

**European Group of National Institutions for the Promotion and Protection of Human Rights' European Union Members**

**Consultation response**

**European Commission's Green Paper on the modernisation of EU public procurement policy- Towards a more efficient European Procurement Market**

**April 2011**

**Executive Summary**

The European Union based National Human Rights Institutions (EU NHRIs) believe that EU public procurement policy and practice must be aligned with both the regional and international human rights obligations of member states. There currently exists a degree of policy incoherence between the EU public procurement regime and EU and member states human rights obligations which must be reconciled through the progressive development and modernisation of public procurement.

We understand that human rights considerations may be incorporated into the following elements of the public procurement process without prejudicing the EC Treaty Principles of equal treatment and non discrimination, transparency and proportionality and that this should be explicitly spelt out in the Directive and/or guidance.

- **Advertisement Stage-** Human rights standards and policies can be set out in the Contract Notice.
- **Technical Specifications-** Technical specifications currently may, but routinely do not, include human rights aspects as long as these are relevant to the contract.
- **Selection Stage-** Member states should be encouraged to set out in national legislation what is classified as "grave professional misconduct" as the basis for exclusion of bidders with reference to human rights breaches. Technical capacity selection criteria may also include human rights considerations.
- **Award Stage-** The criteria and sub-criteria that constitute what is the most economically advantageous tender may include human rights criteria to form part of what is the most economically advantageous tender. Further guidance is required however as to how human rights standards and policies might be used to form part of the award criteria for a particular contract.
- **Contract clauses-** While we believe that human rights can and should be part of contractual performance clauses we do not believe this is the most appropriate stage at which to introduce human rights considerations.

It is our view that public purchasers ought to be free to procure from those bodies which best demonstrate a respect for and adherence to international human rights standards, regardless of whether the contract in question particularly triggers the consideration of those rights. The requirement for a link between the subject matter of the contract and any technical specifications, selection criteria and award criteria could therefore be revised to allow a degree of leniency in this area.

Despite the challenges in implementing weighting and scoring criteria based on human rights considerations for the award of a contract we believe that human rights standards can and should be integrated into public procurement procedures and public procurement law

ought to remain sufficiently flexible to accommodate the development of methodologies that refer to human rights appropriate to the contract in question and the obligations of states.

## Introduction

The European Group of National Human Rights Institutions (NHRIs) welcomes the European Commission's Green paper on the modernisation of EU public procurement policy (the Green Paper). NHRIs are established in 16 EU Member States and the European Group of NHRIs was established in 2003 to coordinate NHRIs from across Europe.<sup>1</sup> This consultation response is submitted by the 16 EU NHRI members of the group. (the EU NHRIs).

It is understood that the objective behind the Green Paper is to modernise the procurement Directives in order to make them better suited to deal with the evolving political, social and economic context and to allow procurers to make better use of public procurement in support of "common society goals". These goals are cited as protection of the environment, higher resources and energy efficiency and combating climate change, promoting innovation and social inclusion and ensuring best possible conditions for the provision of high quality public services. No specific mention is made of the protection and promotion of human rights standards in the Green paper but we believe that this is critical to meeting member state obligations to protect, respect and fulfil human rights as well as furthering the role of private business to respect human rights.

The EU NHRIs wish to highlight the importance of incorporating human rights into the procurement regime in line with the EU's human rights commitments<sup>2</sup>, individual EU member states human rights obligations<sup>3</sup> and evolving standards relating to business and human rights. At the tenth International Conference of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights the NHRIS assembled agreed in the Edinburgh Declaration<sup>4</sup> that they would work collaboratively to engage on issues related to business and human rights, such as public procurement.

In light of this the EU NHRIs would like to bring to the attention of the European Commission the work of the United Nations Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, Professor John Ruggie (UN Special Representative).

The UN Special Representative has made clear that the State's role as an economic actor is a key but under utilised leverage point in promoting corporate human rights awareness and preventing abuse. He has also talked about the policy incoherence that can exist across different state functions, where economic or business-focused departments and agencies that directly shape business practices conduct their work in isolation from and largely uninformed by their Government's human rights agencies and obligations. This can lead to poor compliance with human rights by state actors as well as business enterprises and points to the need for states and international organisations to better align their functions to ensure human rights protection. Ruggie recognises that "the closer an entity is to the state,

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<sup>1</sup> The European Group consists of 34 NHRIs, including those within the EU, 23 of which are fully accredited under the UN Paris Principles. The European Group is one of four Regional Groups comprising the global network of NHRIs- the International Coordinating Committee of NHRIs (ICC) which is supported by the United Nations office of the High Commissioner for Human Rights (OHCHR).

<sup>2</sup> E.g. Treaty of Lisbon and EU Charter of Fundamental Rights; Article 2(2) of Nice Treaty; Article 61 of the Treaty of Nice; the Treaty of Amsterdam 1997; Treaty of Lisbon and EU Charter of Fundamental Rights

<sup>3</sup> E.g. The European Convention of Human Rights, The Charter of Fundamental Rights of the European Union and all international treaty obligations, such as the International Bill of Rights; 8 International Labour Organisation core Conventions.

<sup>4</sup> Edinburgh Declaration, 10 October 2010, [http://www.ohchr.org/Documents/AboutUs/NHRI/Edinburgh\\_Declaration\\_en.pdf](http://www.ohchr.org/Documents/AboutUs/NHRI/Edinburgh_Declaration_en.pdf)

or the more it relies on statutory authority or taxpayers support, the stronger is the state's policy rationale for ensuring that the entity promotes respect for human rights."

In June 2008 the UN Special Representative's policy framework based on 3 complementary and interdependent pillars was unanimously adopted by the Human Rights Council. This framework laid down the state duty to protect against human rights abuses by third parties (including business); the corporate responsibility to respect human rights and the need for greater access by victims to effective remedies.<sup>5</sup>

In June 2011 Ruggie will present Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework<sup>6</sup> to the Human Rights Council. The Guiding Principles' elaborate on the implications of existing standards and practices for States and businesses; integrating them within a single framework and identifying where the current regime falls short and how it should be improved.

Guiding Principles 6 says "*States should promote respect for human rights by business enterprises with which they conduct commercial transactions*". The commentary to this Guiding Principle is explicit that the commercial transactions that countries have with business enterprises through their procurement activities "provides States – individually and collectively – with unique opportunities to promote awareness of and respect for human rights by those enterprises, including through the terms of contracts, with due regard to States' relevant obligations under national and international law."

The Council of the European Union has expressed its full support for the work of the UN Special Representative<sup>7</sup> and has endorsed the three pillars of the Ruggie 'Protect, Respect and Remedy' framework.<sup>8</sup> Furthermore, the Treaty of Lisbon provides that the Charter of Fundamental Rights will have the same legal value as other EU treaties and accession of the EU to the European Convention on Human Rights (ECHR) means that the EU and its institutions will be accountable for issues concerning the ECHR and EU law will have to be interpreted in light of the ECHR, not only as a general principle of EU law, but as a Convention directly applicable to the EU and to which the EU adheres.

We believe that there is scope, both under the existing procurement regime and also with the recommended changes outlined below, to better align and integrate public procurement with human rights standards and obligations, harnessing the purchasing power of European states to further the realisation of human rights both within the EU and beyond.

## **Response to Green Paper Questions**

We would like to make the following recommendations in response to the questions posed by the Green paper as to how human rights considerations could be better integrated within the existing and developing public procurement regime.

### **Question 62 – Do you consider that the rules and technical specifications make sufficient allowance for the introduction of considerations relating to other policy objectives?**

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<sup>5</sup> A/HRC/8/5, 7 April 2008; <http://www.reports-and-materials.org/Ruggie-report-7-Apr-2008.pdf>

<sup>6</sup> A/HRC/17/31; <http://www.business-humanrights.org/media/documents/ruggie/ruggie-guiding-principles-21-mar-2011.pdf>

<sup>7</sup> Annual conclusions on Human Rights and Democratisation in third countries at the 2985th Foreign Affairs Council meeting in Brussels on 8 December 2009

<sup>8</sup> Swedish EU Presidency and Spanish EU Presidency statement at the EU conference on corporate social responsibility (CSR) in Stockholm on 10-11 November 2009.

The rules on technical specifications can allow for the successful integration of human rights considerations into the specification of public contracts. It is understood however, that current Commission guidelines and case law means that such technical specifications must be related to the product or service itself. Human rights considerations can be particularly relevant to the delivery of public services contracts particularly those where a service provider deals with individual's rights as part of the operation of the contract. A public contract for the provision of services to the public could be specified by reference to the human rights standards that are triggered in the contract itself. For example a contract for the provision of care services could refer to the human rights standards of the European Convention on Human Rights and the various Articles, such as Article 3 and the right not be subject to inhuman and degrading treatment and Article 8 and the right to a private home and family life, that must be met in the provision of that service.

Allowing public purchasers and utilities greater latitude or providing clearer guidance as to what processes and methodologies lie behind and constitute the manufacture of a product or delivery of a service would provide such purchasers with the assurance and clarity necessary that contracts can be specified, in some circumstances, by reference to specific human rights standards. This may be achieved by reference to particular human rights labels or certificates or could be by reference to particular standards which the contracting authority will require evidence of (e.g. it may be a technical specification of the product itself such that equipment purchased is not manufactured using child labour).

There would not appear to be any immediate endangerment to the principles of non-discrimination, equality and transparency triggered by well defined technical specifications relating to the production methods and processes adopted when manufacturing or preparing services for a public market. The integration of human rights into technical specifications would enhance a human rights compliant purchasing system without increasing the scope for discrimination between member states.

**Question 63 – Do you share the view that the possibility defining technical specifications in terms of performance or functional requirements might enable contracting authorities to achieve their policy needs better than defining them in terms of strict detailed technical requirements? If so would you advocate making performance of functional requirements mandatory under certain conditions?**

We share the view that defining technical specifications in terms of the performance of functional requirements might enable contracting authorities to better incorporate human rights standards than detailed technical requirements. A relaxation of the rules in this respect would permit contracting authorities to define technical specifications in terms of the end product or service output which would enable public contracts, particularly public service contracts, to be specified by reference to human rights standards. For example, contracts for social service delivery may be defined as requiring to be in accordance with, for example, a respect for private and family life in terms of Article 8 and Article 3 of the European Convention of Human Rights.

**Question 69 – What would you suggest is useful in example of technical competence or other selection criteria aimed at fostering the achievement of objectives such as protection of environment, promotion of social inclusion, improving accessibility for disabled people and enhancing innovation?**

At present there is no reference in the Directives to the protection or promotion of human rights standards where these can be linked to the performance of the contract. Adherence to human rights standards can be essential in the performance of many public sector contracts for works, supplies and services. For example, adherence to human rights through

the supply chain in the procurement of materials to be used for major infrastructure projects and the protection of individual human rights when these come in to contact with public service contracts (e.g. health and social care, prison services, housing management contracts etc). To date the Directives have placed an emphasis on the use of environmental and social criteria. It is our view that human rights considerations, given their demonstrable importance to the provision of public contracts and the human rights obligations of member states, ought to be mentioned too.

**Question 71 – Do you think that in any event the score attributed to any environmental, social or innovative criteria e.g. should be limited to a set maximum so that the criterion does not become more important than the performance or cost criteria?**

We do not consider that the setting of a maximum score for social criteria (including human rights) would be of assistance. It is our view that contracting authorities ought to be able to determine for themselves what weighting ought to be attributed to the social criteria (including human rights) or indeed any other criteria. Capping this at any particular percentage would mean that contracting authorities may be limited in investigating and determining all of the social and human rights factors which may be important in the delivery of a public contract. Furthermore the imposition of a cap removes the discretion from public sector bodies in the determination as to how best to evaluate the contract requirements. The public purchasers in question will be better able to define award criteria by reference to human rights and other standards on a case by case basis by reference to all of the available facts than by referring to a top down cap on certain award criteria. There may be circumstances where cognisance of human rights standards and a demonstrable ability to perform a contract in compliance with human rights standards may be particularly important, particularly in contracts for the provision of public services to vulnerable members of society.

**Question 72 – Do you think the possibility of including environmental or social criteria in the award phase is understood and used. Should it in your view be better spelt out in the directive?**

We do not consider that the use of human rights as a criteria in the award phase is readily understood and used. Studies have demonstrated that various methodologies can be used by which social criteria, including human rights, can be included in the award phase. In our view the possibility for the use of human rights as part of the award criteria could be better spelt out in the Directives. The incorporation of social criteria, including human rights standards, in the award phase is not generally well known. It may be of assistance to make explicit reference to human rights in the Directives as is presently provided for in terms of environmental criteria.

Contracting authorities or utilities need to have a relatively sophisticated understanding of public procurement law in order to be able to use social criteria in a way that does not potentially breach public procurement law. The rules on the connection between the subject matter of the contract and award criteria are not set out in the Directive and only informed to a limited extent by the accumulation of several cases from the European Court of Justice. Guidance at the European level sets out what is permissible in terms of public procurement law but does not demonstrate the methodologies or verifications that may be used to properly implement a procurement award phase by reference to human rights standards.

In our opinion, human rights criteria may currently form part of what is the most economically advantageous tender provided that such criteria:

- Are linked to the subject matter of the contract;

- Do not confer unrestrictive freedom of choice on the contracting authority;
- Are expressly mentioned in the contract notice and/or tender documents; and
- Comply with the fundamental principles of EU Law.<sup>9</sup>

Therefore, for example, the procurement of a contract for care for persons with disabilities may refer to award criteria that take into account a human rights based approach to service delivery because this directly relates to the subject matter of the contract and more specifically the needs of the contract's end users. To date, however, there has been very little in the way of guidance as to how human rights standards and policies might be used to form part of the award criteria for a particular contract. Establishing and promoting human rights verification would mean that suppliers would be aware that such proof is necessary as part of the evaluation of their bids. Proof of adhering to human rights standards would provide a competitive advantage over competing bids.

The Public Procurement Research Centre of Bundeswehr University, Munich, published a report in December 2010 entitled "Modelling a Cost Benefit Analysis for Socially Responsible Public Procurement – A Guideline for Public Buyers" (the Report). This Report analysed various methodologies through which social standards, including many human rights criteria, may be incorporated into the Award Stage of the tender process. The Report noted the following targets for socially responsible public procurement (SRPP) many of which actively involve human rights considerations.

The Report proposed an evaluation methodology through which SRPP aspects may be evaluated at the Award Stage which could include human rights standards. The Report concludes that award criteria can comprise both the consideration of cost and quality which can involve an assessment of a tenderer's adherence to social standards, including human rights. It is our view that the methodologies proposed in the Report can be simplified and promulgated throughout Europe. A simplified methodology based on that Report which may be used to evaluate human rights criterion is set out at Appendix 1.

We recognise the potential difficulties in implementing a weighting criteria such as that set out Appendix 1 in evaluating responses on the basis of an objective verification system. It is important in public procurement law to evaluate tenders on the basis of a transparent scoring mechanism and one of the easiest ways to do this is by reference to an internationally available certification process. The Report details a number of possible verifications as set out at Appendix 2 without recommending or particularly demonstrating how linking the weighting to such verifications may be achieved.

We are aware that the present difficulty in implementing a weighting and scoring criteria for the award of a contract based on the most economically advantageous tender based on human rights considerations is in part due to the lack of internationally available verification processes.

Nevertheless we believe that human rights standards can and should be integrated into public procurement procedures and public procurement law ought to remain sufficiently flexible to accommodate the development of award methodologies that refer to human rights appropriate to the contract in question.

The integration of human rights into the award process of public procurement and utilities procurement would be assisted by the development of an objective set of verifications and/or certifications by which tenderers compliance may be scored. Appendix 2 demonstrates a few

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<sup>9</sup> C-513/99 Concordia Bus Finland

potential verification systems which currently exist but these may be and will be further developed and refined in time. It is important that public procurement law remains sufficiently flexible to accommodate these developing systems as they are developed.

**Question 74 – Contract performance clauses are the most appropriate stage in the procedure in which to include social considerations relating to the employment and labour conditions of the workers involved in the execution of the contract. Do you agree? If not please suggest what might be the best alternative solution**

We do not agree that contract performance clauses are the most appropriate stage of the procedure at which to include social considerations including human rights. Although contract performance clauses are an appropriate stage at which human rights standards and other social considerations may be included it is our view that omitting such human rights and social considerations from the remainder of the public procurement process may result in the appointment of a party which is not best able to demonstrate that it can satisfy the contractual requirements in the most beneficial way. For example, by leaving employment and labour conditions of workers to the contractual clauses only means that public sector purchasers are unable to either select to shortlist or invite to tender parties which are best able to demonstrate satisfaction of those contractual clauses. In the worst case scenario leaving such considerations to their execution in the contract may result in the appointment of a party which has not been selected on the basis of its ability to undertake the contract and is ultimately unable to satisfy the contract requirements (notwithstanding the availability of a contractual remedy for dealing with this failure).

We are aware of the practice in public procurement processes of not distributing the contractual clauses with the procurement documentation but simply giving the contracts to parties once the procurement procedure has concluded. This means that potential providers are unable to see the contractual clauses until they are awarded the contract by which time it may well be too late to take a cognisance of how to price the implementation of human rights standards or whether or not it can do so at all.

As an alternative, the Commission may consider a Directive which makes it clear that objective and international minimum standards of employment and labour conditions can form part of the technical specification, the pre-selection criteria and award criteria in the public procurement process. We understand that is the purpose of the public procurement regime - to eliminate discrimination in public purchasing and ensure equality and transparency. Permitting public procurement procedures to take account of employment and labour standards, or such other objectively verifiable social or human rights standards, should not necessarily give rise to the risk of discrimination. These standards would be issued to all parties interested in tendering for the contract thereby ensuring transparency and equal treatment.

**Question 76 – Should certain general contract performance clauses, in particular those relating to employment and labour conditions of the workers involved in the execution of the contract, be already specified EU level?**

As identified in our response to Question 72 above, one of the key limitations on the incorporation of social and/or human rights standards in the public procurement process is the perceived lack of objective verification available by which to measure adherence and the award of public contracts. A promulgation of general contract performance clauses at an EU level, particularly those relating to employment and labour conditions of workers would give contracting authorities throughout Europe a readily accessible and objective standard by which contracts may be specified and contractors may be referred to. Such conditions produced at EU level at an EU level together with their general availability and distribution

would better enable contracting authorities to comply with the principles of non-discrimination, equal treatment and transparency by referring to a key international standard readily available to contracting authorities and providers.

**Question 77 – Do you think that the current EU public procurement framework should provide for specific solutions to deal with the issue of verification of the requirements throughout the supply chain? If so, which solutions would you propose to tackle this issue?**

The verification of supply chains by those to whom proper contracts are to be awarded is an important aspect of public purchasing. However, at present we understand that there is little in the way of objective certification/documentation or specific commitments which may be referred to in order to evidence human rights compliance throughout the supply chain. Whereas national certification schemes may be accepted as a possible means of proof it becomes difficult to ensure that equivalent certificates are in place throughout the supply chains, particularly where part of the supply chain is located in a third country.

A checklist award mechanism can be used as part of the award criteria for a public contract. Under this model those tenderers which are able to demonstrate sufficient certification or self-certification throughout the supply chain receive more points and are therefore more likely to win a public contract. As an alternative to a certification scheme a tender process may analyse whether a potential provider can confirm that certain human rights and/or other social/environmental criteria are complied with throughout the supply chain. This would mean that official "certification" would not be necessary but instead tenderers are asked to confirm that certain standards are met. This places the onus on the tenderer to ensure that its supply chain can evidence compliance with particular human rights and/or other standards. The suggested checklist award mechanism may be conducted in accordance with a system such as that described at Appendix 3.

**Question 79- Some stakeholders suggest softening or even dropping the condition that requirements imposed by the contracting authority must be linked to the subject matter of the contract (this could make it possible to require, for instance, that tenderers have a gender-equal employments policy in place or employ a certain quota if specific categories of people, such as jobseekers, persons with disabilities etc). Do you agree with this suggestion? In your view, what could be the advantages or disadvantages of loosening or dropping the link with the subject matter?**

We understand that an essential element of the current EU public procurement legal framework is the link between the subject matter of the contract and any technical specifications, selection criteria and award criteria that are in place throughout the procurement process. This means that potential providers cannot be assessed on the basis of policies or objectives which are not directly linked to the contract. This places a significant limitation on the ability of contracting authorities to influence the behaviour of potential providers. For example, a contracting authority cannot encourage the adoption of a CSR policy nor human rights based approach where this is not directly linked to the contract in question.

We understand the European Commission's concern that by permitting contracting authorities to refer to other forms of selection and award criteria not directly linked to the contract means that, in the words of the Commission, contracting authorities may not "obtain the best possible offer with efficient use of public monies". It is our view however that public purchasers and utilities ought to be free to procure from those bodies which best demonstrate a respect for and adherence to international human rights obligations, regardless of whether the contract in question particularly triggers the consideration of those

rights. For example, it is our view that a public purchaser ought to be able to take into account the respect that potential providers demonstrate towards human rights throughout their corporate group structure including parent and sister companies. This could be achieved quite simply by the development of human rights certification systems which would be permitted to develop if the link between the subject matter of the contract was not required.

The Commission also draws our attention to the fact that the current link with the subject matter can also help avoid the situation in which operators from a particular country might possibly be favoured to the detriment of those from other member states. The example used in the Green Paper is in the case of the supply of goods the procurement requires that buildings used by the tenderers be exclusively heated by solar power could favour undertakings from member states with specific meteorological conditions favourable to solar technology. We do not consider, however, that this risk is realistic when the EU and its member states are agreed on a common implementation and legal enforcement mechanisms for the observance of human rights.<sup>10</sup>

The Lisbon Treaty and the EU Charter of Fundamental Rights have binding legal effect bringing together rights previously found in a variety of legislative instruments as well as international conventions from the Council of Europe, the United Nations and the International Labour Organisation. The observance of these international standards throughout the procurement process would not appear to endanger the principles of non-discrimination, equality and transparency protected by public procurement law.

Furthermore the removal of the required link to the subject matter of the contract would remove the present confusion as to what may and may not be involved in the assessment of an "additional criterion" as part of the award criteria. The European Commission's "Buying Social" Guide published in October 2010 makes it clear that award criteria which are not linked to the subject matter of the contract can only be taken into account at the awards stage as "additional criterion" used to choose between two equivalent tenders. This means that evidence of human rights observance, which is not directly linked to the subject matter or performance of the contract, may only be taken into consideration as additional non-determining criterion *after* tenders have been compared on the basis of other award criteria. Where, after evaluation of the award criteria which is linked to the contract, both tenderers are assessed equally only then may regard be had to additional non-determining criteria. By removing the requirement to link the subject matter to the evaluation criteria then CSR and human rights policies may be adopted as part of the award process with greater ease.

## Conclusion

We conclude that there are limited legal barriers currently to incorporating human rights considerations into procurement procedures but that there is a hesitancy on the part of purchasing authorities to incorporate human rights without clear guidance and direction from the European Commission. We hope that modernisation of the public procurement regime

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<sup>10</sup> E.g. On 21 July 2008 the European Commission undertook a study on the incorporation of Social Considerations in Public Procurement in the EU in which it noted that the European Court of Justice has incorporated human rights into EC Law as part of the "general principles of community law"<sup>10</sup>. Article (2) of the Nice Treaty commits the European Union to respect fundamental human rights as guaranteed by the European Convention of human rights and by the constitutional traditions common to the Member States as general principles of community law. The Treaty of Amsterdam, 1997 recognised human rights as part of the principles upon which the Union is founded. Article 61 of the Treaty of Nice states that "the Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, principles which are common to the Member States".

can address this and furthermore can consider changes to the requirement that specifications, selection and award criteria must be linked to the subject matter of the contract. In this way States may align their purchasing power with their human rights obligations and commitments in a way which meets the “common society goals” set out the Green paper.

## APPENDIX 1

Table 1- Example Weighting of Most Economically Advantageous Criteria

Main criterion			main criterion	sub criterion
<b>1. Quantities</b>			<b>5%</b>	
factors	1.1.	Minimum delivery quantity		25%
	1.2.	Flexibility		25%
	1.3.	Constancy		25%
	1.4.	High volume		25%
		scores weighted sub criterion 1		<b>100%</b>
<b>2. Quality</b>			<b>25%</b>	
factors	2.1.	Tbd		55%
	2.2.	Tbd		15%
	2.3.	Tbd		15%
	2.4.	Tbd		15%
		scores weighted sub criterion 2		<b>100%</b>
		scores weighted main criterion 2		
<b>3. Price</b>			<b>55%</b>	
factors	3.1.	Tbd		25%
	3.2.	Tbd		25%
	3.3.	Tbd		25%
	3.4.	Tbd		25%
		scores weighted sub criterion 3		<b>100%</b>
		scores weighted main criterion 3		
<b>4. Taking into account human rights aspects</b>			<b>15%</b>	
<b>Dimension 1: Promoting “Employment Opportunities”</b>				
	1.2.	promotion of employment of persons from disadvantaged groups e.g. ethnic minorities, religious groups, gay and lesbian people, integration of migrant workers		6%
	1.4.	promotion of employment for old-age unemployed (older workers)		4%
	1.5.	promotion of on the job skill development programs including for persons with disabilities		5%
	1.6.	promotion of inclusive and accessible work environments		6%
		sum		<b>21%</b>
<b>Dimension 2: “Decent Work”</b>				
factors	2.1.	security of workers at the workplace		7%
	2.2.	the rights of casual workers		1%
	2.3.	social security and benefits		9%
	2.4.	working hours		10%
	2.5.	sufficient and equal pay, Living wages		11%
	2.6.	freedom of association		2%
	2.7.	collective bargaining		2%

	2.8.	gender (equal opportunities for women)		1%
	2.9.	prohibition of child labour		1%
	2.10.	elimination of forced labour		1%
	2.11.	integration of migrant workers		1%
	2.12.	anti-discrimination based on disability, race, ethnic origin, age, sexual orientation or religion or ex-offenders		4%
	2.13.	Access to basic social protection*		1%
		sum		<b>51%</b>
<b>Dimension 3: Supporting Social Inclusion and Promoting Social Economy Organizations</b>				
factors	3.1	Equal access to procurement opportunities of firms owned by or employing persons from ethnic/minority groups, for example from cooperatives, social enterprises, and non-profit organizations		2%
	3.2	For large organizations, requirement to address supplier diversity by providing equality of opportunity to diverse suppliers as subcontractors, and by promoting equality and diversity practices		1%
	3.3	firms employing persons with disabilities above the percentage prescribed by national law		12%
				<b>15%</b>
<b>Dimension 4: Promoting “Accessibility and Design for All”</b>				
factors	5.1	Mandatory provisions in technical specifications to ensure access by persons with disabilities to, e.g. public services, public buildings, public transport, IT applications. The key issue is to buy goods and services that are accessible to all.		1%
		sum		1%
<b>Dimension 5: Taking into account “Fair or Ethical Trade” issues</b>				
factor	6.1	stipulations of criteria of certification schemes		6%
		sum		6%
<b>Dimension 6: Seeking to achieve wider voluntary adherence to “CSR”</b>				
factor	7.1	working with awarded contractors to enhance adherence to CSR values		6%
		sum		6%
				<b>100%</b>
			<b>100%</b>	

## APPENDIX 2

Table 2- Examples of Verification Criteria

Verification of CSR/SRPP-Criteria	Comments (issuing agencies, range, scope, reliability, objectivity etc.)	Source
FORTUNE '100 best companies to work for'		
Xertifix	In 1998 Eurocommerce adopted a Recommendation on Social Buying Conditions covering child, forced and prison labour; Codes of conduct should therefore be based on the ILO fundamental Conventions, as identified in the 1998 ILO Declaration on Fundamental Principles and Rights at Work and the OECD guidelines for multinational enterprises, involving the social partners and those in developing countries covered by them, green paper; assisting children into education, EU green paper, p.14.	<a href="http://www.xertifix.de/aktuelles/category/deutsch/">http://www.xertifix.de/aktuelles/category/deutsch/</a>
APEL	(APEL = Accreditation of Prior and Experimental Learning);	Grünbuch der EU, S.
FLA	Incorporated in 1999, the Fair Labor Association (FLA) is a collaborative effort of socially responsible companies, colleges and universities, and civil society organizations to improve working conditions in factories around the world. The FLA holds its participants – those involved in the manufacturing and marketing process of textiles – accountable to the FLA Workplace Code of Conduct. The FLA has developed a Workplace Code of Conduct, based on ILO standards, and created a practical monitoring, remediation and verification process to achieve those standards. Companies that join the FLA commit to establishing internal systems for monitoring workplace conditions and maintaining Code standards, being part of a rigorous system of Independent External Monitoring (IEM), and public reporting on the conditions in their supplier factories. To ensure transparency, the results of the IEM audits are published on the FLA Web site in the form of tracking charts. The FLA accredits independent third-party monitors and engages them to conduct unannounced audits annually of a group of randomly	<a href="http://www.fairlabor.org">www.fairlabor.org</a>

	selected factories that supply products to FLA-affiliated brands and universities.	
WFTO	World Fair Trade Organisation: Membership of the WFTO is limited to organizations that demonstrate a 100% Fair Trade commitment and apply its 10 Principles of Fair Trade. WFTO members who are monitored against these Principles are listed in the Fair Trade 100 index of world-leading Fair Trade brands, businesses and organisations. It is the only global network whose members represent the Fair Trade chain from production to sale.	<a href="http://www.wfto.com">http://www.wfto.com</a>
Fairtrade Certification schemes	e.g. FLO; Fairtrade Labelling Organizations International: an umbrella organisation aiming to co-ordinate the work of national fair-trade initiatives (e.g. Max Havelaar, Transfair International) , more efficiently run the monitoring programmes and to introduce a single international Fair-trade label. The national initiatives retain responsibility for marketing and promoting Fair-trade in their respective countries.	<a href="http://www.fairtrade.net/">http://www.fairtrade.net/</a>
GOTS	The Global Organic Textile Standard (GOTS) is the worldwide leading textile processing standard for organic fibres, including ecological and social criteria, backed up by independent certification of the entire textile supply chain. The aim of the standard is to define world-wide recognised requirements that ensure organic status of textiles, from harvesting of the raw materials, through environmentally and socially responsible manufacturing up to labelling in order to provide a credible assurance to the end consumer. Textile processors and manufacturers are enabled to export their organic fabrics and garments with one certification accepted in all major markets. The standard is valid for fibre products, yarns, fabrics and clothes and covers the production, processing, manufacturing, packaging, labelling, exportation, importation and distribution of all natural fibre products. The standard does not set criteria for leather products.	<a href="http://www.global-standard.org">www.global-standard.org</a>

FWF	<p>Fair Wear Foundation (FWF) is an international verification initiative dedicated to enhancing workers' lives all over the world. FWF works closely with a growing number of companies that produce clothing and other sewn products and that take responsibility for their supply chain. FWF keeps track of the improvements made by the companies it works with. And through sharing expertise, social dialogue and strengthening industrial relations, FWF increases the effectiveness of the efforts made by companies. Companies that produce and distribute products of which the main manufacturing process is sewing can join FWF and, depending on the direct influence they have with garment factories, become an FWF affiliate or FWF ambassador. Both affiliates and ambassadors of FWF work towards improving the labour conditions in factories and workshops where the 'cut-make-trim' stage takes place, all over the world. The basis of the collaboration between FWF and a member is the Code of Labour Practices. Eight labour standards form the core of the Code of Labour Practices. Members of FWF must comply with this Code of Labour Practices.</p>	www.fairwear.org
Global Compact (GC)/ GRI	<p>The UN Global Compact is a strategic policy initiative for businesses that are committed to aligning their operations and strategies with ten universally accepted principles in the areas of human rights, labour, environment and anti-corruption.</p>	www.unglobalcompact.org ;
Codes of conduct	<p>a web site providing a useful resource for those interested in the full text of various codes of conduct, and their provisions, sponsors, and effects on business practices.</p>	<a href="http://www.codesofconduct.org/">http://www.codesofconduct.org/</a>
IEPCE	<p>European Initiative for Ethical Production and Consumption: a European forum between the main social and economic players who wish to encourage ethical production and consumption (employers, trade unions, NGOs, public institutions).</p>	<a href="http://www.iepce.org/">http://www.iepce.org/</a>

BSCI	<p>The Business Social Compliance Initiative (BSCI) is not a certification system and therefore does not issue a certificate. The BSCI is an auditing initiative and provides a specific process with uniform management instruments for Members, suppliers, auditors and qualifiers. This approach ensures uniform audit procedures and evaluation and therefore comparability of the results. The BSCI system is regulated by the BSCI Code of Conduct. The BSCI Code of Conduct is based on the most important international Conventions protecting the workers' rights such as the International Labour Organisation (ILO) Conventions and other important Declarations of the United Nations, the OECD guidelines for multinational enterprises and the UN Global Compact. One of the crucial tools the BSCI offers to its members is the BSCI database in which all supplier profiles and information on auditing is entered and shared exclusively between BSCI Members. Sharing this information is important for BSCI members as it avoids unnecessary and costly multiple audits. The database also helps to track non-compliance issues thereby highlighting where training of suppliers is necessary. Audits are conducted by external professionals with a high level of expertise who work with independent auditing companies. Audits within the BSCI can be conducted in any production facility worldwide. The type of articles covered by the BSCI varies widely. There are quite a number of department stores as members, who sell all sorts of soft goods, clothing, home textiles, small appliances, toys, accessories. There are also members that focus on one particular product group, for example clothing stores, shoe retailers, baby products, or sports goods. For the implementation of the BSCI in the food industry, the BSCI has developed a special module for the primary production (farms).</p>	www.bsci-eu.org
Social Accountability 8000 (SA8000)	<p>A voluntary standard for corporate social responsibility launched in 1997 by the Council on Economic Priorities Accreditation Agency (CEPAA), recently renamed Social Accountability International (SAI). Focuses mainly on labour practices, e.g. child labour, freedom of association, hours of work and wages. This global corporate responsibility code is modelled after ISO 9000 and</p>	<a href="http://www.cepaa.org/sa8000.htm">http://www.cepaa.org/sa8000.htm</a>

	includes accreditation of auditors and independent monitoring.	
Caux Round Table Principles for Business	a code of conduct focusing on global corporate responsibility adopted by a trilateral business organisation.	<a href="http://www.cauxroundtable.org/">http://www.cauxroundtable.org/</a>
Global Sullivan Principles	a set of principles drafted by the Rev. Leon H. Sullivan to guide corporate social, economic, political, and environmental policies.	<a href="http://www.global-sullivan-principles.org/">http://www.global-sullivan-principles.org/</a>
ICFTU Basic Code of Labour Practice	the International Confederation of Free Trade Unions' model code regarding worker rights (1997).	<a href="http://www.icftu.org/displaydocument.asp?Index=991209513&amp;Language=EN">http://www.icftu.org/displaydocument.asp?Index=991209513&amp;Language=EN</a>
Investors in People	a UK quality standard which sets a level of good practice for improving an organisation's performance through its people.	<a href="http://www.iipuk.co.uk/">http://www.iipuk.co.uk/</a>
ETI	Ethical Trading Initiative: a UK code developed through partnership between retail and consumer goods companies, NGOs, Trade Unions and the UK Government.	<a href="http://www.eti.org.uk/">http://www.eti.org.uk/</a>
Amnesty International's Human rights Principles for Companies	an international code requiring companies to protect human rights and abide by several labour standards in countries in which they have facilities.	<a href="http://www.amnesty.org/ai/lib/aipub/1998/ACT/A7000198.htm">http://www.amnesty.org/ai/lib/aipub/1998/ACT/A7000198.htm</a>
Clean Clothes Campaign Code of Labor Practices for the Apparel Industry	a model code for labour standards and a monitoring system for companies in the apparel industry.	<a href="http://www.cleanclothes.org/codes/ccccode.htm">http://www.cleanclothes.org/codes/ccccode.htm</a>
Social & Ethical Reporting Clearinghouse	a website providing links to social and ethical reporting guidelines, organisations and surveys.	<a href="http://cei.sund.ac.uk/ethsocial/index.htm">http://cei.sund.ac.uk/ethsocial/index.htm</a>
GRI	Global Reporting Initiative: an international, multi-stakeholder effort to create a common framework for voluntary reporting of a company's global economic, environmental, and social practices. CERES and the United Nations' Environment Program convened the GRI in 1997. In June 2000, the GRI released the new Sustainability Reporting Guidelines.	<a href="http://www.globalreporting.org">http://www.globalreporting.org</a>
AA1000	AccountAbility 1000: a standard for measuring the social and ethical achievements of companies against objective criteria issued by the U.K.-based Institute of Social and Ethical Accountability in November 1999.	<a href="http://www.accountability.org.uk/">http://www.accountability.org.uk/</a>

## APPENDIX 3

## Supply Chain Checklist procedure

Set Scoring	Own Business	All Subsidiaries	First Tier Supplier	Second Tier Supplier	Full Supply Chain
Scoring available for Stage	1	5	10	20	40
Check					

In the above checklist table, the supplier is asked through how many supply chain stages (own business, all subsidiaries, first tier, etc) can an adherence to human rights Standards can be guaranteed. The public purchaser or utility ticks off the stages through the supply chain that adherence to human rights standards is demonstrated.

For example, a provider only able to speak to and guarantee that its own business is complaint is awarded 1 point. A provider able to vouch for its own business, its subsidiaries and first tier suppliers is awarded 10 points. A provider able to verify that human rights are observed throughout its full supply chain is awarded 50 points.