of 10 February 2010 on *Contributing to Sustainable Development: the Role of Fair Trade and Non-governmental Trade-related Sustainability Assurance Schemes* (CdR 214/2009)
5. European Parliament Resolution of 18 May 2010 on *new developments in public procurement* (2009/2175(INI))
6. By the main Fair Trade networks Fairtrade Labelling Organizations International (FLO), World Fair Trade Organization (WFTO, formerly IFAT), European Fair Trade Association (EFTA) and Network of European Workshops (NEWS!) in 2001. More detailed information on the Fair Trade principles and the two complementary routes can be found in the Charter of Fair Trade principles, agreed in 2009 by the two International Fair Trade standards-setters, FLO and WFTO, available on: [http://fairtrade-advocacy.org/images/stories/Charter\\_FTPrinciples\\_EN.pdf](http://fairtrade-advocacy.org/images/stories/Charter_FTPrinciples_EN.pdf)



## Why Fair Trade Public Procurement?

Contracting authorities have a significant role in stimulating socially-conscious markets demonstrating socially responsible governance and set the example for citizens. By supporting marginalised producers and workers in the South through Fair Trade, contracting authorities can also show EU citizens their commitment to the three pillars of sustainable development (social, environmental and economic). Fair Trade is an effective way of contributing to contracting authorities' efforts in reaching the UN Millennium Development Goals. It is also a way to guarantee the ILO core conventions are being respected and the products purchased are not produced with recourse to child labour. In fact, a recent study by the University of Rome "Tor Vergata"<sup>7</sup> shows the positive impact of public procurement policies that include Fair Trade by local authorities, not only for disadvantaged producers, but also to raise the awareness of citizens as involved stakeholders.



*“It is legally possible for contracting authorities to purchase Fair Trade products, putting in practice their commitment to sustainability”*

It is legally possible for contracting authorities that wish to put in practice their commitment to social, economic and environmental sustainability to purchase Fair Trade products, both for procedures within the scope of the EU Directives on Public Procurement<sup>8</sup> and those that do not fall under their scope<sup>9</sup>.

The objective of this document is to give contracting authorities practical guidance on the different legal ways to include Fair Trade criteria in their procurement practices.

## I. Where to begin? Setting up an organizational strategy

### 1. Market Analysis

This step allows public authorities to look at the current availability of Fair Trade products as well as the possible future availability. Before initiating actual purchasing procedures for Fair Trade products, the contracting authority should be confident the market can supply the product it is looking to purchase. The

7. Becchetti, Leonardo and Bustamante, Juana Paola, *In solidarity catering in Rome: Public Procurement and Impact of Fair and in solidarity Trade*, 2008, University of Rome Tor Vergata, study requested by CTM Altrmercato and ResPect - Centre for ethic and responsible enterprise

8. Directive 2004/17/EC of the European Parliament and the Council of 31 March 2004 coordinating the procurement procedures of entities operation in the water, energy, transport and postal service sectors (OJ L 134, 30.4.2004, p. 1, as amended by Commission Regulation (EC) No 1177/2009 of 30 November 2009, OJ L 314, 1.12.2009, p. 64) and Directive 2004/18/EC of the European Parliament and the Council of 31 March 2004 coordinating the procedures of the award of public work contracts (OJ L 134, 30.4.2004, p. 114, as amended by Commission Regulation (EC) No 1177/2009 of 30 November 2009, OJ L 314, 1.12.2009, p. 64)

9. These procedures must abide by the fundamental rules of the Treaty on the Functioning of the European Union (TFEU) and the principle of non-discrimination on the ground of nationality in particular



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most common Fair Trade products, in particular food ones, are easily available.

Some authorities develop purchasing catalogues as a result which can greatly contribute to eliminating additional steps when opening new procedures. Contracting authorities would benefit from contacting local or regional Fair Trade Organizations and other Fair Trade suppliers in order to develop such catalogues. These catalogues should, of course, be constantly updated.



### 2. Needs Assessment

This should include an analysis of the current situation and the desired outcome. What products are currently purchased that could be switched to Fair Trade? Are there other products that will be foreseeably purchased in the future that can be available through Fair Trade? Where could there be a beneficial combination of Fair Trade products with organic products? How many products would the contracting authority aim to convert in the next 5-10 years? What products would be prioritized?



**In this step, benchmarks can also be set, e.g. over 5 years:**

- Year 1** Set up organizational strategy.
- Year 2** Purchase of first Fair Trade product (e.g. 100% of all coffee purchased).
- Year 3** Expansion of pilot contract (if one year contract) and conversion to 2 additional Fair Trade products.
- Year 4** Purchase of additional Fair Trade products on all purchases where option is available as previous contracts expire.
- Year 5** Re-issue purchase procedure for first Fair Trade product and continue as in year 4.

### 3. Political commitment

A key element when purchasing Fair Trade is to have top level political commitment. This can take on various forms, from a general strategy on sustainability to a simple declaration, exclusively regarding purchasing policies or throughout its other policies too. These documents provide transparency to the greater public as well as within the organization. Such a commitment should indicate clear targets and the objectives of the purchasing policy. Ideally, it should also clearly state what Fair Trade is and who is responsible for the implementation of the purchasing procedures, as well as some general guidelines on how these procedures should be implemented.



#### 4. Communicating with staff

Once there is a political commitment to purchasing Fair Trade products, it is important to communicate this to relevant purchasing staff and even to develop some training sessions on how to purchase Fair Trade. Engaged staff allows for a more effective implementation. Fair Trade organizations on the national, regional and local level can be of great assistance in this step and it is always useful to contact them<sup>10</sup>.

#### 5. Awareness-raising towards the general public

Awareness-raising of Fair Trade purchasing has a two-fold reasoning behind it; it both provides transparency and clear explanation of how tax-payers' money is being spent and why, and it sets an example for the general public on a more sustainable way to purchase. This can be achieved through dedicated leaflets, posters, articles in media, interviews, special awareness-raising events on Fair Trade, joining Fair Trade towns campaign, etc.



#### 6. Choosing a suitable pilot contract

Contracting authorities should choose a first contract suitable for testing their approach and lesson learning. Such a contract should take all aspects of purchasing that product into consideration, such as recurrence, volume, delivery, etc. This will permit future contracts to be improved through the lessons learned.

## II. Purchasing Fair Trade: one concept, various possibilities

### Recommended definition of Fair Trade criteria

*When referring to Fair Trade in purchasing procedures, we advise using the wording of any national or regional law on Fair Trade that may exist in your region or country<sup>11</sup>. Where such a law does not exist, we recommend using the relevant Fair Trade criteria laid down by the European Parliament Resolution on "Fair Trade and development"<sup>12</sup> and later confirmed by numerous other EU Institutions<sup>13</sup>, listed below with necessary formal adaptations<sup>14</sup>:*

#### ■ Economic Pillar

- a) A fair producer price, guaranteeing a fair wage and covering the costs of sustainable production and living. This price needs to be at least as high as the Fair Trade minimum price and premium, where they have been defined by international Fair Trade associations;

10. Lists of European Fair Trade organizations and European Fairtrade labelling initiatives can be found on WFTO and FLO websites: [www.wfto.com](http://www.wfto.com) and [www.fairtrade.net](http://www.fairtrade.net)

11. You can find non-exhaustive information about regional and national laws mentioning Fair Trade in the study "State of play of Fair Trade Public Procurement in Europe", and in "Fair Trade Public Procurement legal framework in the EU and the Member States" on the cd-rom enclosed

12. European Parliament Resolution of 6 July 2006 on *Fair Trade and development* (2005/2245(INI))

13. See footnotes 1 to 5 for the references to the EU Institutions documents supporting Fair Trade

14. The list and some criteria were split between the three pillars of sustainable development, and certain criteria were clarified in order to adapt them to the necessity of tendering procedures



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- b) part payments to be made in advance, if so requested by the producer;
- c) support for production and market access for producer organizations;
- d) monitoring and verification of compliance with these criteria, in which Southern organizations must play a greater role, leading to reduced costs and increased local participation in the certification process;
- e) regular impact assessments of Fair Trade activities;
- f) long-term, stable relations with producers and involvement on the part of producers in Fair Trade standard-setting;

### ■ Social Pillar

- g) transparency and traceability throughout the supply chain to guarantee appropriate consumer information;
- h) conditions of production which respect the eight International Labour Organization (ILO) Core Conventions;
- i) protection of human rights and in particular women's and children's rights and respect for traditional production methods which promote economic and social development;
- j) capacity building and empowerment for producers, particularly small-scale and marginalised producers and workers in developing countries, and their organizations, as well as for the respective communities, in order to ensure the sustainability of Fair Trade;
- k) awareness-raising activities about Fair Trade production and trading relationships, the mission and aims of Fair Trade and the prevailing injustice of international trade rules;

### ■ Environmental Pillar

- l) respect for the environment: All parties to Fair Trade relationships collaborate on continual improvement on the environmental impact of production and trade through efficient use of raw materials from sustainable sources, reducing use of energy from non-renewable sources, and improving waste management. Adoption of organic production processes in agriculture (over time and subject to local conditions) is encouraged.

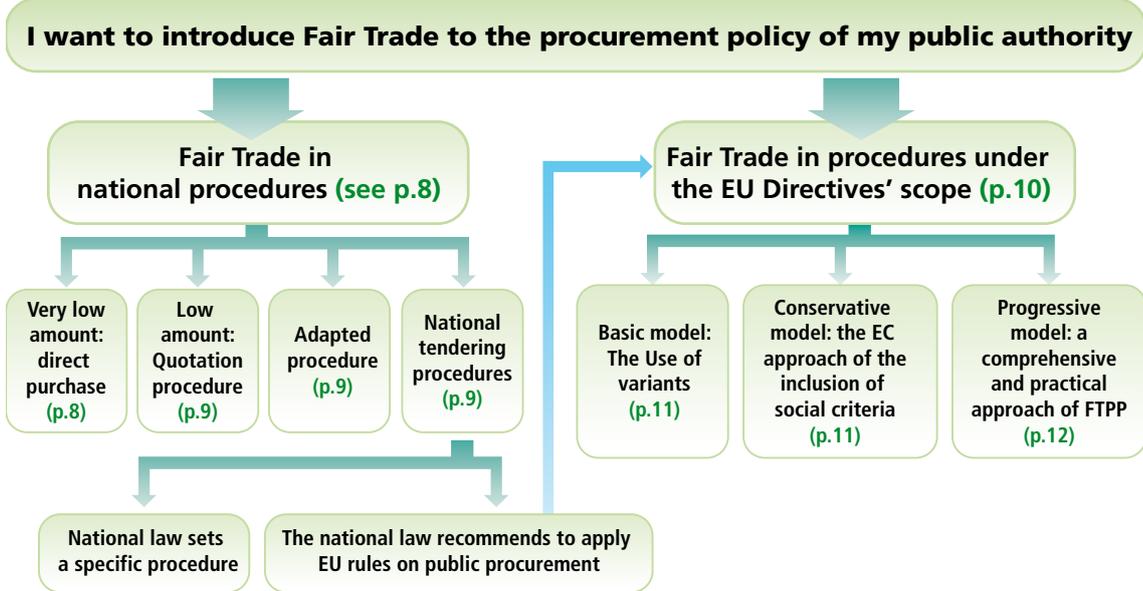
This definition of Fair Trade criteria by the above three pillars is the one that is referred to later in the document when recommending to "List Fair Trade criteria here".

These Fair Trade criteria, that are recognized at International and EU level, must be included by contracting authorities to be able to give preference to Fair Trade products. There are different legal ways for authorities to purchase Fair Trade items, depending on the contracting authority's organizational strategy and the corresponding procedure, as schematized and detailed below<sup>15</sup>:

*"A fair  
producer price,  
guaranteeing  
a fair wage  
and covering  
the costs of  
sustainable  
production and  
living"*



15. General EU principles of transparency, objectivity and non-discrimination must be respected in all cases, also below the EU thresholds



## A. Fair Trade in national procedures<sup>16</sup>

In principle, EU Directives only apply to contracts which have a total estimated value exceeding the pre-established thresholds set by the Directive 2004/18/EC<sup>17</sup>.

Below EU Directives' thresholds<sup>18</sup>, Member States have national purchasing procedures that vary from country to country<sup>19</sup>, yet there are, however, some very similar standard processes across the EU, on which we will focus on in this manual. Fundamental rules of EU law including without limitation the free movement of goods, the freedom of establishment and the freedom to provide services in the EU as well as the principles of transparency, objectivity and non-discrimination must be respected in all cases also below the EU thresholds.

In some circumstances, for purchases of very low value, Member States may authorize purchasing without tendering procedure.

### 1. Direct purchase

Through this procedure, the contracting authority is free to purchase from any supplier without seeking a minimum number of quotes or conducting a tender procedure. A negotiated procedure takes place and in

16. "National" procedures refer to the procedures that are determined by national law and do not fall under EU Directives' scope. These procedures apply to contracts which estimated value is below the thresholds set by EU Directives

17. Directive 2004/18/EC is applicable to public works contracts, public supply contracts and public service contracts which have a value excluding VAT estimated to be no less than the pre-established thresholds set by the directive. The thresholds are recalculated by the European Commission every two years. Their updated value is currently of EUR 125 000 for public supply and service contracts awarded by central government authorities, EUR 193 000 for public supply and service contracts awarded by contracting authorities which are not central government authorities, EUR 387 000 for public supply and service contracts awarded by entities operating in the water, energy, transport and postal services sectors, and EUR 4 845 000 in the case of works contracts, pursuant to Commission Regulation (EC) No 1177/2009, OJ L 314, 1.12.2009, p. 64

18. See footnote 17

19. More information on national procedures in EU countries is available on the cd-rom in "Fair Trade Public Procurement legal framework in the EU and the Member States"



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many cases a simple invoice is sufficient (without a formal contract). The contracting authority is free to purchase any supply or service by choice.

### Direct purchase is intended for:

- **De-minimis (extremely low value) purchases**, where the cost of a formal tender procedure is not in proportion to the value of the contract, **and**
- **a single purchase of a supply or service which is not regularly used, and which does not derive from a framework agreement** (e.g., the supply of promotional Fair Trade T-shirts or bags for one single event only). The “direct purchase” procedure is intended for single purchases. If repeated purchases are intended during a certain time frame, a framework agreement should be signed. Splitting purchases in lots with the only purpose of avoiding a formal procedure is not allowed.

### 2. “Quotation” procedure

Some Member States laws provide for a “quotation procedure” for contracts of low value. The contracting authority seeks a minimum number (usually 3-5) of quotes from market participants. No national-wide publication or formal procedures are required, and no complex drafting of technical specifications. Usually some kind of paper trail is required to demonstrate that several quotes have been sought.

### 3. “Adapted” procedure

Other Member States give a broad margin of discretion as to the type of procedure to be followed. Adapted procedures are the procedures with specific or exceptional regimes that can exist in national procurement laws in certain Member States.

### 4. Tendering procedures<sup>20</sup>

In some Member States, an additional intermediary national threshold is introduced. Purchases above this national threshold (but below the EU Directives threshold) may need to follow a “national” tendering procedure, different from the tendering procedure as defined by the EU Directives. As the “national” tendering procedures vary (if any) from country to country, they are not described in this document.

Furthermore, in some Member States, national legislation may require tenders below the EU Directives thresholds to follow a tendering procedure similar or identical to the ones defined by the EU Directives. In such case, the three models described below generally apply. However, depending on the concerned Member State, there may be some differences in the details and procedures.

It is therefore important to check the applicable national and regional procurement legislation before proceeding.

*“Below EU Directives’ thresholds, Member States have national purchasing procedures that vary from country to country. General EU principles of transparency, objectivity and non-discrimination must be respected in all cases.”*



20. Which do not fall under EU Directives’s scope and are define by the different EU Member States procurement laws



## B. Fair Trade in procedures under the EU Directives' scope

For large purchases with values<sup>21</sup> above the EU Directives' thresholds<sup>22</sup>, it is necessary to follow a tendering procedure in accordance with the EU Directives.

### Key phases of tendering procedure

**The 'subject matter'** of a contract is about what product, service or work you want to procure. This process of determination will generally result in a basic description of the product, service or work. When defining the subject matter of a contract, contracting authorities have great freedom to choose what they wish to procure.



**The 'technical specifications'** describe the contract to the market so that companies can decide whether it is of interest to them. They provide measurable requirements against which tenders can be evaluated such as quality levels, environmental performance levels, use of the product, testing and test methods, packaging, marking and labelling, user instructions, production processes and methods and conformity assessment procedures. They constitute minimum compliance criteria. They must be linked to the subject matter of the contract. Offers not complying with the technical specifications need to be rejected unless the contracting authority has, in an explicit way, accepted variants diverging from the required concept.

**"Contract performance conditions"** are used to specify how a contract must be carried out. They need to be related to performance of the contract, transparent and non-discriminatory.

**"Awarding"** the contract is the last stage in the procurement procedure. At that stage, the contracting authority evaluates the quality of the tenders (the offers) that complies with the minimum requirements set out in the technical specifications and contract performance conditions in the contract documentation. Among such offers that each fulfill the requirements of the procurement procedure, contracting authorities shall base the award of public contracts either on:

- various criteria linked to the subject-matter of the public contract in question when the award is made to the most economically advantageous tender;

**or on**

- the lowest price only.

Below you will find three general models we can suggest to include Fair Trade in tendering procedures abiding by the EU Directives' rules.

21. The different legal methods to determine the value of a tender are set by the Article 9 of Directive 2004/18/EC

22. See footnote 17



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### Basic model - The Use of Variants

If contracting authorities wish to buy Fair Trade products but have concerns such as availability or additional cost of Fair Trade products, an option is to ask the potential bidders to submit variants. This is only possible when the award is done on the basis of the most economically advantageous tender (not on the lowest price only)<sup>23</sup>. In this situation, the contracting authority develops a set of minimal technical specifications which will apply to all offers. Additional Fair Trade criteria will be added to the technical specification for the Fair Trade variant offer only. When the bids are received, the authority can easily compare all offers. Nevertheless, it is the less efficient approach when the aim of the contracting authority is to give preference to Fair Trade, as Fair Trade criteria will not be a minimum requirement, and will not be part of the criteria taken into account to compare the offers.

In order to be able to accept variants, the contracting authority needs to indicate in advance in the tender documents (indication in the contract notice is mandatory) that variants will be accepted, the minimum specifications that have to be met, as well as specific requirements for presenting variants in bids (e.g. requiring a separate envelope indicating variant).

### Conservative model (as recommended by the European Commission) – The inclusion of social criteria in contract performance clauses

To complement the European Commission guide “Buying Green”, the European Commission will issue by the end of 2010 the guide “Buying social: A guide to taking account of social considerations in public procurement” with the goal to give guidance to contracting authorities in Europe on how to introduce social considerations in public procurement. It will be a non-binding document and it does not constitute an official interpretation of EU law (this is only prerogative of the courts, and ultimately the Court of Justice of the European Union).

The “Buying social” guide is expected to include a section on the use of social labels and its implication for ethical trade, where the EC will state, at the outset, that requiring products to bear a specific label is prohibited, as it is regarded as an unfair restriction of competition.

The European Commission is also expected to elaborate<sup>24</sup> on the rather theoretical distinction between technical specifications (that should be linked to the characteristics of the product or its production

23. As stated in Article 24 of Directive 2004/18/EC

24. Accordingly to the position it expressed in the Communication from the European Commission of 5 May 2009: *Contributing to Sustainable Development: The role of Fair Trade and nongovernmental trade-related sustainability assurance schemes* (com (2009) 215 final)

### Example - Basic model

**Subject matter/title:** Contract for supply of Product, with possibility of Fair Trade product, or equivalent as a variant

**Specifications:** (*List of minimum requirements*) In addition to the minimum requirements to be met with any tender, variant bids must as well fulfill the following Fair Trade requirements:

**(List Fair Trade criteria here)**

The presentation of this bid must be submitted in a separate envelope.

**Verification:** (*regarding Fair Trade requirements*) Products carrying a Fair-trade label (Fairtrade Labelling Organizations International), or imported and distributed by Fair Trade Organizations (World Fair Trade Organization certification system) will be presumed to comply (or “will be considered valid ways of proof”). Compliance may also be proved by any other appropriate means.<sup>1</sup>

**Sanctions:** (*regarding Fair Trade requirements*) If non-compliance becomes apparent during the duration of the contract, the contracting authority reserves the right to impose a penalty (state percentage) and/or to withdraw from the contract.

1. A concrete example of such a verification for Fair Trade criteria can be found in the point 7 of the “Circulaire relative aux achats publics durables dans les communes” of 15 April 2008 of the Gouvernement of the Region Bruxelles-Capitale, available on: <http://www.ejustice.just.fgov.be/cgi/api2.pl?lg=fr&pd=2008-04-15&numac=2008031166>



process) and the performance clauses (that should be related to the execution of the contract). In the EC view, certain ethical criteria, because they are not directly linked to the characteristics of the products or the production process, cannot be included in the technical specifications.

*Many contracting authorities refer in the contract performance clauses to the core conventions of the International Labour Organization (ILO). Fair Trade certification systems are one of the ways to prove compliance with these ILO conventions.*

The EC is also expected to remind that contract performance clauses have to comply with the rules set out in Article 26 and in Recital 33 of Directive 2004/18/EC. According to those rules, contract performance conditions can set social and environmental requirements provided that these are compatible with Community law, are non-discriminatory, and are indicated in the contract notice or in the specifications. Tenderers must still be able to prove by any other means deemed appropriate that their products comply with the required specifications.

### Progressive model – A comprehensive and practical approach to Fair Trade tendering

Many contracting authorities across Europe refer to Fair Trade in several phases of the tendering process, in a comprehensive approach to Fair Trade tendering.

#### ----- The subject matter of the contract

Many contracting authorities directly mention Fair Trade in the subject matter of the tender. It enhances the transparency on what is expected for bidders. A possible wording could be “purchase of Fair Trade product or equivalent”, with further description of Fair Trade criteria and verification in the requirements of the contract (see below). We believe this to be a sound tendering procedure similar to what is done in green procurement<sup>25</sup>. It is accepted by certain public authorities and courts across the European Union but it cannot be excluded that other authorities, courts or the European Commission might reject such an approach.

#### ----- The requirements of the contract

In practice, technical specifications and performance clauses are most often merged together in the same document laying down the requirements of the contract. This document often includes several subdivisions (such as article, sections, points etc.) that describe the different requirements of the contracting authorities. For more clarity towards the bidders, contracting authorities often define their requirements regarding Fair Trade in the same point, regardless of whether those expectations concern the characteristics of the products and production process or the execution of the contract. The differences between the former and the latter can be sometimes difficult to make at a practical level.



#### Example Conservative model

**Technical specifications:** “Fair Trade environmental pillar” to be listed here

**Performance clauses:** “Fair Trade economic and social pillars” to be listed here

**Verification:** Products carrying a Fairtrade label (Fairtrade Labeling Organizations International), or imported and distributed by Fair Trade Organizations (World Fair Trade Organization certification system) will be presumed to comply (or “will be considered valid ways of proof”). Compliance may also be proved by any other appropriate means.

**Sanctions:** If non-compliance becomes apparent during the duration of the contract, the contracting authority reserves the right to impose a penalty (state percentage) or to withdraw from the contract.

25. European Commission, *Buying Green: A handbook on environmental public procurement*, 2004



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Both the subject matter and requirements of the contract concerning Fair Trade should be clear, objective, and transparent referring the criteria relating to the products as well as the evaluation scheme whether or not and to what extent the criteria have been met. We would advise at this stage to avoid referring to specific Fair Trade labels as a criterion, as this could be seen as restrictive of market access. It is important to clearly define Fair Trade in accordance with EU rules on transparency and non-discrimination. Instead, we advise to describe in detail, the social, economic and environmental requirements expected by the contracting authority to be fulfilled by the tendered product.

### Examples - Progressive model (Corresponding case studies can be found on the attached cd-rom)

#### i. Supply contract

**Subject matter/title:** Supply of Fair Trade product, or equivalent

**Requirements of the contract:** All Fair Trade products supplied must be produced according to the following parameters: [\(List Fair Trade criteria here\)](#)

**Verification:** Products carrying a Fairtrade label (Fairtrade Labeling Organizations International), or imported and distributed by Fair Trade Organizations (World Fair Trade Organization certification system) will be presumed to comply (or “will be considered valid ways of proof”). Compliance may also be proved by any other appropriate means.

**Sanctions:** If non-compliance becomes apparent during the duration of the contract, the contracting authority reserves the right to impose a penalty (state percentage) or to withdraw from the contract.

**Note:** If contracting authority wishes to purchase only a percentage of the Fair Trade product, it should be clearly stated in the subject matter what percentage will be Fair Trade and the technical specifications, verification and sanctions for the Fair Trade product should be as mentioned above for the Fair Trade product.

#### ii. Mixed Contract - Service Contract including supplies<sup>1</sup>

**Subject matter/title:** Contract for catering services including the provision of Fair Trade products, or equivalent

**Requirements of the contract:** All of the following Fair Trade products (e.g., coffee, tea, chocolate, tropical fruit, etc.) must be produced according to the following parameters: [\(List Fair Trade criteria here\)](#)

**Verification:** Products carrying a Fairtrade label (Fairtrade Labelling Organizations International), or imported and distributed by Fair Trade Organizations (World Fair Trade Organization certification system) will be presumed to comply (or “will be considered valid ways of proof”). Compliance may also be proved by any other appropriate means.

**Sanction:** If non-compliance becomes apparent during the duration of the contract, the contracting authority reserves the right to impose a penalty (state percentage) or to withdraw from the contract.

#### iii. Mixed contract including supplies and service of awareness-raising activities

Another way to procure Fair Trade products is to link them with awareness raising activities on Fair Trade and the issues it tries to address. As we referred in the organizational strategy above, it is also a good idea to include awareness-raising activities in order to impact on changing consumer behaviour.

**Subject matter/title:** Contract for Fair Trade products, or equivalent, with awareness-raising activities on Fair Trade.

**Requirements of the contract:** All Fair Trade product supplied must be produced according to the following parameters: [\(List Fair Trade criteria here\)](#)

In addition, the supplier must also provide for x awareness-raising sessions on Fair Trade as follows:

- x 2 hour sessions for staff
- x 2 hour sessions for the general public

**Verification:** Products carrying a Fairtrade label (Fairtrade Labelling Organizations International), or imported and distributed by Fair Trade Organizations (World Fair Trade Organization certification system) will be presumed to comply (or “will be considered valid ways of proof”). Compliance may also be proved by any other appropriate means.

**Sanctions:** If non-compliance becomes apparent during the duration of the contract, the contracting authority reserves the right to impose a penalty (state percentage) or to withdraw from the contract.

1. The way of qualifying mixed contracts is defined in the article 22 of the Directive 2004/18/EC



#### ----- The awarding phase of the contract

The EU Directives allow contracting authorities to take into account either the lowest price only, or the most economically advantageous tender including without limitation the product price and other criteria directly linked to the subject-matter of the procurement in the award phase. Article 53 of Directive 2004/18/EC makes a non-exhaustive list of the possible award criteria, that mixes characteristics of the products as well as aspects related to the execution of the contract. It includes social characteristics, and we believe this to be a sound way to give preference to Fair Trade products, when Fair Trade criteria have not already been set as minimum requirements. This can be accepted by certain public authorities and courts across the European Union but it cannot be excluded that other authorities or courts or the European Commission might reject such an approach.

There are different ways to include award criteria (other than the price only) into a tendering procedure. A very common one is to use an evaluation scheme attributing “points” to different criteria found relevant.



#### Example

**Award criteria:** The tender will be awarded to the most economically advantageous offer, evaluated as follows<sup>1</sup>:

- **Compliance with Fair Trade criteria (List Fair Trade criteria here):** 30 pts (out of 100)
- **Price and other relevant criteria:** 70 pts (out of 100)

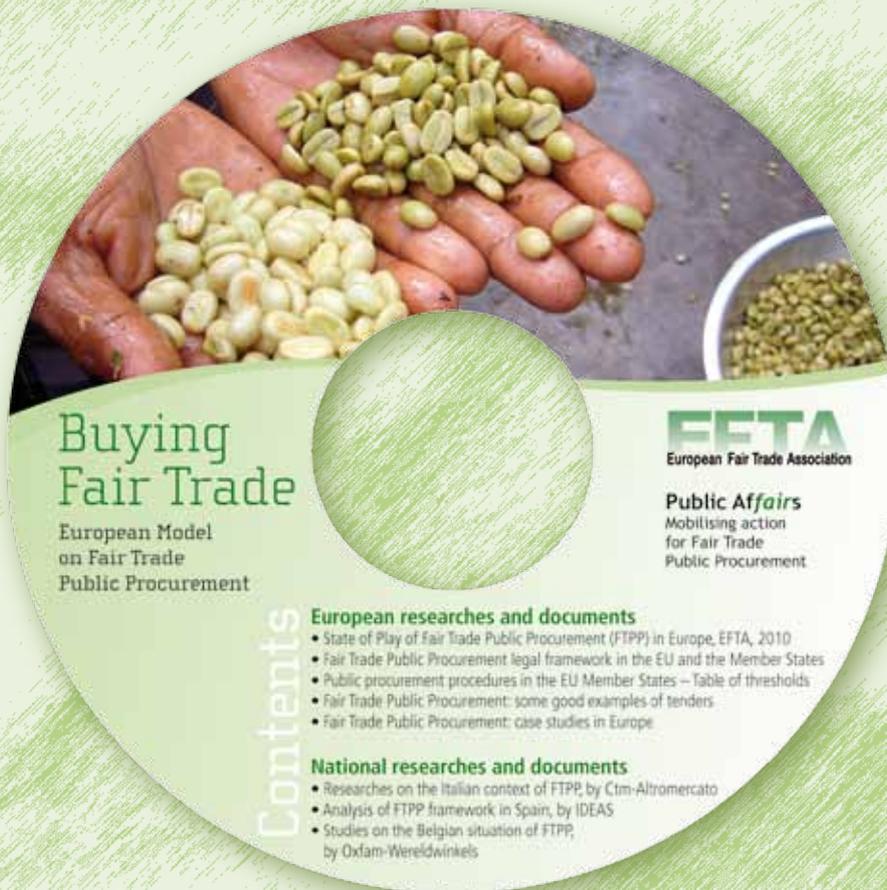
1. This is only an example. Illustrations of the use of Fair Trade as awarding criteria can be found on the attached cd-rom in “Fair Trade Public Procurement: case studies in Europe”

#### COPYRIGHT PICTURES

Front page – “Hands with coffee beans”: Fairtrade Sweden  
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## Further information

If you are interested in learning more about Fair Trade Public Procurement, are interested in including Fair Trade to your procurement policy and would like to find partners/assistance, please visit our website at [www.eftafairtrade.org/observatory](http://www.eftafairtrade.org/observatory) or email [fair-procura@eftafairtrade.org](mailto:fair-procura@eftafairtrade.org)

You can also learn more by visiting the following websites:

- World Fair Trade Organization (WFTO) – [www.wfto.com](http://www.wfto.com)
- Fairtrade Labelling Organizations International (FLO) – [www.fairtrade.net](http://www.fairtrade.net)
- European Fair Trade Association (EFTA) – [www.eftafairtrade.org](http://www.eftafairtrade.org)
- CTM-Altromercato – [www.altromercato.it/en](http://www.altromercato.it/en)
- IDEAS – [www.ideas.coop](http://www.ideas.coop) and [www.comrapublicaetica.org](http://www.comrapublicaetica.org)
- Oxfam-Wereldwinkels – [www.oww.be](http://www.oww.be) and [www.publicaffairs.be](http://www.publicaffairs.be)
- ICLEI – [www.iclei-europe.org](http://www.iclei-europe.org) and [www.buyfair.org](http://www.buyfair.org)
- Fair Trade Advocacy Office (FTAO) – [www.fairtrade-advocacy.org](http://www.fairtrade-advocacy.org)
- Fairtrade Towns - [www.fairtradetowns.org](http://www.fairtradetowns.org)
- Local authorities for Fair Trade - [www.localauthoritiesforfairtrade.org](http://www.localauthoritiesforfairtrade.org)



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