

Sustainable Public Procurement

Where do we stand in Chile?

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RIDES, Santiago, Chile

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Norad

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Executive Summary

Governments are the largest consumers in an economy, on average spending 45 to 65 per cent of their budgets on public procurement, amounting to 13 per cent to 17 per cent of the GDP. If governments make a concerted effort to purchase environmentally- and socially-preferable products and services, their substantial buying power will drive the delivery of sustainable development policies and stimulate markets for sustainable products and services. In order to promote sustainable public (SPP) procurement in emerging and developing economies, IISD launched a SPP project in India, South Africa and Chile whose main objectives were to:

- research legal and institutional frameworks that govern public procurement at the international and national level;
- identify best practice in SPP; and
- launch subsequent country projects to engage with the public sector, their key suppliers and other stakeholders, to examine the finer details of national procurement policies and procedures and to develop blueprints for pilot SPP initiatives.

This report details the main findings of the Chilean case.

Public procurement in Chile is governed by Law 19,866 of July 2003 (the Law on Procurement) that regulates the contracts of public supply of goods and services. This law is complemented by the Procurement Regulation which provides further details regarding the regulation of the public procurement process. A public authority must abide by the law whether it is purchasing or renting goods or products. Although these cover all public political, economic and administrative bodies, state companies are specifically excluded from the Law on Procurement. As a result of the Law on Procurement, the “Dirección de Compras y Contratación Pública” (Public Procurement and Contract Direction) was established. Thanks to its internet portal, www.chilecompras.cl, public procurement in Chile is centralized and to a large extent digitalized. The law also obliges public authorities to produce an annual procurement plan that must be made available to the public on www.chilecompra.cl. Although the plan may be updated as necessary, the modifications must be published.

Regarding sustainability criteria, Article 6 of the Law on Procurement specifically states that all present and future costs are to be taken into account when assessing which product/service is the most “advantageous”. The same article provides for the possibility of attributing more points to those bidders who demonstrate specifications relating to good employment practices and salaries. At the same time, Article 23 of the Procurement Regulation refers to optional additional criteria that may be included in the specifications, where one of the conditions is that extra points may be awarded to bidders in order to reward compliance with laws promoting the environment, employment of disabled people or other matters of significant social impact.

Although SPP is a novel concept in Chile, there are some indications that it is gradually being

internalized by public bodies. On the environmental side, one example corresponds to the March 2008 directive launched by the “Dirección de Compras y Contratación Pública” incorporating energy efficiency (EE) criteria in public procurement at each stage of the process. A Guide and a Manual giving further practical tips on how to incorporate such criteria into the specifications and explaining the EE labels that have been launched in Chile for light bulbs and fridges, accompanies the directive. Although the directive evidences some advances in SPP, some are critical because it has a voluntary nature and only provides non obligatory recommendations to public bodies. On the social side, a significant case is the January 2008 amendment to the Law on Procurement requiring bidding companies to respect employee and trade union rights, and be free of pending social security payments, among other social and labour requirements. At the same time, more specific cases of SPP initiatives are being developed within singular public institutions, such as the Army and CODELCO, the copper producing state company.

Despite these signs of progress, there are many and diverse challenges for mainstreaming SPP in Chile. One of the main obstacles corresponds to the lack of knowledge about the preparedness of the Chilean market to supply sustainability goods and services and the rather modest presence of sustainable certifications and labeling. Other significant challenges are linked to the absence of objective tools or criteria for assessing the sustainability of the goods and services offered by suppliers, the impact that introducing sustainability criteria would have on SMEs currently supplying the public sector, the need to demonstrate that sustainable procurement produces investment and consuming savings, and the lack of technical capacity within public institutions to successfully apply sustainable procurement processes. In order to start addressing these and other challenges, this report concludes with a proposal for the implementation of a pilot project on SPP in Chile related to the topics of energy efficiency and documentation in two public institutions: SERNAC (National Consumer Service) and the Army.

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1. Public procurement process in Chile

1.1 Introduction

In 2007 the public sector spent over USD 4,500 millions¹ using the public procurement system. Public procurement in Chile is governed by Law 19,866 of July 2003 (as subsequently amended), the Law on the administration's contracts of supply of goods and use of services (the Law on Procurement). This law provides for a Regulation to give further details on certain aspects of the Law of Procurement (the Procurement Regulation). The ambit of these is examined below, but it is worth noting that state companies are specifically excluded from the Law on Procurement. Therefore they are able to do their own thing and those interviewed for this project have their own register of suppliers and their own procurement policies.

As a result of the Law on Procurement, the Dirección de Compras y Contratación Pública was established. This organization is colloquially known as “Chilecompra”, because the system that it administers is found at www.chilecompra.cl. Thanks to this internet portal public procurement in Chile is centralized and to a large extent digitalized. The Dirección de Compras y Contratación Pública is also charged with advising public authorities in relation to procurement planning and management and establishing conditions of use of www.chilecompra.cl. In 2007 they were allocated a budget of 6,321 million pesos².

This document is the result of a IISD-RIDES joint preliminary research on the subject in Chile. Desk research and interviews with key players (particularly in the public sector) provided the basic information. A draft report was prepared and discussed in a breakfast meeting with 16 key players (most of them had been previously interviewed) and four researchers from RIDES. The objectives of the meeting were to i) present and discuss the background information and analysis on sustainable public procurement in Chile and ii) explore and discuss possible follow-up projects on pilot cases for implementation.

After background information on public procurement in Chile (chapter 1), the report focuses on sustainable public procurement initiatives (chapter 2) and challenges for SPP in the country (chapter 3). While chapter (4) describes possible pilot cases for implementation of SPP in Chile, the reports ends with some general conclusions (chapter 5).

1.2 www.chilecompra.cl

The internet portal www.chilecompra.cl is the key to public procurement in Chile. It is publicly accessible and public authorities are required to publish information on this internet portal in

¹ Public Procurement and Contracting Bureau (2007). Chilecompra Management Report 2007. Available at: <https://www.chilecompra.cl/Portal/InicioPortal.aspx>.

² Roughly US\$13 million; 2007 Chilecompra Annual report p.9

relating to all their procurement processes (apart from those given special exemptions by the law). All procurement within the ambit of the Law on Procurement is done using www.chilecompra.cl.

The internet portal was launched in 2003 and is now fully up and running. A study done by the Universidad Católica de Chile estimated that in 2006 the state saved approximately USD100 million through the use of the Chilecompra systems (90% of these savings were generated through obtaining better prices and the remaining 10% through replacing the need for many tenders by arranging framework agreements, *Convenios Marco*). Clearly such a massive change in the procurement process required an equally massive change in mindset for both suppliers and government buyers. The Dirección de Compras y Contratación Pública is also responsible for providing training to government buyers and suppliers³.

Since the internet portal's launch, Chilecompra has been adding new facilities. All of the law relating to procurement in Chile can be found on the site, along with practical guides and the presentations made at training seminars. For example, 2007 saw the creation of a legal forum open to lawyers who wish to discuss and share opinions on procurement law issues.

The Dirección de Compras y Contratación Pública's mission is

“To develop policies and initiatives designed to create transparency and added value in the public procurement market, through technological tools and excellence management.”

1.3 The Law on Procurement: Who buys what and from who and how?

Who?

The Law on Procurement covers all Ministries, *Intendencias* (regional governments), *Gobernaciones* (provincial governments), *Municipalidades* (local governments), and public bodies including, *Contraloría General* (national accounting inspection agency), the central bank, the Armed Forces, and Security Forces, Regional governments and Local authorities (Article 1 of Law on Procurement). However, in relation to the Armed Forces and the Security Forces, there are various exceptions that mean that procurement of weapons and military vehicles is not included.

Eight hundred public authorities are using the Chilecompra systems. In 2007 the largest government sectors making purchases through Chilecompra were the health services and central government (by value).

³ E.g. in 2007 48,500 users participated in over 1,900 training activities. This included training on website use and direct consulting for govt institutions regarding "different supply issues.

Figure 1. Government sectors making purchases through Chilecompra were the health services and central government (by value) (2007)

Health service	33%
Central government	26%
Local authorities	19%
Public works	15%
Armed Forces	7%

This should be contrasted with the figures for number of tenders (*oportunidad de negocio*) issued in 2007. The most tenders were put out by local authorities (44%), followed by the Health Service (18%) and the Armed Forces (12%). And also for the number of orders placed through Chilecompra in 2007 where the health services placed most orders (32%), followed by local authorities (30%) and Central Government (23%).

What?

The Law on Procurement covers contracts for both goods and services (Article 1 of Law on Procurement). A public authority must abide by the law whether it is purchasing or renting goods or products.

In 2007 the top ten categories of goods or services purchased are shown in Figure 2 (by value).

Figure 2. Top ten categories of goods or services purchased in 2007

Services and construction and maintenance	14%
Engineering, Social science and IT services	12%
Medicines and Pharmaceutical products	7%
Medical equipment and supplies	7%
Travel and lodgings	7%
Professional services	5%
Food and drink	5%
Supplies and components for structures, public works and construction	4%
Health and sanitation services	4%
Transport	3%

Individual products which were most in demand in 2007 are shown in Figure 3.

Figure 3 Individual products which were most in demand in 2007

Printing and writing paper	2.3%
Supplies for printers, faxes and photocopiers	2.1%
Printing	1.6%
Cleaning and hygiene products	1.5%
Vegetables	1.4%
Printed publications services	1.3%
Writing implements	1.3%

From whom?

The law sets out who is eligible to contract with the state to supply goods and services (Article 4 of Law on Procurement and article 92 of the Procurement Regulation). Suppliers may be Chilean or foreign. The basic requirements are that the company or individual must have the legal power to sign the contract relating to the provision of goods or services in question and not be run or owned by an individual from the public authority concerned or a relative. However, in an amendment passed in January 2008, a further criterion of eligibility was added. Companies or individuals who, in the two years previous to submission of the tender, have been convicted of anti-trade union practices or breaching fundamental employee rights, are ineligible.

The national register of suppliers, called *ChileProveedores* was created in 2006 to centralize all the information relating to suppliers. The idea is that the register enables state buyers to check that registered suppliers are in a position to contract with the State by looking at documents pertaining to their financial and legal situation and technical competence. As at December 2007, 80% of tenders required applicants to be registered. The requirements for a buyer to be able to contract with the state are set out in the law.

As of the end of 2007, over 26,000 suppliers are registered on the national register of suppliers. Additionally, 79,947 is the number of suppliers active on the public market 2007 (those that have placed bids or received purchase orders in the last 12 months). Apparently for every 10 suppliers that offered their services in 2007, 7 were successful in concluding a contract with the state.

How? The typical procurement process

Procurement actions of a value under three monthly tributary units (UTMs, for the expression in Spanish; 1 UTM is approximately US\$70) and approved purchases under 100 UTMs made from petty cash do not need to be conducted through www.chilecompra.cl (Article 53 Procurement Regulation).

Each public authority has to designate a person or persons who will have a password to the system and the authority to use the system on behalf of the authority (Article Procurement Regulation).

The following description of a typical procurement process only applies to procurement actions of a value over 100 UTMs. Actions under this threshold will normally be conducted by direct contracting (see below), but may be opened to all suppliers via www.chilecompra.cl.

Once it is decided to procure the product or service there are 4 possible mechanisms:

- Chilecompra Express
- Public tender – competitive tender which is open to all. This is announced on www.chilecompra.cl
- Private tender – competitive tender which is open to only those selected to participate. The minimum number of participants is three.
- Direct contracting – non-competitive

The choice of mechanism is largely dictated by the law. If the product or service sought is available on Chilecompra Express, then the public authority is obliged to use this mechanism. Otherwise, the choice of mechanism will depend on the value of the product/service sought. The general rule is to procure by public tender (Article 9 of Procurement Regulation). A public tender is obligatory if the value is over 1000 UTMs unless the situation falls within specified circumstances – for example where no bids were received in a previous public tender or in an emergency situation (see Article 10 of Procurement Regulation).

Chilecompra Express

Chilecompra Express is an online catalogue of products and services with framework agreements (*convenios marco*). A *convenio marco* is an agreement between the Dirección de Compras y Contratación Pública and a supplier for that product or service that sets the price, terms and specifications. The Dirección de Compras y Contratación Pública conducts tenders in order to establish these *convenios marco* and can usually negotiate better terms than in tenders conducted by individual public authorities.

The idea of the online catalogue is that regular and standard purchases can be made through Chilecompra Express thus saving individual procurement officers the time and effort of creating a new tender. For each item, the catalogue contains a technical description, a summary of the commercial terms and the supplier's information and contact details. By purchasing through the catalogue the public authority contracts directly with the supplier.

In fact, if a product is available on Chilecompra Express, the public authority is obliged to buy through Chilecompra Express except if they can show that they can obtain more advantageous terms (Article 14 Procurement Regulation). However, such terms must be substantially “more advantageous” and must also be objective and demonstrable (Article 15 Procurement Regulation).

In relation to price, the guidelines issued by the Dirección de Compras y Contratación Pública suggest that the costs of going through a new tender process should be taken into consideration.

A breakdown of the figures show that by value transacted through Chilecompra Express the biggest users were JUNAEB (Service for food subsidies to school children), the Education Ministry, the *Gendarmes* (prison police), the Police force (*Carabineros*), and a couple of individual hospitals. When an analysis is done in terms of number of orders placed, the top 5 users are the *Gendarmes*, the Education Ministry, the Army, Service for Juvenile Detention and Child Protection and the Navy.

Over USD 445 million were spent via Chilecompra Express in 2007. The main products purchased were health services, airplane tickets, restaurant vouchers, office materials and printing services.

In 2007 the number of products offered in Chilecompra Express increased to 170,000. Chilecompra say that for each *convenio marco* that is arranged an average of 2,800 tenders are replaced.

Public and private tenders

The procedure for public and private tenders is very similar. In the case of a private tender, the decision to use this mechanism must however first be approved by the public authority and the approval published on www.chilecompra.cl.

The public authority must set out technical specifications and process details (article 20 Procurement Regulation). These specifications should enable the procurement agency of the public authority to compare bids and choose the most advantageous. Price cannot be the only consideration. When drawing up the specifications the procurement agency should promote effectiveness, efficiency and quality but also consider savings to be made in its budget. However, the specifications must ensure that equal treatment of all bidders is maintained and that no arbitrary differences are established between them. There are certain elements which the specifications must obligatorily contain, these include the requirements that the bidder and the product/service must comply with, the timeline for the tender process, the payment procedure and the objective criteria which will be used in the evaluation and decision process.

A call to bid must be made via www.chilecompra.cl a prescribed number of days before the tender is open to receive bids. The call to bid must give brief details of the product/service required. The call to bid may also be advertised in the media. The technical specifications and process details must be made available on www.chilcompra.cl. Potential bidders may be given a period to ask questions, and the answers will be published.

The procurement agency must provide a bid form for the bidders to fill out. Bids must be made via www.chilecompra.cl. Bidders may also be required to send a deposit or bond to prove their sincerity and to secure the good behavior of the bidders and eventual successful bidder – this may be done electronically or otherwise. The Dirección de Compras y Contratación Pública's recommendation is

that deposits or bonds are only required in contracts of significant value where failure to fulfill the contract will lead to a significant impact on the quality of service provided to the nation.

The procurement agency will assess the bids and reject those that do not meet the minimum requirements as set out in the specifications. The evaluation process is a technical and economic analysis of the benefits and present and future costs of each bid in accordance with the evaluation criteria set out in the specifications (Article 37 Procurement Regulation). The Procurement Regulation gives a non-exhaustive list of possible evaluation criteria in article 38.

Once the evaluation process is complete, the most advantageous offer will be accepted. The result of the tender and the text of the contract must be published on www.chilecompra.cl. The public authority must specify which criteria caused the successful bidder to be chosen.

Direct contracting

This mechanism can only be used in specified special circumstances and the decision to opt for direct contracting must be published along with the name of the supplier via www.chilecompra.cl within 24 hours of the decision. However, specifications still have to be drawn up.

1.4 Budgeting

Annual procurement plan

The law obliges public authorities to produce an annual procurement plan. This is made available to the public on www.chilecompra.cl. The plan may be updated as necessary, but the modifications must be published. Chilecompra produced a directive in early 2007 to develop this idea and encourage wider participation within each organization in drawing up the plan.

When submitting annual procurement plans to Chilecompra, institutions have to detail the 10 most relevant procurement projects, where relevant means more than \$ 100 million (Chilean Peso), approximately US\$ 200,000 (in case the institution does not plan to be involved in procurement projects above this amount, it has anyhow to describe the 10 most expensive ones). For each detailed procurement project, the following information should be given:

- a detailed description of the goods and services to be procured;
- a general description of the procurement project;
- the purpose of the procurement project;
- an estimated date of the procurement; and
- the geographical place where the goods and services will be procured.

1.5 Room for manoeuvre within the system

Whole life costing or Total Cost Ownership

Article 6 of the Law on Procurement specifically states that all present and future costs are to be taken into account when assessing which product/service is the most “advantageous”. The consideration of both present and future costs is also emphasized in the articles relating to the drawing up of specifications. Article 20 of the Procurement Regulation specifically states that the public authority should not only take into consideration the price but also the conditions that might impact on the benefits or the costs that are to be expected.

In one of the practical guides⁴ published by the Dirección de Compras y Contratación Pública, an example of whole life costing analysis is given. We were also told that this topic is touched on in the training sessions that the Dirección de Compras y Contratación Pública run for public authority procurement personnel, however, it was accepted that not much emphasis had been placed on this.

Whole life costing may however achieve a more prominent role with the publication of the Energy Efficiency directive and guide, where it is explained in more detail with examples using light bulbs. Whether the procurement personnel choose to use the technique in this or other procurement actions remains to be seen.

Rewarding good labour practices: Article 6

This article relates to procuring regular services (*servicios habituales*). The article provides for the possibility of attributing more points to those bidders who demonstrate specifications relating to good employment practices and salaries. However, the article also insists that these specifications must not establish arbitrary differences between the bidders.

The article specifies that in relation to services for the contracts for staff working in the state school canteen must include payments for the months of January and February (the summer holidays).

Rewarding compliance: Article 23 of the Procurement Regulation⁵

This article refers to optional additional criteria that may be included in the specifications. One of the conditions is that points may be awarded to bidders in order to reward compliance with laws promoting the environment, employment of disabled people or other matters of significant social impact. However, the regulation is clear that such criteria may not be the only criteria taken into consideration when awarding the tender. The regulation stipulates that the language of such additional criteria must be clear and precise.

⁴ Guide No 5. Definition of Requirements

⁵ Note that the same wording is included at Article 21 of the Regulation that applies to the Army

It should be noted that this possibility of drawing up specifications to reward compliance in these areas is not mentioned in the practical guide on defining requirements produced by Chilecompra. There is no guidance on how these additional criteria might be used particularly considering the overarching requirement from Article 20 of the Procurement Regulation that specifications must not affect the equal treatment of all bidders nor establish arbitrary differences between them.

Article 23 also specifies that the specifications may include criteria that do not contradict the provisions of the Law on Procurement or the Procurement Regulation. This would be an opening for criteria that might go beyond mere compliance with the law. However, as before, specifications must not affect the equal treatment of all bidders nor establish arbitrary differences between them.

Chilecompra directives

Given the centralized nature of Chile's public procurement system, sustainable procurement initiatives should be easier to implement. The Dirección de Compras y Contratación Pública has the discretion to publish directives. These are recommendations distributed to the public procurement community that supplement the Law on Procurement and Procurement Regulation with practical suggestions. So far directives have been published on the topics of procurement of Energy Efficient purchasing (see below), IT equipment procurement, the use of deposits, the Annual Procurement Plan, payment periods and use of the National Register of Suppliers.

These directives do not have any legal status. Compliance is voluntary. However, there are proposals currently before the Chilean congress to modify the role of the Dirección de Compras y Contratación Pública and this might include making compliance with its directives obligatory.

Even with the current status, a directive could be a tool to raise awareness and suggest practical ways of including criteria in the areas opened up by article 23 or further suggestions relating to wholelife costing.

Internal department policies

Article 4 of the Procurement Regulation⁶ requires each public authority to publish and make available on www.chilecompra.cl a Procurement Procedures Manual. Such manuals should also be published on the relevant public authority's webpage. This manual should include sections, for example, on planning, selection of procedures, formulation of requirements, evaluation procedures and criteria, payment procedures, inventory procedures and authorizations required at each stage. It is therefore entirely possible for an individual public authority to implement a sustainable procurement policy, or certain elements provided that the provisions of the Law on Procurement and Procurement Regulation are respected. However, such policies would need to be included in that public authority's Procurement Procedures Manual and published as required by the law.

⁶ 3 May 2007 amendment

Are a public authority's hands tied by Chilecompra Express?

Public authorities are required to consult Chilecompra Express before setting in motion any other procurement process (Article 14 Procurement Regulation). Therefore, the public authority will have in mind its own specifications before searching the catalogue for its required product. An unofficial opinion of a member of staff of the Dirección de Compras y Contratación Pública was that if a public authority specifies that it is seeking a product made from recycled materials and did not find it in the catalogue, then the public authority might be able to justify setting up a tender for such a product even though products fulfilling the same function were in the catalogue. However, without a high-level sustainability policy such an action might attract the attention of the auditing authorities (*entidad fiscalizadora*) who might require justification of the purchase outside Chilecompra Express.

Public authorities can not choose a different supplier of a product already on Chilecompra Express unless terms are substantially, objectively and demonstrably “more advantageous”. The concept of “more advantageous” is not exhaustively defined in the law, but one of the examples given is if there is a better cost-benefit ratio. The argument that where a supplier has a better environmental or labour record or has a sustainability policy, the cost-benefit is better for society, seems too contrived to convince auditing authorities (*entidad fiscalizadora*) who might require documentation justifying “more advantageous” terms obtained.

Feedback

When the result of the tender is announced on www.chilecompra.cl, the public authority must specify which criteria caused the successful bidder to be chosen (Article 41 of Procurement Regulation). In the event that sustainability criteria were the deciding factor, this would be an important opportunity to send the message to bidders that such criteria are “bid winners”.

2. Initiatives in SPP in Chile

2.1 Energy Efficient purchasing

In March 2008 the Dirección de Compras y Contratación Pública launched a Directive on incorporating energy efficiency (EE) criteria in public procurement at each stage of the process. The emphasis is on whole life costing. The directive is accompanied by a Guide and a Manual giving further practical tips on how to incorporate such criteria into the specifications and explaining the EE labels that have been launched in Chile for light bulbs and fridges and recommending purchases of other equipment that bears the Energy Star label. However, as mentioned above, the Directive only constitutes recommendations to the government procurement teams and compliance is not obligatory. The initiative was a collaboration between the Dirección de Compras y Contratación Pública, the department charged with EE in Chile (*Programa País de Eficiencia Energética*) and a private sector actor (*Programa de Energía de Fundación Chile*). Training on the topic is also planned for procurement personal. However, there has been a delay in the planned training sessions and it is now expected that they will be virtual sessions.

This initiative follows a high-profile government policy on EE and a 5% reduction target had been set for public sector use of energy. This target is to be accomplished through a combination of energy saving and EE. It should be noted that the governmental interest in EE may stem rather more from Chile's vulnerable position in the energy market (importing about 80% of their energy) than from sustainability. The launch of Chilean EE labels is also relatively recent and currently these are only available for light bulbs and fridges but it expected that more products will follow (for example, air conditioning units). Further the launch of the directive coincided with an electricity crisis and a widespread advertising campaign about the importance of energy saving and EE. Therefore although the Directive is voluntary it seems likely that it will be well-received.

This was the first initiative of this kind for the Dirección de Compras y Contratación Pública and the whole process took about a year. In relation to the drafting of the documents, tensions arose between the desire to explain EE in academic terms and the need to make the documents accessible to non-technical and not always highly educated government buyers. The recommendation to prefer products with the Energy Star label (a voluntary labeling scheme backed by the US government) may also be controversial as it would seem to be discriminatory for Chilean companies who cannot easily get access to this label.

A second stage of the collaborative initiative is envisaged whereby experts are available for consultations on procurement of electrical goods. It is also envisaged that where appropriate information such as energy consumption in different states of use will be included on Chilecompra Express.

2.2 January 2008 Labour-focused reforms

Amendments to the Law on Procurement were passed in January 2008. These reforms were apparently driven by some particular incidents and as yet no guidance has been issued by the Dirección de Compras y Contratación Pública in relation to how they should be put into practice.

Firstly an additional criterion for eligibility was added. Companies or individuals who, in the two years previous to submission of the tender, have been convicted of anti-trade union practices or breaching fundamental employee rights are ineligible. (Article 4 of the Law on Procurement)

Secondly, in the event that the company that wins a tender or is awarded a contract has pending social security payments, the first payments under the contract with the state must be directed to pay those debts. Further the company must ensure that by mid-way through the contract's life or by 6 months into the contract, all social security debts are paid off. It is the contracting public authority's responsibility to check that this is the case and review the corresponding documents. If the contracting company does not comply with this obligation then the contract can be terminated and a new tender announced in which the company will not be eligible to participate. (Article 4 of the Law on Procurement)

Thirdly, and in connection with the second point above, Article 4 of the Law on Procurement now specifies that if the contracted company subcontracts, the subcontractor must also comply with the requirements relating to social security debts. It should be noted that subcontracting has recently become a major issue in the Chilean market due to reforms that have affected the private sector.

Fourthly, there are the additions to article 6 (discussed above) that provide for the possibility of attributing more points to those bidders that demonstrate specifications relating to good employment practices and salaries.

Fifthly, in relation to the bond that the bidders are required to provide should cover the payment of social security debts in the circumstances provided in Article 4.

However, interviewees in March 2008, expressed uncertainty about how these reforms were going to be implemented in practice on www.chilecompra.cl. For example, the National Register of Suppliers has not been adapted to the first point such that those who are ineligible due to convictions in the last two years are still able to bid. The recommendation is that the specifications require bidders to provide a sworn declaration that they do not have any relevant convictions. However, it is up to the contracting public authority to check that they are not contracting with ineligible companies.

2.3 Army

The Chilean army produced a social responsibility report at the end of 2007 and seem to be keen and interested to develop new policies within the topic. We were told that they are evaluating various ideas in relation to wholelife costing in their military procurement, and are looking to draw up “End of life disposal” agreements whereby some of the purchase price is offset by selling the rights to the object at the end of its useful life to companies who will recycle appropriate elements and ensure environmentally safe disposal of other components. The army seem to be aware of their power as a consumer and their responsibilities as an organization buying for 38,000 people – for example, upon learning that the sweetener used in Coca cola zero is carcinogenic (and different to the one used in the United States) they stopped stocking this drink.

2.4 Codelco

As mentioned in the introduction, state companies are not subject to the Law on Procurement, however they are still in a sense spending public money.

Codelco has published a procurement policy that includes the following commitments:

- For Codelco in its condition of a state-owned company, it is imperative to establish goals with regard to labor ethics, keeping the values that inspire its subsidiary role and their own values expressed in the Enterprise Common Project, feelings that has to be reflected in the contractual links to be established with contractors and suppliers.
- Demand full compliance with labor laws currently in effect, forbidding noncompliance with labor ethic, according with Codelco subsidiary responsibility.
- Encourage suppliers of goods and services to adopt an environmental responsible attitude, as well as with regard to occupational health and safety.
- Select companies participating in the contracting process on the basis of their proven abilities and performance evaluations, as well as their compliance with labor, tax, commercial obligations, etc.

Codelco states that it will positively consider any certification such as ISO 9001: 2000.⁷ It also has a policy of considering accident rates and history of incidents when evaluating bids and will require risk-prevention to be part of the culture of firms with whom it contracts.

Codelco also has a Code of Conduct that they expect their suppliers to abide with while working with Codelco. This code emphasizes the expectation of high health and safety standards and contains a section on the way waste and emissions should be controlled. Any breaches of the code may result in suspension from future participation in tenders and elimination from Codelco’s register of suppliers. Although this code of conduct does not relate to the processes of procurement it indicates that there is the possibility of encouraging suppliers to think about labour and environmental issues.

⁷ Section 1.3.3 of Estándares Corporativos de Seguridad , Salud ocupacional, medio ambiente y calidad para empresas contratistas.

Apart from the fact that its annual operational and investment budget is approved by the Treasury, in every other respect CODELCO acts as a private company. They do not participate in Chilecompra. Their procurement budget for 2007 was US\$ 4,2 billions (very similar to the whole Chilecompra trade for 2007).

CODELCO has its own procurement system (similar to Chilecompra). It is quadrem.com. It is the procurement system for a number of large transnational mining companies in the world. CODELCO is shareholder of this system. It is quite similar to Chilecompra but it is exclusively for mining companies at the international level.

Most operations within quadrem.com operate through inverse auctions; CODELCO sets the quality of the product or service and look for the bidder offering the minimum price. Quadrem.com also includes something similar to Chilecompraexpress. Most of the goods traded include environmental performance requirements and conditions. CODELCO makes a positive assessment of the way their system operates, particularly regarding environmental matters. The challenges they identify are related to social dimensions within procurement and enforcement of contracts. This is attributed to the fact that in the case of environmental matters there are appropriate labels, certification schemes, procedures, etc.; whereas this is not the case with social issues. Regarding enforcement, “people within CODELCO, who should enforce contracts do not have the capacity, time or resources to do this properly”, we were told⁸.

According to CODELCO’s procurement manager (Rodrigo Poblete), the fact that procurement committees always include management people from the environmental/sustainability departments facilitates the integration of these issues in procurement decisions.

2.5 CENDA’s 2008 recommendations

In March 2008 CENDA (Centro de Estudios Nacionales de Desarrollo Alternativo) produced the document “El Estado y la Responsabilidad Social: Estrategia de incorporación de criterios de responsabilidad social y ambiental en las compras públicas” which aims at promoting the implementation of social and environmental criteria in the procurement practices of Chilean public institutions. In order to facilitate this, the document elaborates a “Responsible Public Procurement Strategy”, which is based on three main elements: a) stages of the procurement process, b) social and environmental criteria, and c) sectors to be included. This review resumes the main recommendations contained in that strategy.

Procurement process

Concerning the procurement process, the document distinguishes five stages of the procurement process where social and environmental criteria can be integrated:

⁸ Interview with Rodrigo Poblete, Procurement Manager for CODELCO, 25th April 2008.

- product or service specification;
- technical requirements formulation;
- provider selection;
- award criteria specification; and
- contract execution clauses specification.

Although the document expresses that all stages present interesting opportunities for including social and environmental standards in the procurement process, it stresses that the greatest potential lies within the latest. The reason given for this remark is that any public Chilean institution can impose the successful bidder the fulfillment of clauses in line with the current social and environmental legislation.

Social and environmental criteria

CENDA's recommendation on the adoption of social and environmental criteria claims to be in accordance with both Chilean legislation and requirements contained in free trade agreements signed by Chile. With respect to social criteria, it recommends the adoption of labour norms based on ILO standards addressing four basic areas:

- freedom of association and the effective recognition of the right to collective negotiation;
- the elimination of all forms of obligatory or forced labour;
- the effective abolition of child labour; and
- the elimination of employment and occupation discrimination.

It also recommends respecting some gender equality principles contained in Chilean Law, especially addressing discriminatory practices affecting women.

Environmental criteria recommendations are based on the OECD Guidelines for Multinational Enterprises and include the following:

- to establish and maintain an environmental management system appropriate to the firm;
- to implement a communication system that informs both workers and citizens about the impacts of the firm's activities on the environment, health and security;
- to assess and consider in decision making processes the foreseeable environmental, health and security impacts of the firm's activities;
- to implement and maintain emergency plans aimed at preventing, mitigating and controlling negative effects on the environment, health and security; and
- provide employees appropriate education and training concerning environmental, health and security issues associated with the firm's activities.

Sectors

CENDA recommends the inclusion of three sectors for implementing its "Responsible Public Procurement Strategy": construction, food and quick wins. The construction sector is recommended basically due to its important share of public procurement expenses. In fact, in 2006 the

construction sector comprised 12.6% of all public procurement in Chile, making it the greatest demanded sector by public institutions. Another reason for selecting this sector relates to the prevalence of dangerous working conditions and the associated high accident rate, which in 2004 corresponded to approximately 13% of total working accidents in Chile. Based on these antecedents, the strategy proposed by CENDA for the construction sector is based on addressing three issues: a) assurance of health and security conditions in the working place; b) respect of national and international labour and employment standards; and c) use of responsible production material.

The food sector is recommended mainly due to its impact on the State image. In this respect, the procurement of food for public schools is highlighted as a major issue, as the perception of the State as not preoccupied for the responsible nutrition of school children would entail a very negative message for a vast portion of citizens. Another reason for selecting the food sector corresponds to the extended current existence of unsatisfactory working and environmental conditions in establishments that provide food to the State. In view of the above, CENDA proposes a public procurement strategy for the food sector based on three issues: a) green production, such as organic certified food; b) respect of national and international labour and employment standards; and c) gender equality.

CENDA also recommends including the quick wins sector, defining it as the group of goods that already incorporate social and/or environmental criteria. The strategy for this sector includes the creation of a “Responsible procurement list” containing goods that fit into this category so that public institutions can incorporate them into their procurement process straightaway. Goods amenable to be included in the list are the following:

- recycled paper;
- low energy consumption home equipment;
- low energy consumption computers;
- low energy consumption lightning; and
- biodegradable washing products.

3. Challenges for SPP in Chile: themes coming out of the interviews and the workshop

3.1 Getting the message across to the government procurement personnel

In one interview the view was expressed that the procurement personnel in that institution would struggle to comprehend the terms and themes of “sustainable public procurement” to the extent that they might as well be in a foreign language. Public procurement officers are often non-technical and have a range of educational backgrounds; therefore it is important to keep guidance practical rather than theoretical.

Although the time and cost saving benefits brought by centralizing the procurement process in www.chilecompra.cl have been significant, the feeling is that procurement personnel are still short on time. For example, there is not time to check the sustainable policies and claims etc of all bidders.

It is clear that there is room for training in this area. As mentioned above the concept of whole-life costing has been touched on in training sessions run by Dirección de Compras y Contratación Pública and in the directive on EE.

3.2 Preparedness of the market

Various institutions expressed their concern regarding the preparedness of the Chilean market to respond to tenders with sustainability requirements. In some people’s opinions the government could be left without suppliers if specifications were too rigorous. It was also suggested that sustainability requirements would be off-putting especially for small and medium-sized enterprises (SMEs) – see comments below. In this respect, it was stressed that one of the main requirements prior to public institutions embarking in sustainable procurement initiatives relates to the development of detailed analysis of the national market potential for delivering the corresponding goods and services and the socio-economic impacts associated to implementing them.

Another issue related to the preparedness of the market signaled in the interviews was the relevance of having access to clear and transparent information about available sustainable goods and services. As the presence of sustainable certifications and labeling is currently in its infancy in Chile, moving ahead in these matters was indicated as a must for advancing in sustainable public procurement. One interviewee was so concerned with this issue that in his opinion if Chile does not progress in sustainable certifications and labeling, implementation of sustainable public procurement initiatives will never take place.

At the same time, few Chilean companies produce sustainability reports and there is generally a low level of awareness of sustainability issues. An example of this is in recycling infrastructure. There are very few opportunities to recycle. Therefore there is low awareness of the possibility of choosing goods made from recycled materials or even preferring recyclable goods.

3.3 Non-discrimination, non-arbitrariness. What are the objective tools available in Chile?

As set out above the law is clear that specifications must not be discriminatory nor create arbitrary differences between bidders. Further, due to the lack of time that procurement personnel can spend on any one tender, there need to be easy to use, quantifiable tools that they could use to establish whether “sustainability” specifications have been fulfilled. Unfortunately there are very few of such tools currently available in Chile. It seems that it is almost impossible even to check on compliance with laws (e.g. environmental or labour laws) unless you rely on records of convictions.

In this respect, out of the interviews came some ideas that might be useful when considering the use of objective criteria for assessing the sustainability of bidders:

- Have they been fined for environmental offence in last 2 years?

Currently environmental enforcement is relative weak in Chile and therefore not many companies have been fined when not complying with the law. Thus, using this criterion doesn't seem very practical. However, as the new environmental institutional structure being currently discussed is expected to put great emphasis in addressing this limitation, this criterion might become useful in the following years.

- Have they decreased their accident rate?

Figures are available for accident rates for each year. However, the accurateness of this indicator may vary from industry to industry.

- Up to date with social security payments?

Given that this is already an issue raised by the law following the January 2008 reforms, it would seem that this is data that is easily accessible. This would tie in with the amendment to Article 4 of the Law on Procurement.

- Ratio between the buyer's average wage and the legal minimum wage

This idea came from an interview with a state company and this indicator would probably not be suitable for central government. Once the ratio between the buyer's average wage and the legal minimum wage is established, then the supplier would be asked to at least replicate this. This might be a huge imposition on suppliers as for many of them it might be financially very difficult to replicate.

- Environmental/health and safety training hours

Bidders could be asked to provide this figure, but unless there is a way to check the response, and also to ensure the hours of training are properly carried out, then this might seem an arbitrary tool.

- Local suppliers

It is interesting to note that this is one of GRI's indicators (% of spend in area local to installation). Although having local suppliers has many potential logistical and environmental advantages, favouring local suppliers goes against the principles of transparency and non-discrimination. Nonetheless, developing local business is covered by sustainability principles. Chilecompra reports that in 2007 local suppliers were well represented in the procurement actions of their respective region, however, no figures are given. This may well be due to the geography of the country and therefore to logistical delivery issues and buyer-supplier confidence.

3.4 Small and Medium-sized enterprises

The Dirección de Compras y Contratación Pública are very proud that of the levels of participation of SMEs on www.chilecompra.com, currently accounting for approximately 35% of all public procurement. Thus, they would be concerned if the introduction of sustainability criteria would prejudice this state of affairs. Therefore, it would be important to ensure that any criteria chosen would not to discriminate against SMEs. For example, it was mentioned that requesting environmental management certification such as ISO 14001 would be discriminatory.

3.5 High level policy push – leadership is missing

Although Chile has a Sustainable Development Council (established in 1998 as an advisory body to the President) sustainability has not been high on the Chilean political agenda. It was felt that for the idea of sustainable public purchasing to really take hold there would need to be a push for it at a high level. Looking at the EE directive, it seems that the initiative took off because of government policy on EE.

Who would take the lead on sustainable public procurement? Logically it would need to be the Dirección de Compras y Contratación Pública as they are the organization at the centre of public procurement and would be able to coordinate a global approach rather than individual ministries starting separate initiatives. However, Dirección de Compras y Contratación Pública are a small organization within the Treasury and the feeling from interviews was that there needs to be a higher level commitment to sustainable public procurement before further movement within the Dirección de Compras y Contratación Pública is possible.

3.6 Economic impact

It is quite unlikely that sustainable public procurement initiatives are going to be implemented solely due to its contribution to sustainable development. In order to engage public institutions in this kind of initiatives it is necessary to demonstrate that sustainable procurement is beneficial not only in

social and environmental terms but also in relation to economic efficiency. As expressed by one interviewee, for sustainable public procurement initiatives to be implemented, they need to be aligned with diminishing both investment and consuming expenses of the implementing institution.

3.7 Lack of technical capacity

During the interviews it was stressed that a major constraint for putting into practice sustainable public procurement initiatives corresponds to the lack of technical capacity within public institutions for actually implementing them, one example being making energy efficient decisions. In this respect, it was suggested that a relevant contribution would be the development of guides for people in charge of public procurement that are simple, direct and fitted to the particular procurement characteristics of their institutions.

Thus, if an institution does not know how to procure in a sustainable manner, it would need to start with a guide describing the tools (checklist, simple assessments, support material, such as concrete examples of whole life costing calculations, etc.) needed for its implementing the corresponding process. If an institution knows how to do it but is unable due to lack of supply knowledge, it would need a guide that identifies the availability of the sustainable products and its prices. Finally, if an institution is already practicing sustainable procurement, a guide detailing tools that measure the corresponding impacts (savings, environmental improvements, process experiences, etc.) would be suitable.

Research capacity on SPP

RIDES early in the development of this project learnt of CENDA, a Chilean NGO (traditionally associated with left-wing parties) part of the Latin American PUENTES network of NGOs working on social responsibility issues. CENDA had recently developed a study on environmental public procurement. Given the overlap and the good quality of the work, RIDES approached CENDA and explored the possibility of collaboration between the organizations. Indeed, both organizations participated as speakers (together with a representative from Chilecompra) in a seminar organized by the Chilean Ministry of Labour. Given its contacts and experience in the subject (with the caveat that the main researcher that has developed the work on environmental public procurement has left the institution), CENDA will be a good contact for a potential second phase of the project.

4. Pilot project

4.1 General objective

The general objective of the pilot project would be to develop case studies that demonstrate the benefits and the concrete feasibility of the application of sustainable public procurement, and provide the tools for wider implementation.

4.2 Specific objectives

At the beginning of the implementation of the pilot project, the participating institution would have to define the main objectives they expect the project to achieve. Examples including the following:

- reduce procurement costs;
- create sustainability leadership;
- improve institutional image;
- comply with political objectives; and
- address social responsibility issues of the public sector.

A round of consultations would have to be conducted within the participating institutions, including the director in charge, the nominated project representative of the institution, and the head of administration and procurement. It is important to stress that the success of the project will greatly depend on a clear definition of these objectives, because it will allow not only a better coordination with the participating institution but also a precise orientation of the activities to be implemented.

4.3 Scope

In general terms, it is expected that the pilot project will work around two public institutions with diverse characteristics that have already manifested great interest in participating in the next step of the project (SERNAC and Chilean Army) and two issues (energy efficiency and documentation).

Institution 1: SERNAC

As the National Service for the Consumer (SERNAC) is the public body in charge of promoting, from the consumer end, sustainable consumption and production, it corresponds to a very suitable institution to initiate and lead sustainable procurement initiatives. At the same time, as SERNAC is a decentralized service, it allows a much more fluid access of sustainable procurement in its administrative procedures at both the regional and provincial level. Finally, as SERNAC is a medium size service, it facilitates the management of novel pilot projects.

Institution 2: Chilean Army

The Chilean Army is one of the largest public buyers in Chile and shows great leadership in social responsibility. At the same time, during the interviews it showed great interest in participating in the

implementation of pilot sustainable procurement practices. These issues make it an interesting institution for the pilot project. Moreover, the centralized management nature of this institution provides good conditions for implementing pilot projects as the one proposed by this initiative.

Issue 1: energy efficiency

During the interviews energy efficiency was identified as a concrete issue with important recent progress regarding implementation within the public sector. At the same time, being a rather recent issue, public institutions have identified a number of challenges concerning monitoring, availability of supplies, and necessity for capacity building. As the official directive for adopting energy efficiency practices is voluntary, public institutions will require strong support in order to implement it.

The following energy efficiency specific items are expected to be addressed by the pilot project:

- heating and cooling;
- lighting; and
- office equipments (specifically computers) .

Moreover, Guide N° 5, about “Compras a través de Convenio Marco”, of the Dirección de Compras y Contratación Pública, instructs that in case of bids of equal price, preference should be given to those offers producing with greater energy efficiency. In order to put this instruction in practice, there are indications that this body is currently working on a Guide that will allow public institutions to assess procurement offers in terms of energy efficiency.

More specifically, as part of its Social Responsibility program, and with the support of the Ministry of Energy, in June 2008 the Chilean Army took an important step towards materializing its compromise with energy efficiency by launching an Environmental and Energy Efficiency Centre. This initiative complements other energy efficiency efforts of the Army, such as pilot energy saving projects at two regiments and the development of resources and measures to implement solar energy systems in diverse locations across the country. In the case of SERNAC, it corresponds to a public institution that has given one of the strongest supports to the Energy Efficiency initiative of the State. It has published diverse brochures aimed at teaching consumers how to save energy at home and has compromised to tackle energy efficiency at all its facilities and operations.

Issue 2: documentation

The pilot project also proposes to address documentation practices, including the procurement of paper, printers and communication strategies. Paper was identified during the interviews as one of the most relevant procurement items and inputs from public institutions have stressed the need to rationalise their documentation practices.

Addressing documentation practices in the procurement strategies can have diverse applications,

such as:

- general documentation management;
- digitalization of official documents;
- buying of recycled and/or certified paper; and
- use of specific tools in web pages for reduced use of paper.

4.4 Activities

The pilot project would concentrate on and support the institutions in the following activities:

What might be achieved?

Identification of base line and definition of goals and indicators:

- establishment of base line for each good and service covered by the project (how are they currently procured?, how much is spent on them?, etc.) ;
- preliminary estimates of potential costs and benefits involved
- based on the baseline, definition of specific goals and indicators for each good and service covered by the project (measurable, temporally limited, and challenging but realistic).

How can it be achieved?

Elaboration of an Action Plan based on the following logic for each item covered by the project:

- if the institution does not know how to procure in a sustainable manner, a description and elaboration of the tools (checklist, simple assessments, support material, such as concrete examples of whole life costing calculations, etc.) needed for its implementation;
- analysis of the supply side, identifying whether there are limitations regarding availability of the sustainable products, and analyzing the prices of the products
- work with ChileCompra in order to adapt, if necessary, the catalogue of listed products for express procurement

At the same time, a simple guide with the following elements will be elaborated:

- the commitment of the institution with the objective of sustainable procurement and the pilot project;
- the details of the goals and indicators as established in 4.1.;
- a description of the measures and procedures for attaining the goals;
- a description of the responsibilities; and
- a timetable.

How can we monitor what is being achieved?

Suggestions on the monitoring of the implementation of the guide.

What can be learned from the pilot projects? How can it be replicated in other public services?

Dissemination of pilot project results and elaboration of a more universally applicable methodology for the two items included in the pilot project.

4.5 Assessment

The project would conclude with an assessment based on the expected benefits and costs for the institutions of implementing a wider and permanent sustainable procurement program, so that they are able to estimate the corresponding opportunities and risks of going further.

5. Conclusions

This report presents a brief assessment of the current level of sustainability incorporation in public procurement practices in Chile. It also analyses the main challenges in this area and provides some recommendations regarding the assistance needed to advance the implementation of sustainable public procurement initiatives in the country. Finally, it identifies two public institutions willing to participate in a pilot project directed at both assessing the concrete benefits and challenges of applying sustainable procurement processes, and disseminating the corresponding results among the rest of the Chilean public institutions.

One major finding is that while in general terms the use of sustainable (social and/or environmental) criteria in procuring is not a widespread phenomenon in Chilean public institutions, requirements concerning the incorporation of social criteria are nevertheless much more common than those addressing environmental issues. On the social side, there are obligatory requirements, such as respecting employee and trade union rights and not having pending social security payments, and voluntary ones, such as Codelco's demand on suppliers regarding the compliance with labor ethic standards and the Army's decision to stop buying Coca Cola zero due to the presence of a carcinogenic sweetener in the drink. On the environmental front, the major initiative is the voluntary official directive for adopting energy efficiency practices in public institutions.

Concerning the principal challenges for implementing sustainable public procurements initiatives in Chile, the interviews provided a rich source of information. Among various identified challenges, one of the most mentioned was the lack of knowledge about the preparedness of the Chilean market to supply sustainability goods and services and the rather modest presence of sustainable certifications and labeling. Other significant challenges were associated to the absence of objective tools or criteria for assessing the sustainability of the goods and services offered by suppliers, the impact that introducing sustainability criteria would have on SMEs currently supplying the public sector, the need to demonstrate that sustainable procurement produces investment and consuming savings, and the lack of technical capacity within public institutions to successfully apply sustainable procurement processes.

In order to begin addressing these challenges, this work proposes the implementation of a pilot project on sustainable public procurement covering issues associated to energy efficiency and documentation in two public institutions: SERNAC and the Chilean Army. The materialization of this project would permit not only the identification of major benefits and barriers faced by these institutions when actually implementing sustainable procurement initiatives, but also the diffusion of this information so that other public bodies might assess the possibility of emulating them based on more solid data.

References

- CODELCO, 2004. Estándares Corporativos de Seguridad, Salud Ocupacional, Medio Ambiente y Calidad para Empresas Contratistas. Gerencia Corporativa de Abastecimiento, Corporación Nacional del Cobre de Chile, Santiago.
http://www.codelco.cl/areas_negocio/abastecimiento/documentos/GCAB_A_103_BT_CMASySO_2.pdf
- Dirección de Compras y Contratación Pública, 2006a. Directiva N°4: Estándares de Transparencia. Ministerio de Hacienda, Santiago.
http://www.chilecompra.cl/secciones/legal/Leycompras/Circ_04_Estandares_de_Transparencia_2006.pdf
- Dirección de Compras y Contratación Pública, 2006b. Directiva N°5: Compras a través de Convenio Marco. Ministerio de Hacienda, Santiago.
http://www.chilecompra.cl/secciones/legal/Leycompras/DirectivaN5_ConveniosMarco.pdf
- Dirección de Compras y Contratación Pública, 2007a. Informe de Gestión ChileCompra Balance Año 2007. Ministerio de Hacienda, Santiago.
http://www.chilecompra.cl/secciones/gestion_y_estudios/documentos/informegestion/Balance_ChileCompra_2007.pdf
- Dirección de Compras y Contratación Pública, 2007b. Guías Prácticas de Gestión de Abastecimiento. Ministerio de Hacienda, Santiago.
<http://www.chilecompra.cl/secciones/formacion/documentos/guias-practicas-html/pdf/metaguia.pdf>
- Dirección de Compras y Contratación Pública, 2007c. Plan Anual de Compras Año 2008: Guía de Apoyo. Ministerio de Hacienda, Santiago. (
http://www.chilecompra.cl/secciones/plan_de_compras/images/GuiaPlandeCompras2008.pdf)
- Dirección de Compras y Contratación Pública, 2008a. Directiva de Contratación Pública N° 9: Instrucciones para la Contratación de Bienes y Servicios Incorporando Criterios de Eficiencia Energética. Ministerio de Hacienda, Santiago.
http://www.chilecompra.cl/secciones/legal/documentos/Directiva_N_9_energia.pdf
- Dirección de Compras y Contratación Pública, 2008b. Directiva de Contratación Pública N° 8: Instrucciones para la Contratación de Bienes y Servicios Relacionados con Tecnologías de la Información y Comunicaciones. Ministerio de Hacienda, Santiago.
http://www.chilecompra.cl/secciones/legal/documentos/Directiva_N_8_Contratacion_TICs.pdf
- Ejército de Chile, 2007. Reporte de Responsabilidad Social del Ejército 2006 – 2007. Ejército de Chile,

Santiago. (<http://www.ejercito.cl/reporte.php?PHPSESSID=5e305e860a72e25207c805efa9a4f73e>)

Madariaga, A. 2008. El Estado y la Responsabilidad Social: Estrategia de Incorporación de Criterios de Responsabilidad Social y Ambiental en las Compras Públicas. CENDA, Santiago.
(<http://cendachile.cl/files/doc.%20estado%20final.pdf>)

Ministerio de Hacienda, 2003. Ley N. 19.886 de Bases Sobre Contratos Administrativos de Suministro y Prestación de Servicios. Ministerio de Hacienda, Santiago.
(http://www.chilecompra.cl/secciones/legal/leycompras/Ley_reglamento.pdf)

Ministerio de Hacienda, 2004. Reglamento de la Ley de Compras Públicas N° 19.886. Ministerio de Hacienda, Santiago. (<http://www.chilecompra.cl/secciones/legal/leycompras/decreto250.pdf>)

Annex I: Stakeholders workshop

With the main objective of presenting, sharing and discussing the results obtained from the individual interviews, on the 11th of July a workshop took place in Santiago. At the same time the workshop was used to identify potential pilot projects for the second phase of the more general SPP project in Chile.

The workshop lasted two and a half hours and was structured in the following way:

- welcome and workshop objectives;
- presentation of participants;
- what do we know about SPP in Chile?
 - presentation of the interviews results by Hernán Blanco from RIDES;
 - presentation of the document “El Estado y la Responsabilidad Social” by Aldo Madariaga from CENDA;
- discussion.

Although the discussion had an open character so that participants felt able to express their views on whatever topics they felt it was needed, four questions were explicitly put forward in order to provide some structure:

- how much SPP is happening in Chile?
 - how can we secure the implementation of good practices?
 - how are they being monitored?
- which are the main opportunities and challenges?
 - institutions
 - products
- what is needed in order to progress more quickly?
 - leading institutions
 - resources
 - legislation
 - etc.
- where are the main opportunities for implementing pilot SPP projects?

The main inputs coming from the discussion are integrated in section three of this report “Challenges for SPP in Chile: themes coming out of the interviews and the workshop”.

The list of those who attended the workshop is next:

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