
Fair Trade considerations in Spanish public procurement: Notes for an advance



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TABLE OF CONTENTS

1. The corpus of tenders object of study.....	3
2. Analysis of fair trade considerations in Spanish public tenders	4
a) Geography of tenders with fair trade criteria: Towards a map of solidarity.....	5
b) Fair Trade and the different types of contracts.....	7
c) Introducing Fair trade considerations into the different stages of public procurement procedures.....	8
d) Catalogue of fair trade products registered in the analysed tender documents.	9
3. Conclusion.....	11
4. Annexes.....	¡Error! Marcador no definido.

1. The corpus of tenders object of study

In order to carry out the present investigation about the valuation of the presence of fair trade considerations in Spanish public procurement we have resorted to set a corpus of tenders that we have organized in chronological order.¹

We have considered for the establishment of the above mentioned body a time segment of 12 years, which includes the **period between 1997 and 2008**. Studying this period makes possible to mention the significance that fair public procurement has acquired in recent times and even today, which in turn would give validity to our study.

The corpus has been developed through a system of samples from searching in official documents of the different Spanish public authorities and corporate websites of town halls or public institutions, regardless of the languages used for its drafting. The investigation has been realized between May and December 2008. We have detected the following contracting authorities: the Spanish central government, the Autonomous regions, the Deputations, the Associations of local authorities, Town halls, Universities and public Foundations. We limit the study, therefore, to Spain and to its public institutions.

We have selected those tenders who provide fair trade criteria in any stage of procurement procedures. The search was fulfilled by the tool Internet and the recurrence of various search engines (primarily Google and Yahoo mainly) and the methodology of restricted keywords, consisting of "pliego" (translated tender/offer), "licitación" and "concurso" (call for tender) followed by "comercio justo" (fair trade) (in Spanish, Catalan, Galician and Basque language) and the initials "Fair Trade", "IFAT", "FLO" and "SA8000". It has been appropriated to use this tool because it provides versatility and transparency of the offers, that means that the different contracting authorities can use electronic tendering to achieve the best and the most rapid form of diffusion. We have established a corpus formed by 68 sheets considering fair trade criteria, quantity that we sufficient consider to come to solid conclusions.

Nevertheless, we registered several problems when realising the investigation and selecting and analysing the tender documents: the difficulty of establishing forms of systematic searches, the diversity of titles that appear, the volatility of the visibility of

¹ The public tenders remain gathered in a final appendix to realize the present study.

the tenders (the information of the same one gets lost when it is resolved) or the publication of tenders in restricted areas for corporate partners or suppliers.

The **corpus of 68 sheets**, that gather fair trade in one of their stages, helps to analyse and to describe the current situation of fair trade considerations in the Spanish public procurement.

2. Analysis of fair trade considerations in Spanish public tenders

In the present report we follow the methodology of analysing the different stages of public procurement procedures in which there turns out to be possible the incorporation of social criteria in order to determinate the regional distribution of the specifications, contract types, the different stages of public procurement procedure which introduce the above mentioned content, the types of fair trade products and the way of how to define fair trade.

We have considered the information that IDEAS offers to this matter in the *Guide of public sustainable procurement: Introduction of social considerations*. We will get detailed knowledge about the incorporation of fair trade criteria's into Spanish public procurement by focusing on the following aspects:

- a) *Geography of tenders with fair trade criteria: Towards a map of solidarity*
- b) *Fair Trade and the different types of contracts*
- c) *Introducing Fair Trade considerations into the different stages of public procurement procedures*
- d) *Catalogue of fair trade products registered in the analysed tender documents*

Afterwards we will focus on the analysis of each one of these aspects.

a) Geography of tenders with fair trade criteria: Towards a map of solidarity.

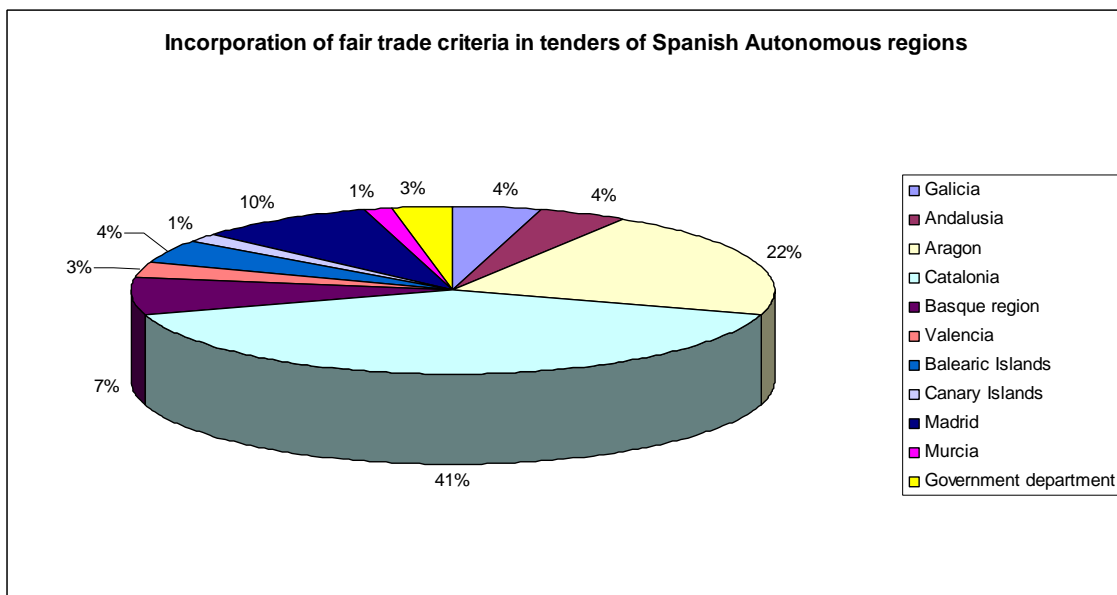
Regarding the geography of the offers with fair trade criteria, the first important information of the analysed period shows that there is produced a notable extension of places where tenders concerning fair trade are registered.

First they appeared in the richest Spanish Autonomies to be applied in entities in big towns; later, especially in the last five years, these tenders spread practically to the totality of the Spanish state. But we also have to clarify that in the Autonomies regions the introduction of fair trade in public tenders is neither a common procedure nor generalized and must be consolidated in opposition to the Autonomies regions where fair public procurement is already consolidated and progressively applied to institutions of smaller towns. It shows that fair public procurement still have to be incorporated into the dynamics of contracting of certain autonomies, including Castilla - La Mancha, Castile and Leon and Extremadura. Catalonia is the Autonomy with the major registration of call for tenders including fair trade. Stated below there is included a table which specifies the geography of fair public procurement:





The majority of the tenders considering fair trade come from the Autonomous Community of Catalonia (41%), followed by Aragon (22%), Madrid (9%) and the Basque Country (7%). Other Autonomous regions are Andalusia (4%), Galicia (4%), Balearic Islands (4%) as well as Valencia (3%), Murcia (1%) and Navarre (1%). It is necessary to emphasize that only 3% of the sheets appear at central government level. That means that while getting a variety of tenders that introduce fair trade criteria at regional and local level, this type of promoting fair trade still seems an exception at national levels.



We also have to point out that the political weight of inserting fair trade considerations in public procurement has fundamentally fallen on the regional administration, followed by the university and the city councils. It contrasts with the fact that we have not found any public tender with fair trade considerations in the field of the associations of local authorities. In this case, the Spanish State even has little specific weight because it has not been an incentive for change. In general we can argue that social institutions such as hospitals and universities have encouraged the development of fair trade considerations in public procurement. The Society Expoagua Zaragoza 2008 S.A. also resorted to call for tenders promoting fair trade products. So it can be demonstrated that the society has considered fair trade criteria in 7 offers.

Besides, the object of the contract always applies to public institutions. We find a variety and extent of this kind of institutions. This extent can be structured into following classifications: sports places, tourist places, municipal buildings, training centres, hospitals, cultural centres and residential homes for the elderly. The study shows that until 2008 training centres as well as regional and municipals buildings

primarily have been the selected institutions for inserting fair trade products. In any case, it is necessary to amplify the variety of places introducing fair trade criteria into public service contracts; for those purpose it would be suitable to insist on the object of the contract and its application on several places. Extent and variety should mark the future.

b) Fair Trade and the different types of contracts.

As we know, public authorities can purchase fair trade products by contracting public services (for example, catering and vending machines) as well as public maintenance services or by means of public supply contracts (for example, food, textiles, etc.). The study reveals that **59 of the 68 tender documents refer to public services contracts or maintenance services contracts while only 9 cases refer to public supply contracts**. Therefore we find a clear imbalance between the different types of public contracts including fair trade criteria's.

The public service contracts or maintenance service contracts refer especially to the management of service of the installation and operation of vending machines, the management and operation of services in canteen or cafeteria, the operation of services in bars, in conclusion, all places which belong to public authority (theatres, municipal swimming pools, sports facilities, etc.). We also find public service contracts concerning the management of public services for monitoring facilities However, there are also public contracts in reference to the management of other services: management of publication in public institutions, organization of seminars on fair trade, technical coordination, production and development of congresses or consultancy and assistance to qualify companies on fair procurements.

On the other hand public supply contracts frequently refer to Christmas hampers for public employees. We can also find good examples of Ethical purchasing (inclusion of ILO Conventions) in tenders for uniforms for employees of some administration and, in general, to the purchase of different products (gloves, scarves, teaching bags, etc.).

The study indicates that public authorities mainly choose public service contracts or maintenance services to incorporate fair trade considerations. Compared to this fact, the investigation shows a lower frequency of public supply contracts inserting fair trade criteria and the acquirement of a more limited range of fair trade

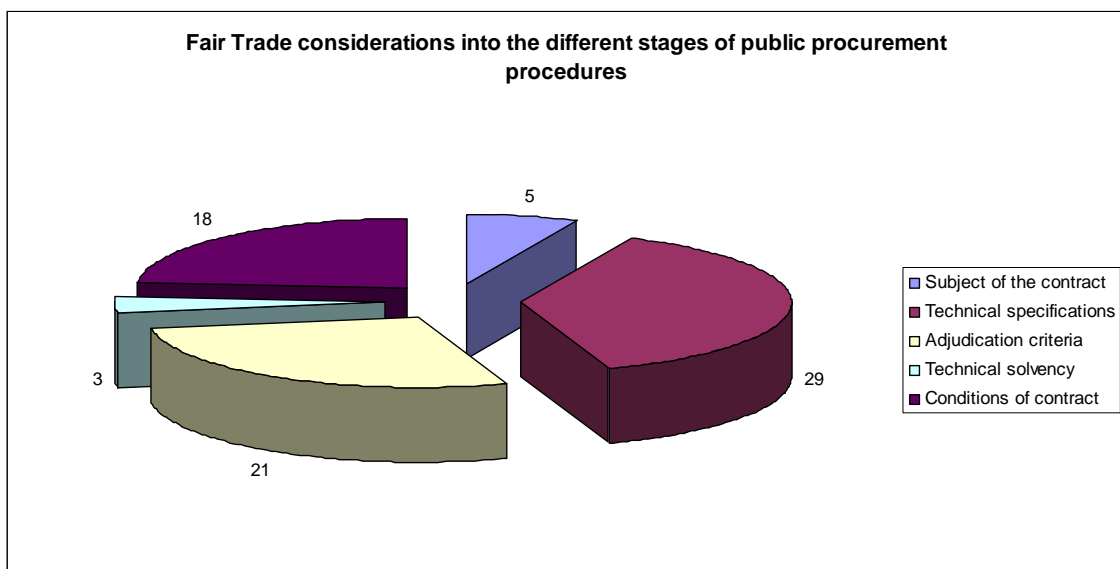
products. In this respect, public authorities should increase public supply contracts for purchasing fair trade products in order to generalize them in the diverse types of contracts, being both direct and indirect actors in the above mentioned procedure, so that it becomes a model of action for the society.

c) Introducing Fair trade considerations into the different stages of public procurement procedures.

Fair trade considerations can be introduced into different stages of public procurement procedures according to Spanish regulations:

- 1) Subject of the contract
- 2) Selection of suppliers
- 3) Technical specifications
- 4) Awarding criteria
- 5) Contract performance clauses

All analysed sheets include fair trade considerations in one or, in some cases, two stages of public procurement procedures. In the last case we have found the following combination: a) technical specifications/conditions of contract, b) technical specifications/awarding criteria, c) subject of the contract/awarding criteria and subject of the contract/selection of suppliers.



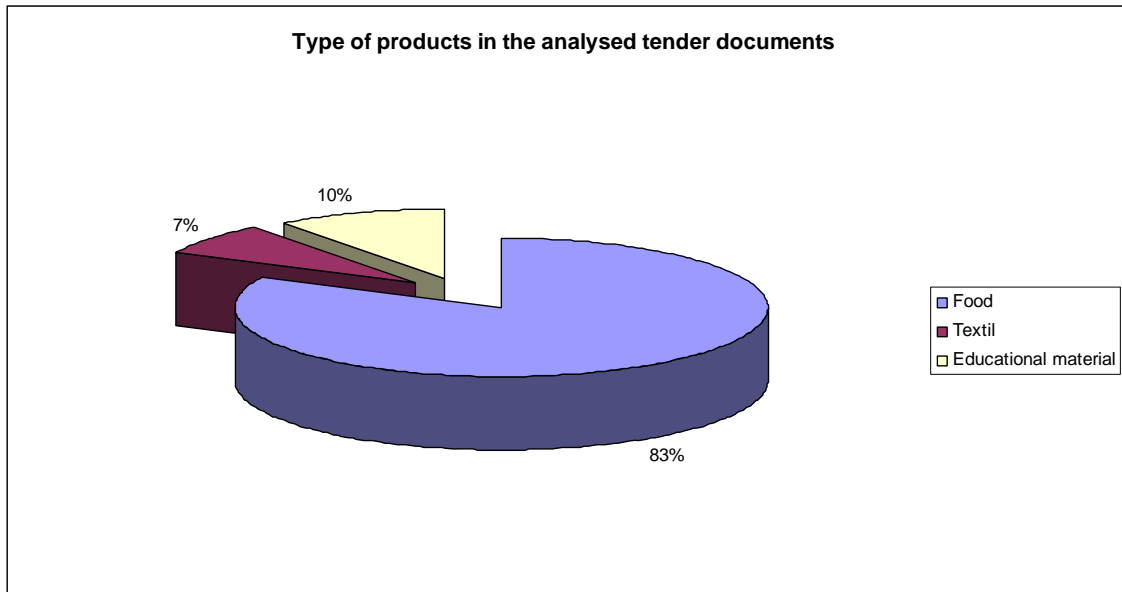
From a statistical point of view fair trade considerations are found especially in technical specifications (29) and awarding criteria (21), followed by contract performance clauses (18), subjects of contract (5) and selection of suppliers (3). This result reveals the importance of technical specifications because they reflect the characteristics for contracting a product or a public service that has to be fulfilled by contractual partners. These technical specifications show a high versatility concerning the introduction of fair trade, including a wide range of cases that comprehend the use of basic material or the requiring use of a specific production process up to the possibility of eco-labels, the use of alternatives and recommendations for using the same quality levels to subcontractors as well as environment penalties.

We also detect a high incident of fair trade criteria's in the awarding phase . This fact is significant because of referring to the conditions which have to be fulfilled by possible contract partners. However, the conditions of contracts and technical capacity get less significance although they could play a major role in the integration of fair trade if contracting authorities would give value to the development of contracts. Also the low presence of fair trade criteria in the subject of public contracts surprise although this could be due to their shown dynamism and versatility in the different tendering stages where technical specifications and performance interest more than the subject of the contract.

Finally, the consideration of fair trade in public procurement procedures offers a great versatility because of concerning different tendering stages; some of them are more significant than others and some even have got a major development potential. This versatility also explains that fair trade criteria are even considered in two tendering stages.

d) Catalogue of fair trade products registered in the analysed tender documents.

First of all, the study of products reveals that contracting authorities only required products like food, textile and educational material. It also shows that the variety of offered products is very limited in the three cases.



83% of the tender documents refer to the introduction of food, 7% to textile products and 10% to educational materials and services. It is necessary to emphasize among the food coffee, sugar, tea, cocoa, chocolate and Christmas hampers (with several fair trade products); in case of the textile we have to distinguish between the fair procurement (purchase of t-shirts, scarfs..) and ethical procurement (purchase of footwear, gloves, uniforms..) demanding commitment to ILO Conventions. The educational materials refer to didactic suitcases aimed at raising awareness as well as organisations of activities that promote fair trade issues. These tender documents also show a lack of product specification and the presence of the criteria in order to promote fair trade. It leaves the type of product to successful bidder which benefits in certain form the diversity of the same one. However there are tenders that limit to food because of the lack of specification. We also have to consider another variable that means the consideration of sustainability and in this respect the emphasis on environmental issues. It generates a convergence with interests close to fair trade; in our opinion it is opportune because it means promoting completed changes in society towards a better world. Moreover it has to point out that in some tender documents it is valued the quantity of products proceeding from fair trade as a determinant for the resolution of the bid.

Sometimes these calls for tenders even state the required percentage of this kind of products. A couple of tender documents also include the compulsory character of fair trade products, a product that is always coffee and sugar. In this sense it would be desirable that the tender documents extend the obligatory nature to a broader product list. We also observe that in some cases contracting authorities evaluate positive the increasing variety.

Moreover we don't register important changes in the already mentioned characteristics of tender documents.

3. Conclusion

The realized study reveals a number of significant information concerning the incorporation of fair trade considerations into public procurement procedures. First it is necessary to emphasize that we have observed a **progressive extension of the geography in the studied period**. This extension also concerns the public authorities that have started developing contracts with fair trade criteria. In this sense the **Autonomous regions, the universities and the town councils stand out compared to the poor role of the Spanish government**. However we have to point out that this type of public contracts have not yet been inserted in the usual public procurement procedures neither of some Autonomous regions nor of the Associations of local authorities. In this respect it still can be expected a major government involvement in the development of such contracts and a major variety of them. This is the observed trend of the analysed period. In fact, last May the Spanish government has been approved the law 30/2007 of public contracts that promotes the incorporation of fair trade considerations into public procurement procedures. However, yet **we cannot quantify the impact of this law concerning the introduction of fair trade criteria**; although it is to emphasize that there is a significant increase of tender documents mentioning the preference of fair trade organizations for the executing of a contract in case of equality between two or more suppliers.

Moreover we observe a clearly disproportion between public service contracts and public supply contracts regarding the incorporation of fair trade criteria; we have basically registered the first type of public contract. In this case we have found a **variety of public services in contrast to the shortage of products proceeding**

from fair trade in supply contracts. Fair trade considerations also appear in the different tendering stages and in many cases they even appear in two stages of the same one. In this respect it is to point out the importance of the stage of technical specification and the adjudication phase. **One can also confirm that the term “fair trade” generally is not defined by contracting authorities but some public entities ask for certificates issued by FLO or IFAT; in some cases it is sufficient to demonstrate a certificate issued by any NGO belonging to the Spanish Coordinator of Fair Trade (CECJ).** The reason for the lack of definition may be because of the fact that the term is sufficiently known by suppliers.

With regard to the goods considering fair trade criteria's in public contracts one has to point to the insistence on producing a major variety of these products, which can be achieved by means of the balance between product specification and not specification of a product. Contracting authorities should gradually increase the percentage of fair trade products in tender documents. They should also enhance the introduction of fair trade criteria into sustainability and environmental issues because they are issues that reinforce each other to pursue common goals.

The study reveals a number of important information about the incorporation of fair trade into public procurement procedures. It is to emphasize that in the studied period there is a gradual extension of the geography in which we find this kind of tender documents. This extension also concerns the public authorities that already had taken up the development of contracts considering fair trade criteria. The Autonomous regions, the public Universities and the town councils stand out in contrast to the poor role that has had the central government.

However, **this type of public tender has not yet been inserted in the usual public procurement procedures of any Association of local authorities.** It can even be expected a major involvement of public authorities concerning the development of this kind of contracts and their major variety.

4. Annexes

We offer a table that presents the analysed tender documents in chronological order. In each case we differ between the following items, all of them relevant to draw conclusions: Year of publication of the tender document, contracting authority, object of the contract, place of application, locality, land, fair trade product, tendering stage and the item how it is defined fair trade.

We have also gathered all political resolutions on fair trade at national, regional and local level. The Resolutions are all ready available at the website www.comprapublicaetica.org (buenas practices/compromiso politico)