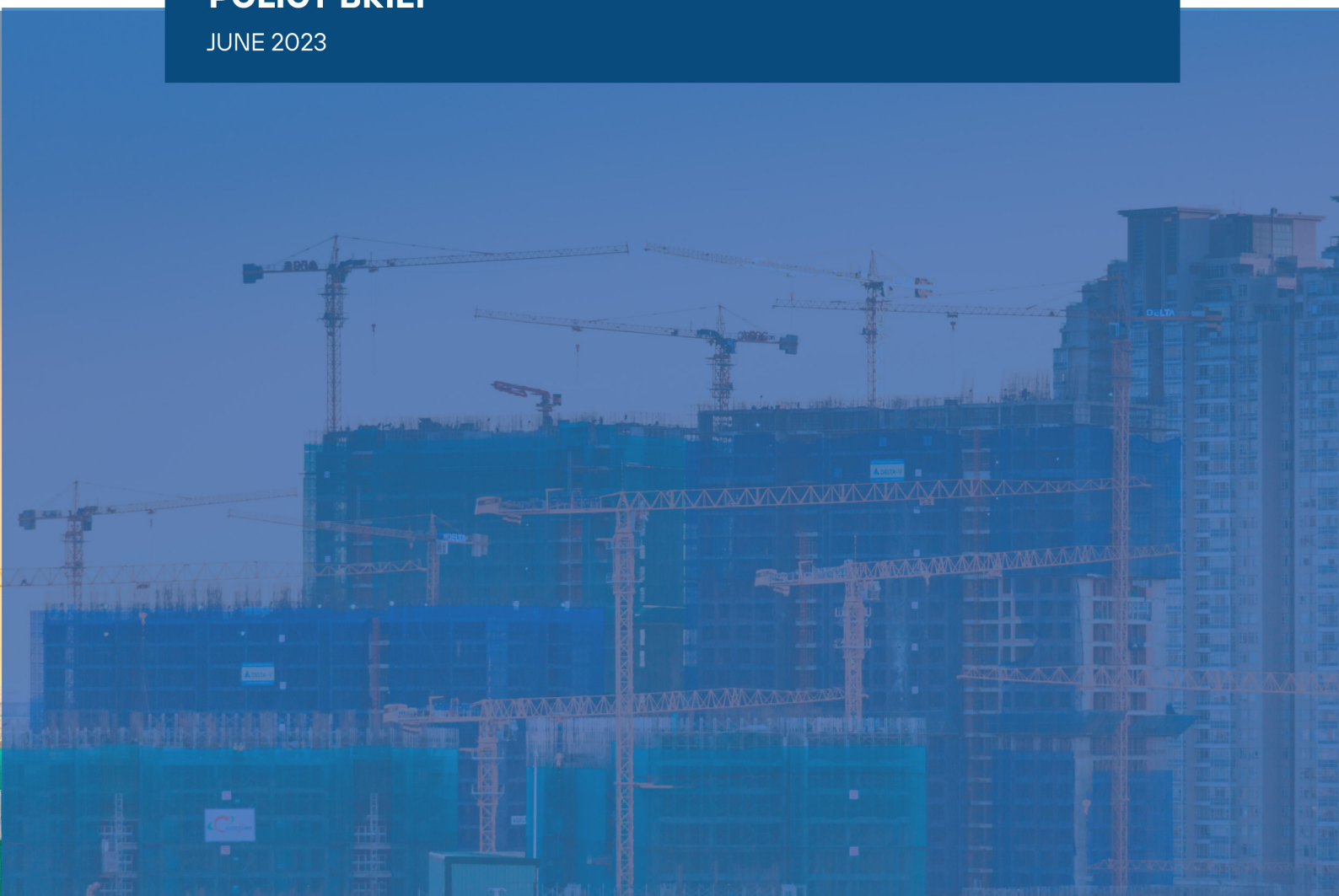




# The Case for Updating EU Procurement Policy

**POLICY BRIEF**

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# THE CASE FOR UPDATING EU PROCUREMENT POLICY

*Procurement is a powerful market force. Big buyers, be they public or private, can stimulate more sustainable practices by driving demand and developing lead markets for greener products and services. There is both significant potential and responsibility to strengthen procurement as a tool in Europe's the green transition.*

Public procurement makes up approximately 14-15% of the EU's GDP or about EUR 2 trillion (in Germany alone this amounts to about EUR 500 billion a year<sup>1</sup>) and contributes about 15% of global greenhouse gas (GHG) emissions<sup>2</sup>. However, public procurement as a tool is currently not being used to its full potential. In particular, green public procurement (GPP)<sup>3</sup> needs to be significantly strengthened. There should be a shift at EU level from thinking of public procurement as a purely legal compliance matter, to also seeing it as a strategic policy tool in the green transition. Strengthening the framework of green public procurement can also have positive knock-on effects on private (B2B) procurement.

Several recent studies<sup>4</sup> point out weaknesses of procurement practice(s) in Europe today, of which the following are consistently highlighted:

- **Mostly voluntary criteria and varying levels of implementation**
- **Fragmentation of GPP policies, approaches, oversight and responsibilities**
- **Lack of resources and (comparable) data**

The EU's public procurement policies are an underutilised tool in the green transition. As the EU continues to ramp up climate action, with revision of targets and policy packages like FitFor55, procurement should also be considered. Bellona therefore strongly recommends a greater ambition level in procurement and calls for a recast of the EU's procurement policy with the following aims:

- **Establish EU-wide, mandatory GPP criteria and metrics to quantify and measure climate impact**
- **Establish enforcement mechanisms and sanctions for when criteria are not met**
- **Ensure harmonisation of GPP policies across EU policy instruments and at Member State level**

1 Green Public Procurement Stimulating climate-neutral demand for a competitive EU net zero economy: A case study of Germany, Tech For Net Zero Allianz, March 2023.

2 [Green Public Procurement Stimulating climate-neutral demand for a competitive EU net zero economy: A case study of Germany](#), Tech For Net Zero Allianz, March 2023.

3 The European Commission defines GPP 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" (COM/2008/0400). GPP is distinct from Sustainable Public Procurement (which includes social aspects), Circular procurement (which is narrower, focussing on material, energy and waste efficiency), Low-carbon procurement (also narrower, focusing only on GHG emissions) and Innovation procurement (which is overlapping, but focusses on new solutions). In this policy brief, our focus is GPP.

4 [Green Public Procurement: a key to decarbonising construction and road transport in the EU](#), SEI report, February 2023; Green Public Procurement Stimulating climate-neutral demand for a competitive EU net zero economy: A case study of Germany, Tech For Net Zero Allianz, March 2023; [Key considerations for socially responsible public procurement](#), Swedwatch position paper, 2023; [Climate Accounting in Public Procurements. Status in the Nordic Countries](#), Nordic Council of Ministers, 2022.

## 1. WHAT IS GREEN (PUBLIC) PROCUREMENT

Though green public procurement is most often mentioned, where a public entity such as a municipality buys products or services, procurement also happens in the private market between two businesses (B2B). Thanks to the large sums involved in such deals, the purchasing power of these major buyers, public or private, is an important tool to drive innovation and sustainability.

Procurement is a purchasing process by private or public entities to ensure the buyer receives goods or services from an external provider at the best possible price-quality ratio. This is normally achieved through a tendering or bidding process, that can set requirements for aspects of quality, quantity, time and location, for example.

In green procurement, the carbon footprint and sustainability of a good or service will be given significant weight in the procurement process. Green procurement can be implemented through internal requirements, such as minimum green content requirements of products, thresholds for CO<sub>2</sub> intensity of final goods, or an internal CO<sub>2</sub> pricing mechanism as part of the tendering process.

## 2. WHAT ARE (GREEN) LEAD MARKETS?

Procurement is an important tool to create lead markets for green products. Lead markets generally denote a geographically distinct submarket that pioneers the successful adoption of an innovative product or service.

Lead markets are a transitional tool and deliver an economic incentive for goods that are not yet competitive. In green lead markets, the innovation refers to products being more sustainable and lower-carbon. Green lead markets may take different shapes and sizes and can range from green purchase agreements between public and/or private entities to municipal, regional or national policies encouraging the uptake of green products.

## 3. WHAT IS 'GREEN'?

The fundamental step of creating green procurement and green lead markets is to generate a comprehensive CO<sub>2</sub>-footprint of a good or service in order to identify what is 'green' and which products should be incentivised for market entry.

To ensure alignment with carbon neutrality goals, such a system needs to account for the whole lifecycle carbon (WLC) of a product and include both the 'operational carbon' (the CO<sub>2</sub> emitted during the use of a product) and the 'embodied carbon' (the CO<sub>2</sub> from input materials and processes going into a product, as well as the emissions resulting from a product's refurbishment and end-of-life processing).

## 4. THE STATUS OF EU PROCUREMENT POLICY TODAY

In the EU today, green public procurement (GPP) is mostly voluntary, with the exception of a few sector-specific mandatory requirements. It is the EU directive on public procurement (Directive 2014/24/EU) that sets out procurement rules and guidelines, with the overall aim to promote fair competition and transparency across the Union. Article 18.2 of the procurement directive sets out that "Member States shall take appropriate measures to ensure that in the performance of public contracts economic operators comply with applicable obligations in the fields of environmental, social and labour law...".

The procurement directive's voluntary approach to GPP is complemented by some voluntary guidance criteria for sectors that are deemed of particular importance to GPP, such as construction and transport. But such voluntary criteria and guiding principles increases risks of greenwashing, places undue responsibility and burden on individual actors to define sustainability, and they tend to cause undue delays in implementing GPP practices<sup>5</sup>. The fact remains that sustainability criteria are not yet integrated to their fullest potential and today more than half (55%) of procurement procedures in the EU still use lowest price as the only award criteria<sup>6</sup>.

The procurement directive has been periodically updated (last time in 2014) to reflect changes in technology, market conditions, and policy objectives. And in 2020 the New Circular Economy Action Plan stated that the Commission is to propose minimum mandatory GPP criteria, though it falls short of saying how and when this will be done<sup>7</sup>.

There are some mandatory GPP criteria in sector-specific legislation today, in particular related to buildings and transport, and there have been attempts to expand these<sup>8</sup>. For example, the 2022-23 recast of the Construction Products Regulation (CPR) raised the topic of establishing mandatory green procurement criteria for construction materials. The 2022-23 recast of the Ecodesign for Sustainable Products Regulation (ESPR), which covers nearly all products with the aim to reduce their negative life cycle impacts, also addressed mandatory GPP criteria<sup>9</sup>. The CPR and ESPR are closely related in this regard and are a timely example of how harmonisation and complementarity in EU GPP policy also needs to be addressed. The Net Zero Industry Act (NZIA) is the most recent addition to potential GPP policy, in that it addresses sustainability criteria for awarding contracts or ranking bids<sup>10</sup>.

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5 [Report from the Commission: Implementation and best practices of national procurement policies in the Internal Market](#), European Commission, 2021.

6 [Key considerations for socially responsible public procurement](#), Swedwatch position paper, 2023.

7 [Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: A new Circular Economy Action Plan For a cleaner and more competitive Europe](#), European Commission, 2020.

8 [2022/0094\(COD\) New Regulation on Construction Products](#) (Accessed 23.3.23).

9 [2022/0095\(COD\) Ecodesign for Sustainable Products Regulation](#) (Accessed 23.3.23).

10 [Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on establishing a framework of measures for strengthening Europe's net-zero technology products manufacturing ecosystem \(Net Zero Industry Act\)](#) (Accessed 23.3.23).

## THE POTENTIAL OF GREEN PROCUREMENT TO REDUCE EMBODIED CARBON IN BUILDING

The potential of GPP is perhaps most clear as in the buildings and construction sector, where embodied carbon emissions are coming under increasing scrutiny. This sector accounts for approximately 36% of the EU's final energy use and 39% of energy and process-related CO<sub>2</sub> emissions globally<sup>11</sup>. Embodied carbon refers to the carbon emissions associated with the production, transportation, and installation of building materials and products. Of these, cement (a key ingredient in concrete) is critical. Cement is the world's most used construction material at 4 billion tonnes produced annually, and alone accounts for about 8% of global CO<sub>2</sub> emissions<sup>12</sup>. Public procurement makes up 40-60% of concrete purchases and 20-30% of the construction industry's revenues<sup>13</sup>. Thus GPP criteria that for example calls for low-carbon cement or concrete could lead to considerable CO<sub>2</sub> emission reductions on the product itself and on the embodied carbon content of a building. It would also have a huge potential to drive green lead markets for lower-carbon construction products.

11 [Global ABC Roadmap for Buildings and Construction 2020-2050](#), Global Alliance for Buildings and Construction, International Energy Agency & United Nations Environment Programme, 2020.

12 <https://www.chathamhouse.org/2018/06/making-concrete-change-innovation-low-carbon-cement-and-concrete>.

13 [Low-carbon concrete and construction: A review of green public procurement programmes](#), Mission Possible Partnership, World Economic Forum, 2022.



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