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## **SUSTAINABLE PUBLIC PROCUREMENT: A NEW POLICY PARADIGM IN FRANCE?**

Ronan Le Velly

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**ABSTRACT.** The purpose of this paper is to explore the “new paradigm” of sustainable public procurement in France, that is, its cognitive and normative frameworks. Firstly, the author shows that the newness of this paradigm has to do with the identification of sustainable procurement as a stake in its own right. Next, he shows that the good practices associated with sustainable procurement are also new (close relationships with suppliers, systematic thought about what is needed, innovative methods of computation). Secondly, the author specifies the content of the sustainable procurement paradigm. He distinguishes three types of justification that he calls “doubly winning purchasing”, “overall winning purchasing”, and “morally responsible purchasing”, associated with three good practice models incarnated in the figures of the buyer, the expert, and the citizen. Based on this work, he describes a lack in the normative literature on sustainable procurement and pleads in favor of testing deliberative decision-making schemes.

### **INTRODUCTION**

During a meeting of the French network of local administrations involved in sustainable public procurement initiatives that took place in 2007 Jérôme Grand d’Esnon, then director of legal affairs in the French Ministry of the Economy, stated, “...the issue of sustainable development has triggered a philosophical revolution in public procurement in Europe” (Inter-réseaux Commande Publique et Développement Durable, 2007, p. 26) Similarly, Jean-Baptiste de Foucauld, also a high civil servant in this same ministry, wrote in the introduction to a guide to integration clauses, “the spirit of the public procurement contracts code has changed, and now provides a framework enabling public purchasers to assume their responsibilities to the full” (Observatoire Economique de l’Achat Public, 2007, p. 7). Speaking of a “philosophical revolution” or a change in the “spirit of the code” is tantamount to emphasizing the

changes in the cognitive and normative frameworks of public policy that sociologists call “policy paradigms” (Hall, 1993).

So, has a new public procurement paradigm that allows for sustainable development demands emerged? One must be cautious when tackling such a question. First of all, we should ask ourselves to what extent these statements are made by experts who are outside the arena or by parties that are also involved in the issues that they describe. Jérôme Grand d’Esnon is generally considered to be the author of the new versions of the French Public Procurement Code that were published in 2004 and 2006 and, as we shall say, played a decisive role in institutionalizing sustainable public procurement. As for Jean-Baptiste de Foucauld, it is largely under his impetus that the various departments of the French government began considering drafting integration clauses in their procurement contracts and the officials of the Ministry of the Economy began thinking systematically about this issue.

Next, it is tempting to underline that the behavioral norms associated today with sustainable public procurement are not all that new. First, distant historical precedents in both practices and regulatory frameworks could very well be associated with the idea of “responsible” public procurement. Christopher McCrudden (2007) describes several that go back to the 19<sup>th</sup> century, and there is no doubt that historians will not fail to detect others, just as they’ve already done when it comes to responsible household consumption (Chatriot et al., 2006). Second, the statements that I just quoted may tend to hide the fact that certain initiatives that today are associated with the expression “sustainable public procurement” are already some fifteen or twenty years old. The Court of Justice of the European Communities had judged, for example, in 1988 already that integration clauses could be included in contract performance clauses. Similarly, the responsible consumption of public players was already included in Agenda 21’s list of actions, which was drawn up at the Rio Conference in 1992.

A last argument forces us to doubt the existence of a “new paradigm” of sustainable public procurement, namely, to which development model does such a paradigm refer? Whilst sustainable development could be described through its difference from other “non-sustainable” development models, social science research has underlined above all that the concept itself is the subject of dissension. Several notions of sustainability have been advanced. They maintain various distances from productivist models and have various degrees of attachment to humans or nature, various degrees of Western-centeredness, etc. (Jacobs, 1999; Sachs, 2000). Sustainable development can thus seem to be too fuzzy a reference on which to found an overhauled public procurement paradigm.

These analytical precautions lead me to ask two questions: (1) What new development and (2) what paradigm are associated with sustainable procurement? In this article I shall answer these two questions by putting forward two theses. Firstly, I shall show that, despite the legitimate doubts that have just been expressed, there is indeed something new in the idea of sustainable procurement. I shall explain that this has to do first of all with the fact that sustainable procurement today is identified as a stake in its own right that is both a specific strand within sustainable development policies and pulls together causes that until now had followed parallel tracks. In addition, we shall see that when the players describe good sustainable procurement practices, they support the finding that these good practices are completely out of line with the ways in which public procurement usually works. Secondly, I shall show that the sustainable procurement paradigm connects up various notions of what is desirable. In so doing, this article reproduces the classic finding of the variety of orientations that are prescribed in the name of sustainable development. Yet I believe that this finding is usefully illustrated by the case of procurement. By adopting a highly inductive research approach, I shall single out three justifications that are generally put forward and that I shall call “doubly winning purchasing”, “globally winning purchasing” and “morally responsible purchasing”, associated with three good practice models incarnated in the figures of the buyer, the expert, and the citizen. Based on this work I shall then show what in my view appears to be a lack in the institutional and normative literature on sustainable procurement and shall plead in favor of testing deliberative decision-making schemes.

## **METHODS**

Before developing all these elements, I must specify that this work does not at all intend to take stock of actual practices in the field or to gauge the magnitude of public procurement’s conversion to sustainable development imperatives. On this point, I refer the reader to the first publications on this subject and the figures that they put forward on the basis of either public entities’ answers to questionnaires or analyses of samples of government calls for tenders (Bouwer et al., 2005; Nissinen et al., 2009; Prenen, 2008; PricewaterhouseCoopers et al., 2009). The aim of this article is different. Here I observe the nature of the “new paradigm” of sustainable public procurement, that is, its cognitive and normative frameworks.

To do that, I read some ninety documents drafted by various French entities (local governments, NGOs, government agencies, etc.) and

international organizations (United Nations, European Commission, OECD, networks of local governments, etc.). These documents consist of regulations, guides, manuals, reports, reports on experiences, and so on. What they have in common is that they all present possible and good sustainable public procurement practices. I have collected them on the internet sites of the organizations that published them, with no specific selection, as long as they were dealing with the general topic of sustainable procurement or with a particular part of it. Bibliographic references given by these documents or links to other organizations' websites have progressively been redundant. So, the qualitative analysis of documents I propose in this paper claims to be based on a relatively exhaustive corpus of the normative documents drafted by French and international organizations until the beginning of 2010.

I shall also dip into my observation of the *Réseau Grand Ouest Commande Publique et Développement Durable* or "RGO" (Great West Public Procurement and Sustainable Development Network), which I have been following since the end of 2008. This network currently brings together more than ninety local governments in western France. The RGO is not a place where sustainable public procurement is practiced, but a forum for exchange and thought about the subject. As such, observing it enables one to learn more as well about its associated frameworks of thought.

Finally, I conducted twelve semi-directive interviews in 2009, for the most part of elected officials and staff of Nantes's town hall, which enabled me to clarify several elements that I develop in this article.

## **AN ISSUE IN ITS OWN RIGHT**

### **A specific issue within public sustainable development policies**

The idea of responsible consumption by government entities is doubtless as old as that of sustainable development. So, this point can be discerned in the actions included in Agenda 21, which the United Nations drew up in 1992. The same applies to many of the local Agenda 21s that local governments have drafted since the mid-1990s and the European and French Sustainable Development Strategy as of their very first versions, in 2001 and 2003, respectively. Yet, although these documents identify public procurement as possible levers of sustainable development, these levers remain just one set amongst many. For example, if we look at the United Nations' document, this point as such can be estimated to cover no more than one page of a total of 350 pages of hard copy.

In France, a first movement has gradually been getting people to consider sustainable procurement to be a stake in its own right. This

movement is that of the identification of the special problem of sustainable procurement in public sustainable development policies. Such a movement is indeed visible through the drafting of the National Action Plan for Sustainable Procurement in 2007. On the one hand, this plan explicitly comes under the National Sustainable Development Strategy. But on the other hand, it spells out very broadly the specific stakes riding on public procurement, and offers a true roadmap, thereby justifying and identifying the actions to carry out. Another illustration of this movement can be found in the city of Nantes. In 2008 the city created the position of “sustainable procurement” task officer attached to the municipal Public Procurement Office. Once again, on the one hand, this event could not be considered breaks with past policy, for it is squarely in line with action that Nantes had been carrying out for the past ten years or so. But on the other hand, the creation of this position attests to increased recognition that today sustainable procurement is an objective in its own right.

The changes that have occurred in public procurement rules, particularly in the two EU Directives of 2004 (European Commission, 2004; McCrudden, 2007) and the 2004 and 2006 revisions of the French Public Procurement Code (MINEFI 2004, 2006), also illustrate the increased attention paid to the matter of sustainable procurement today. Article 6 of the French PPC of 2006 thus stipulates, “...the nature and extent of the needs to meet are determined [...] by taking account of sustainable development objectives”. Upon its publication, this article triggered questions as to whether including sustainable development considerations in the terms of all public procurement contracts was compulsory. However, even in the absence of such an obligation, this change in the code was a very strong invitation for all parties to public procurement, on the supply and demand sides alike, to question their own practices. From this standpoint, the 2006 reform may be examined in terms of the legal reassurance that it created (notably through the inclusion of social considerations in the tender evaluation criteria), but also in terms of the symbolic interpellation that it triggered.

### **A stake at the intersection of heretofore parallel causes**

A second way to account for the genesis of the “sustainable procurement” stake is to underline that this term refers to various approaches that until now followed parallel courses. In France, for example, until around 2005 one spoke not of “sustainable procurement” but rather, depending on the case, of “the social clause”, “fair procurement”, “ethical procurement”, “green procurement”, and so on. Each of these approaches has its own history, which arose around specific players, socio-economic areas, and stakes. For example, the first experiments aimed at including

social clauses requiring the hiring of a percentage of the long-term unemployed in public works contracts were conducted by the local government employment and placement offices (*Maisons de l'Emploi, Plans Locaux Pour l'Insertion et l'Emploi*) and integration structures (France's so-called “*entreprises d'insertion*”, sheltered work centers for people with disabilities) starting in the mid-1990s. Other forms of social cause that were aimed at producers and workers in the Southern Hemisphere were promoted in parallel by fair trade organizations (*Artisans du Monde* and *Max Havelaar France*) starting in the early 2000s. At the time, they triggered favorable resonance amongst local government forces, notably the members of *Cités Unies France*, as forms of “decentralized co-operation” with towns of the South. Other approaches were also developed throughout this period around various environmental entry points (organic agriculture, tropical wood, energy efficiency, etc.). In such cases they involved a wide range of environmental organizations and official players, with the French Ministry of Ecology leading the pack.

A second movement creating a focus on “sustainable procurement” was the regrouping of these various approaches under the sustainable procurement umbrella. This second movement has definitely not ended. For all that, it is easy to observe. The PPC of 2006 explicitly put social and environmental considerations on equal footing. It is written, for example, that performance clauses “may contain elements of a social or environmental nature that allow for sustainable development objectives by reconciling economic development, environmental protection and development, and social advancement” (Article 14) and performances “in the area of environmental protection” and “in the area of getting groups in difficulty into employment” alike may be criteria for selecting tenders and awarding contracts (Article 53). Such equivalent status is new. Previously, the changes in French public procurement law were made separately, depending upon whether they concerned environmental or social issues.

The working of an organization such as RGO must also be examined in light of this movement of bringing together heretofore-separate causes. The local governments that are members of this network organize their work in thematic groups dedicated not to one cause (such as fair trade or organic agriculture), but to sets of goods or services (cleaning products, garments, and restaurant services, for example), for which they scan the entire range of sustainable development goals. For example, the Textiles working group that met in 2007/08 explored both environmental issues (organic cotton, impacts of dyeing processes, etc.) and socio-economic issues (fair

cotton, the social responsibility of garment companies, etc.) associated with this type of purchase.

### **Interim results**

Sustainable procurement is a new label born of the identification of certain actions within sustainable development policies and their rapprochement under a common name. It is tempting to see in this merely a renaming of existing policies. So be it, but we also know the considerable weight that symbolic labeling processes have on the public policy's organization. So, even though it is highly possible that the recognition of this issue will make it an increasingly unavoidable component of public sustainable development policies, other effects are not impossible. This is felt particularly strongly by the promoters of specific causes who currently find themselves connected to the general idea of sustainable procurement. For example, the French entities involved in socio-economic integration sometimes fear that their approach will lose its dynamism once it is diluted in a set that includes environmental as well as other socio-economic themes (fair trade and corporate social responsibility). In their view, this trend is all the more alarming in that environmental clauses appear to be much easier to implement than social clauses, notably because they benefit from labels and official standards that do not exist for social clauses. In the same vein, what should one think of the creation by Nantes's municipal administration of a "sustainable procurement" task officer for the Public Procurement Office? On the one hand, it might seem to be a propitious way to spread practices. However, on the other hand, during interviews that I conducted, some people feared that Agenda 21's moorings were being stretched too far and this initiative would also induce a focus on budgetary rationalization.

Behind these questions lurks a fundamental problem to which I am now coming, namely, several notions of what is desirable are associated with the idea of sustainable procurement. What arguments are put forward in favor of sustainable procurement? What practices must be preferred? A manual coding of the information stemming from my qualitative analysis of documents, direct observations and semi-directive interviews suggests me that it is possible to identify three typical answers to these questions. Then, in the foregoing parts, I shall distinguish three justifications of sustainable procurement that I shall call "doubly winning purchasing", "overall winning purchasing", and "morally responsible purchasing".



## DOUBLY WINNING PURCHASING

### Definition and scope

The idea of doubly winning purchasing is public procurement that is beneficial not only in social and/or environmental terms, but also in terms of cost. This first justification of sustainable procurement is the one seen most often in normative frameworks, especially in the documents put out by France's national institutions. The idea has been developed very recurrently in the thematic guides published since 2005 by the sustainable development contract study group GEM DD (*Groupe d'Etude des Marchés Développement Durable*) under the Public Procurement Economic Observatory (*Observatoire Economique de l'Achat Public*), which is an organization accountable to the Ministry of the Economy. It also dominates the conclusions of the sustainable procurement working party that met in 2007 as part of the vast national consultation about the environment known as the *Grenelle de l'environnement* and which culminated in the Prime Minister's circular *Etat exemplaire* (Exemplary State) of 3 December 2008. It also crops up in many places in the text of the National Action Plan for Sustainable procurement.

To prove the existence of these double benefits, these documents usually refer to an example, with a cognitive as well as normative purpose. As proof of the creation of a common culture on the subject, the success stories put forward are often the same, including in the handbooks published by such international bodies as ICLEI, the OECD, and the European Commission. The majority of the illustrations refer to energy efficiency initiatives (regarding buildings, computers, lighting, and so on), which procure both economic and ecological advantages. However, such reasoning is also applied to the social dimensions, when, for example, it is argued that the savings in unemployment payments can offset the additional costs that are linked to the inclusion of an integration clause in public works contracts.

### The buyer

This first perspective assigns an important role to the experts, notably to calculate the total costs induced by various types of procurement (I shall come back to this in next section). However, it is also intertwined with a special rationale of action that is incarnated by "the buyer". Before explaining this point, let me underline the fact that this presence of purchasing professionals in French public administrations is of relatively recent onset. It began in the early years of this century in the bigger local governments and is far from common in the French government's departments. The hiring of these buyers meets a desire for efficiency that was also expressed

during the 2001 reform of the country's public procurement code, that officialised the replacement of automatic awarding of contracts to the lowest bidder with tendering procedures aimed at selecting "the economically most advantageous bid" based on price and other criteria set according to the purpose of the contract.

In the first part of the 2000's, in European countries' regulations and policies, this search for "best value for money" has progressively been interpreted to be compatible with the pursuit of sustainable development objectives (McCrudden, 2007; Morgan, 2007). Similarly, the French documents that I examined describe the buyer as having a central role in this search for the economically most advantageous bid, especially given the pursuit of sustainable development objectives. His/her first function concerns evaluating the real needs as closely as possible. To do this, the buyer must meet the users in the various departments, ask them about their work, and get them to reconsider some of their habits. The aim is to scale the needs that are expressed in the call for tenders correctly in terms of their technical features and the amounts ordered. This perspective is also closely intertwined with the plan to eradicate wasteful behavior. The arguments invoked to achieve such changes identify many developments, such as replacing car travel with videoconferencing, printing recto-verso, and using just the right amounts of cleaning products. It is then assumed that the buyer has close relations with the suppliers in order to know the existing supply and to draft calls for tenders that take account of this, firstly to take advantage of ongoing technological or organizational innovations, secondly to be able to put the suppliers in a truly competitive situation. This sourcing function is put forward particularly well in a speech by Jérôme Grand d'Esnon, the "father" of the 2006 reform of France's Public Procurement Code:

"We must stop believing that good public procurement is blind procurement in which the public buyer knows nothing and no one, publicizes its needs, opens the envelopes, and sees the miracle solution pop out. This is not true; it has never been true. A good buyer knows his market; a good buyer goes out to see the various enterprises and keeps abreast of technological and environmental innovations" (Inter-réseaux Commande Publique et Développement Durable, 2007, p. 26)

These sourcing functions, which are not assumed to be filled by the stock managers or the lawyers who are in charge of drawing up the calls for tenders, attest clearly to the buyer's specific role. They are also a sign of the far-reaching changes that are occurring in the ways that public procurement contracts are awarded, the sign of a gradual transition from a culture of rules and anonymity to a culture of

bargaining and relationships. From this standpoint, the buyer's good practices do contain something new, but this new development is not attached solely to the sustainable procurement paradigm. It must be linked, as we have seen, to the more general plan of increasing the efficiency of public procurement, even to an even larger movement of distancing oneself from bureaucratic regulatory schemes (Boltanski and Chiapello, 2005).

### **Difficulties**

Implementing such a program of action is not obvious. Without going into the details of what would be more in line with the findings of an in-depth field survey, we can deduce some difficulties almost as a matter of logic from the preceding normative framework. First of all, even if the reference to sustainable development may be a factor of involvement, there is no guarantee that the staff in the departments will commit to programs aimed at changing their behavior and reducing their orders. Now, without their participation, the purchasing officials cannot estimate the departments' real needs correctly. Next, a large part of the buyer's work consists in getting a better grasp of the available supply. Given the extremely broad range of purchases that they make, from school busses to paper and pencils, such a job specification can prove to be mission impossible. Finally, the desired products may sometimes be proposed by too few suppliers to generate true competition. The lack of a supply in such cases means, once again, challenging the hypothesis that it is possible to have sustainable public procurement whilst keeping prices down.

## **OVERALL WINNING PURCHASING**

### **Definition and scope**

All of the strategies associated with sustainable procurement cannot be covered by the first justification, simply because they are more costly, even if one takes account of all of the costs linked to their use and tries to redefine needs and behaviors. The case of organic agricultural commodities is exemplary in this regard. Promoters of organic agriculture regularly put forward the claim that to control the additional costs entailed by switching organic operations, one must change certain behaviors (reduce portions, replace animal protein with vegetable protein, prefer products in season, and so on). However, to listen to how cafeteria managers I met tell it, huge efforts in this direction have already been made and the additional costs are usually too high to be able to be offset in this way. A second justification, which I call "overall winning purchasing", can then be identified. To present it, we can refer to a quote from an

OECD publication on “green” public procurement, the logic of which can be extended to all sustainable procurement. In this publication, Donald Marron writes,

“Some policies [...] are often described as “win-win” since they lead not only to environmental improvement but also to improved government efficiency. Such policies should clearly be encouraged, with policy analysis focusing on identifying and implementing these opportunities. Other green public procurement policies, however, are designed to improve environmental performance even if it increases government costs or reduces operating performance. Such “win-lose” policies require closer scrutiny to ensure that increased costs for the government are justified by the resulting environmental benefits.” (Marron, 2003, p. 21)

In line with conventional economic reasoning, a sustainable public procurement contract is then desirable if its overall outcome is winning, that is to say, if the wins for society and the environment outweigh the additional economic costs that it engenders. According to such reasoning, buying organic agricultural commodities will be evaluated in light of the purchase’s associated gains for the entire community in terms of less soil and water pollution, even better health. In the same way, the additional costs linked to the introduction of integration clauses will be justified not only by the financial savings that the various government administrations will reap, but also by the social benefits to which they will lead for the entire community, *e.g.*, social cohesion, poverty reduction, and so on.

### **The expert**

The justification of the overall winning purchasing leads us to put forward a second figure of good practices, those embodied in “the expert”. The expert to whom I am referring can be an economist, accountant, biologist, engineer, etc. The main thing is that he or she must be a professional at computation. Specifically, the expert is assumed to broaden the usual computational frameworks in order to take account of the reality of public procurement's effects. As in the previous case of the buyer's good practices, we can consider the figure of the expert to be a sign of the newness of the normative framework associated with sustainable procurement.

The logic of the expert might have already been presented in the presentation of the first justification. In this case, the importance lies in searching for a complete appraisal of the financial costs that the purchase engenders. Such an action means expanding the computational framework in two directions: First, by adopting a life cycle cost approach, the expert extends the computation's temporal horizon to take account of not only the purchase costs, but the

utilization, maintenance, and disposal costs as well. Second, the expert shifts the computational framework by separating it from the existing budgetary units and centers of responsibility in order to evaluate the purchase's overall cost for the public administration as a whole.

In the case of overall winning procurement, the computational framework is broadened even more. First of all, the purchase's external effects are evaluated not just for the public administrations, but also more generally for all of the community's members. Second, the computation allows for the social and environmental effects that are linked to the purchase by assigning monetary values to them. These two extensions make radical breaks with the usual computational frameworks of public procurement. We can even say that the expert's logic is totally divorced from the political, administrative, and budgetary realities according to which public spending is usually considered.

This last finding intimates that applying the expert's logic will not be easy. That is true. For example, how does one avoid a situation in which an elected official limits government building insulation investments so as not to increase the local government debt during his/her term in office? However, rather than expanding upon this idea, we can point out that this logic's application can be imposed, either by invoicing externalities in the form of taxes, or by requiring that the amounts corresponding to all externalities should be taken into account in the tendering process. The European Union chose the second solution to promote the purchasing of more energy efficient and less polluting road transport vehicles. In the coming years, all public procurement of cars, trucks or buses will have to allow for not just the purchase prices, but also energy consumption, CO<sub>2</sub> emissions, and certain pollutants (NO<sub>x</sub>, NMHC, and particles). Directive 2009/33/EC thus announces a harmonized computational method that will make it possible to assign a theoretical monetary value to the various bids upon which all government buyers will have to base their calculations (European Commission, 2009).

### **Difficulties**

This regulatory innovation must not, however, be the tree that hides the forest. On the contrary, it even illustrates the importance of the long socio-technical network that is necessary to calculate (Latour, 1987). To be able to assess the winning or losing natures of their purchases, government bodies need loads of information. Some of this information must be found internally, other bits are supplied by the manufacturers, and still others may be obtained from specialized bodies. However, the information tends to be full of holes in respect of a number of points. In the area of the environment, research

indicates that even before one can envision setting monetary values to the various externalities, baseline information about the ecological impacts of public procurement contracts is lacking (Oosterhuis, 2003). In addition, one must understand that such computations are easily subject to controversy, so difficult is it to stabilize the definition of what must be taken into account, as well as the highly contested validity of the assessment methods used to determine these elements' monetary values (Lele and Norgaard, 1996). In actual fact, the justification of an overall winning purchasing is then often mobilized only as a rhetorical argument or intuitively, but without any true evaluation by an expert.

## **MORALLY RESPONSIBLE PURCHASING**

### **Definition and scope**

The realization that evaluation of the overall effects of sustainable procurement is far from systematic leads us to consider a third justification. In commenting on this state of affairs, Renatta Siemens stresses that the procedures concerned are still recent, the available data and technical assessments are very incomplete, but also, “Green public procurement is not controversial, and therefore, not heavily scrutinised. [...] Because it is the 'right thing to do', the impetus for evaluations may not be strong.” (Siemens, 2003, page 77). A sustainable procurement contract may be desirable because one is trying to behave responsibly in light of moral rules or because one is pursuing sustainable development values for their own sake. This is the type of justification that I call “morally responsible purchasing”. So, in a guide written by the Rhone-Alps region's promoters of fair trade, organic agriculture, and local agriculture, public players are made to face their responsibilities:

Why provide meals with a civic bent? By including organic produce, produce from quality local farms, and fair trade produce in meals, you act concretely for more civic-minded meal services. These three major families of products carry major common values. [...] Buying local, organic, and fair trade commodities guarantees the continuation of agriculture on a human scale in the country but also in the countries of the South. Indeed, fair trade products guarantee a fair wage for the work of the most underprivileged producers and craftspeople, thereby enabling them to meet their basic needs and upholding their basic human rights. By buying local products, whether they are organic or not, you enable the farmers in your area to earn a living. [...] Maintaining living conditions: The presence of dynamic farms makes it possible to keep a rural fabric in the countryside and

guarantee “tolerable” living conditions by maintaining open spaces in peri-urban zones.” (Equisol et al., 2007, p. 6)

Upholding fundamental rights and meeting basic needs, preserving natural environments and biodiversity, solidarity and fairness, etc. – transcribing these values according to a monetary standard in order to include them in a computation is obviously problematic. How does one evaluate justice or the observance of human rights? This is much more difficult than assigning a monetary value to the slightest source of water pollution. Similarly, up to what point does it make sense for a local government to include the development of Third World small farmers in its computational framework? It is even less obvious than considering the integration of the long-term unemployed in its entire labor repository. In addition, the search for a monetary evaluation is in any event controvertible, given the feeling of the incommensurability of the pursued value. Seen from this standpoint, the computations specific to the first two justifications thus have no reason for being. The justification of morally responsible buying has to do with value-related action (*Wertrational*) and substantive rationality, when the first two refer to a rational action in relation to a goal (*Zweckrational*) and a formal rationality (Weber, 1978).

### **The citizen**

Talking about a civic-minded approach or citizen action already makes sense for the first two justifications that I identified. So, if by this term we simply target the existence of collective and civic imperatives, we can only confirm their presence in the first two justifications around the social and environmental stakes riding on sustainable development, but also as regards the good management of public monies. The figure of “the citizen” that I refer to in this section has a more restricted meaning. It refers to the idea of a moral responsibility to pursue incommensurable values for their own sakes. This decision thus entails ranking and arbitrating amongst these values. As Blake Ratner (2004) explains perfectly, as soon as there is no possibility of agreeing upon a “technical consensus”, then implementing policies aimed at sustainable development requires resorting to “dialogues of values”.

Such “dialogues of values” are frequent. The people in charge of public procurement must cope with a host of requirements. For instance, in the discussions about purchasing textiles that went on within RGO, it appeared that at least five very different imperatives could be met: those of health, environmental protection, the producers’ development, workers’ rights, and capping spending. The suppliers’ bids are unequally demanding with regard to these different points and it is difficult to meet them all simultaneously.

Similarly, in this excerpt from a guide put out by a large Burgundian environmentalist association, it appears that the choice of recycled paper cannot be taken for granted, and buying virgin paper can also dovetail with a sustainable development approach:

“Recycled or virgin paper? There is no dogmatic position on the choice between using (1) recycled paper, which has the advantage of offering economic outlets for the recycling industries and leading to energy savings (it takes half as much energy to make paper from old paper than from wood) or (2) virgin paper, which in our part of the world in particular provides indispensable support for forest development by creating a market for the thinned wood that necessarily attends the production of timber for construction.” (Alterre Bourgogne, 2006, p. 24)

I previously explained that the notion of sustainable procurement covered causes that in the past were championed by parallel movements. Through the foregoing examples we now see that while implementing this sustainable procurement does indeed get one to consider these various causes simultaneously, it does not at all mean that they will all be given the same amount of attention. It is thus necessary to spell out the good practices that should be associated with such arbitration amongst values. The problem is that the ninety-odd handbooks and other normative materials devoted to sustainable procurement that I consulted give absolutely no guidelines for progress in this respect. As much as the figures of the buyer and expert are fleshed out in conjunction with a globally or overall winning purchasing justification, details in terms of good practices for the morally responsible purchasing justification are just as lacking.

### **Difficulties**

Research into sustainable development offers an interesting avenue in this regard. Based on the ascertained limits of both technical expertise and representative democracy, many researchers plead in favor of forms of “dialogical”, “discursive”, or “deliberative” democracy (Callon et al., 2009 ; Meadowcroft, 2004 ; Sneddon et al., 2006). The qualities of such democracy, it is maintained, are openness to all stakeholders, solid debate, collective learning, and the search for consensus and the common weal. Unfortunately, it seems that the arbitration done in actual sustainable procurement practice rarely dovetails with such an ideal. A “pragmatic” attitude that is often expressed by the parties involved consists in turning to the sustainable bids that are already well established and consequently preferring the sustainable development dimensions that are the most immediately within reach. A second interesting situation can be seen



when officials who are given a choice act according to their personal sensitivities. A given central kitchen manager will make all efforts to get fair trade products, whereas another will give priority to organic agriculture, and so on. Finally, the absence of the citizen's arbitration between values is seen when the first two justifications for sustainable procurement alone are expressed. In particular, thinking that sustainable procurement must necessarily be done at a constant cost excludes a whole series of approaches that could be defended in the wake of a "dialogue of values"

What deliberative processes could then be set up to organize "dialogues of values" specific to morally responsible buying? There obviously exists no one scheme that fits all situations, but I believe that whatever scheme is used should guarantee the satisfaction of at least two conditions: Firstly, the conditions for dialogue between public procurement officials and experts should be created so that the latter's knowledge can arm the former's deliberations. The idea of a civic-minded attitude such as I defend in this section is definitely not one of blind moral responsibility. It assumes that the elected officials or managers of public procurement back up their choices with solid foundations. As the encouraging results of an experiment along these lines show (Swanson et al., 2005), collaborating with scientists from different fields can help to identify and rank the relevant stakes riding on procurement choices and provide references about the effects of possible actions. Secondly, one must report on the trade-offs that were chosen and subject them to public discussion. Opening up such areas of deliberation to "ordinary" citizens, as in citizen conferences, is an interesting possibility, doubtless even more so in the case of local government. However, here I join James Meadowcroft (2004) when he warns against excluding from such processes the activists of the various causes (promoters of fair trade, defenders of virgin forests, etc.) and the supply agents (producers, manufacturers, and distributors) who are directly concerned.

## CONCLUSIONS

What new developments and paradigm are associated with sustainable procurement? In this article I have shown that the idea of sustainable procurement deserves to be considered something new, despite legitimate reluctance to do so. This newness has to do first of all with the identification of sustainable procurement as something important in its own right, a specific strand within sustainable development policies, and one that embraces causes that until now had run on parallel tracks. Next, the good practices associated with sustainable procurement are also new. People whom I met generally confirmed this. They not only pointed to the search for information

about the environmental or social consequences of the purchases that are made, but also stressed the development of close relationships with suppliers, of systematic thought about what was needed and of innovative methods of computation. I also underlined the fact that these new developments were part of a set of much broader normative developments (Agenda 21 initiatives, “best value for money”, and *New spirit of capitalism*), which does not go counter to the thesis of their newness but tends rather to confirm it. Finally, the idea that I defend of deliberative and civic modes of “dialogues of values” can also be interpreted as symptomatic of this newness. Engaging in sustainable procurement means mobilizing new reasoning frameworks and new decision-making processes, many of which are young, and still others of which have yet to be invented.

In this article I also specified the content of the sustainable procurement paradigm. It appears that, like the idea of sustainable development, the notion of sustainable public procurement is not monolithic, either. So, I have distinguished three types of justification that define a more or less wide range of acceptable practices. What is at stake is very concrete. For example, if the win-win buying argument predominates, notably because of budgetary tensions such as those with which most French local governments are grappling, sustainable procurement will concentrate on energy efficiency and forsake fair trade goods or the products of organic agriculture. The identification of the three justifications and three cases of good practices also strives to avoid having current thinking about sustainable public procurement refer only to the first (or first two) of them. I share the fear expressed by Andrew Erridge (2007) that sustainable procurement remains limited to a narrow definition of commercial efficiency and I follow Roberta Sonnino (2009) when she takes the city of Rome as a worthwhile model of “creative” sustainable procurement. Yet for all that, I am aware that the appeals made to government bodies' moral duty or “creativity” can appear to be opening the door to various forms of deviance (inefficiency, waste, pandering to constituencies, etc.). It is in this spirit that I envision the development of experiments around deliberative schemes, in hopes that the citizen's good practices, harnessed to the justification of morally responsible buying, will emerge and in future be in tune with those of the buyer and the expert.

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