

# Public *Affairs*

Mobilising action for Fair Trade  
Public Procurement



## Buying Fair Trade

European Model on Fair Trade  
Public Procurement

**FA!R PROCURA 2010**

**Fair Trade Public Procurement, a tool for sustainable development**

Dortmund Westfalenhalle, Germany



Astrid Hilaire – 24th September 2010



Project co-financed by the EU

# Public *Affairs* researches and benchmarks



- Researches on political environment and legal framework of Fair Trade public procurement were carried out at EU, national and regional level
- Existing practices were studied and benchmarked
- Main barrier to FTTP identified by our research is legal uncertainty at EU and national level
- An EU model on Fair Trade public procurement has therefore been developed, in order to help contracting authorities to include Fair Trade criteria in their purchasing policies and procurement procedures

# Public Affairs

Mobilising action for Fair Trade Public Procurement

## Partners



## Buying Fair Trade

European Model on Fair Trade Public Procurement

Author:



With input from:



World Fair Trade Organization (WFTO)



Fairtrade Labelling Organizations International (FLO)

This work has been drafted with the legal support and advice of Marc Marano, Bird & Bird LLP, an international law firm.

**BIRD & BIRD**



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# Fair Trade public procurement

- Public authorities are more and more concerned by sustainable development issues
- Concern for the 3 sustainability pillars (economic, social and environmental) reflected in procurement policies
- Public procurement is the process used by public authorities or bodies to obtain goods and services with taxpayer money
- Public procurement sector represents 16.3% of EU GDP
- Stimulation of sustainable markets, such as Fair Trade, and set an example for the citizens

# Setting up an organisational strategy

- Market analysis
- Needs assessment
- Political commitment
- Communication with staff
- Awareness raising towards the general public
- Choosing a suitable pilot contract

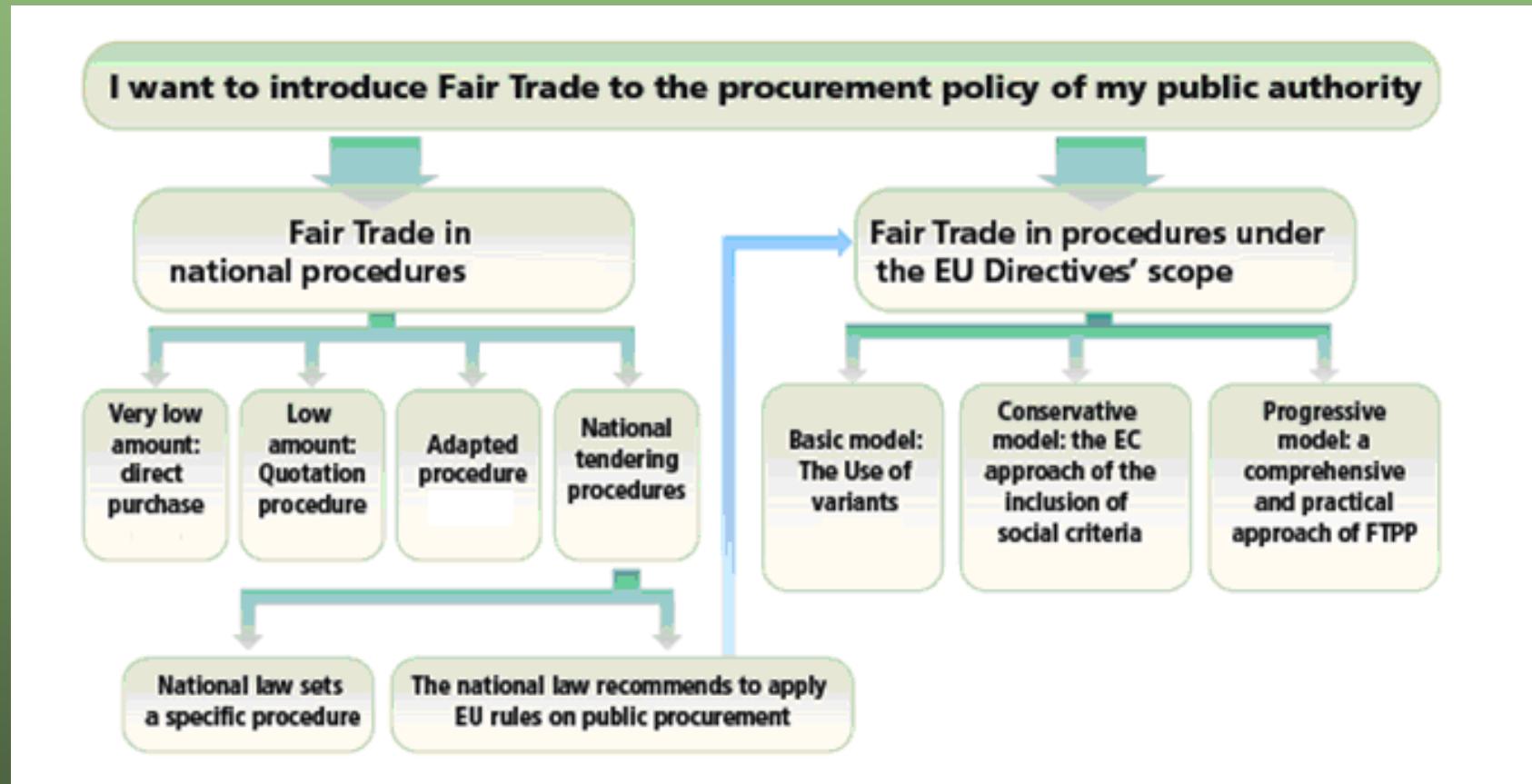


# Fair Trade definition to be used in public tenders

- Use the wording of national or regional laws when existing
- Fair Trade criteria as laid down by the European Parliament resolution on Fair Trade and development (2006)
- 3 pillars: economic, social, environmental



# Fair Trade in procurement procedures: various possibilities

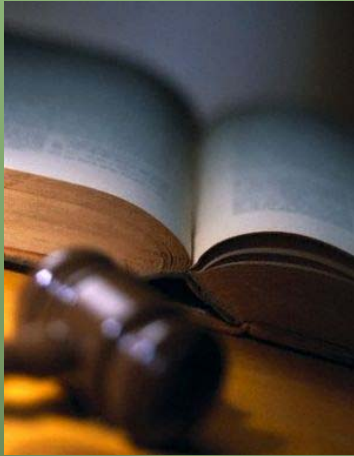


# Fair Trade in national procedures

- Direct purchase
- Quotation procedure
- Adapted procedure
- Tendering procedures



# Fair Trade in procedures under EU Directives scope



## EU directives:

- Directive 2004/17/EC
- Directive 2004/18/EC
- **Thresholds:**

- **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

# Fair Trade in procedures under EU Directives scope

## Key phases of tendering procedure:

- The subject matter
- The technical specifications: link to the subject matter of the contract
- Contract performance conditions: link to the execution of the contract
- Awarding the contract, on the basis:
  - Of the lowest price only
  - Of various criteria linked to the subject matter



# Basic model the use of variants



- When authority has concerns such as availability or additional cost of Fair Trade products
- Only possible when the award is done on the basis of the most economically advantageous tender
- Fair Trade criteria are then optional (not minimum requirements)
- Less efficient to give preference to Fair Trade



# Conservative model EC approach



- Based on the last draft of the EC Guide « Buying social » and on the EC Communication of 5 May 2009
- Non-binding and does not constitute an official interpretation of EU law
- Requiring products to bear a specific label is prohibited, as it is regarded as an unfair restriction of competition
- Certain ethical criteria cannot be included in the technical specifications
- Fair Trade economic and social pillars should be set in the contract performance conditions

# Progressive model - comprehensive and practical approach

- Fair Trade should be mentioned in the subject matter of the contract for more transparency\*
- Fair Trade criteria should be set in the requirements of the contract, being clear, objective and transparent
- It would then be a minimum requirement of the contract
- If not a minimum requirement, points can be attributed to Fair Trade criteria in the awarding phase\*



\* It as accepted by certain authorities and courts but could be rejected by others

# For further information

- Read “Buying Fair Trade – European Model on Fair Trade Public Procurement”
- Attend the following workshop on Legal DOs and DON'Ts on FTTP
- Contact the Public *Affairs* project partners
- More examples and detailed studies are available on the cd-rom attached to the Model, or on the European Observatory on FTTP website:  
[www.eftafairtrade.org/observatory](http://www.eftafairtrade.org/observatory)



# PUBLIC AFFAIRS

## Thank you for your attention!

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