



The Final Report on the Legal Framework of Sustainable Public Procurement in Lebanon

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Table of Contents

I. Background and Presentation	3
II. The Lebanese Constitution (constitutional law dated 23/05/1926)	4
III. The Laws Governing Public Transactions	5
A. General Organic Provisions	
B. Indirect Secondary Provisions	
C. Provisions Relating to Municipalities, Public Institutions, Security Forces and the Army	
IV. Laws of Sustainable Development	10
A. The Environmental Laws	
B. Social and Economic Laws	
V. The International Conventions	15
A. The Environmental Conventions	
B. Social and Economic Conventions	
VI. Draft laws and regulations	19
A. Draft Law of Public Transactions	
B. Draft law on the establishment of “the management of public transactions affairs”	
C. Draft typical bidding documents	
VII. Current bidding documents and practical implementations	21
A. The General Bidding Documents	
B. Special bidding documents	
VIII. Judicial resolutions and judgments	25
IX. Setbacks and challenges	27
X. Proposals	29
XI. Summary	33



I. Background and presentation

This report comes in the framework of the United Nations Environment Programme (UNEP) Project, and in accordance with the approach of the Marrakech Task Force on Sustainable Procurement, led by Switzerland, as part of the Marrakech process to apply and promote sustainable production and consumption and to which Lebanon was affiliated, being represented by the Institut des Finances Basil Fuleihan.

The Marrakech Process, which aims to adopt sustainable procurement policies by national governments, is based on examining the best practices; it develops specific mechanisms including the review of national laws relating to sustainability and public procurement in order to analyze the legal environment and work to update the same according to the approach of sustainable procurement, whose result is displayed by this report preceded by a preliminary report showing some issues on the subject.

The ultimate goal is to set forth the environmental considerations as well as the considerations of equity to be observed in the procurement practices of the State. At the beginning, however, it is worth mentioning that it is significant that effective sustainable procurement takes into account the environmental standards to include economic and social criteria - as considering the full life cycle of goods or services and access to best value of money and resource efficiency during production and consumption; emission levels and the impact on climate change; eradication of poverty; fair distribution of resources; improvement of working conditions; promotion of free trade and development of remote areas...

Accordingly, and in review of the Lebanese laws currently in force, we conclude that such laws did not include direct provisions that decide and develop applied mechanisms of clear and explicit sustainable public procurement. Perhaps, this is up to the aging of most of these laws that were derived from French texts prevalent in France at then, and, thus, were based on traditional principles that govern public transactions and launch from publicity, equality and competition.

Currently, in Lebanon, the reference price is based on the minimal prime rate while giving the possibility of adopting trade-off criteria other than the price. However, that was not associated with detailing the essential nature of these criteria and means of their precise application, so application in transactions was based on the minimal price disregarding other issues.

The aforementioned does not mean that sustainability features are not included in status laws, but are rather rare and insufficient. The lack of organizing and framing the idea impeded ease of application; even the scarce available is not applied at times.

On the other hand, the environmental texts particularly, in Lebanon, have remarkably been developed, and Lebanon has signed treaties – that generally impose

environmental, social and economic conditions in general. Nevertheless, these texts do not always reflect a serious and sound application due to the lack of binding the public procurement and all the State actions to the adoption and application of principles set forth in its environmental laws and international conventions.

To secure this binding between the application and the international conventions on the subject, explicit laws governing the method of sustainable procurement must be set forth. However, seeking a proper legal framework depends on considering the possibilities available, therefore, times and stages of application need to be specified to attain the desired goal.

As a result, we will provide the legal framework in accordance with the following division:

- The Lebanese Constitution
- Provisions governing public transactions in Lebanon
- Development and sustainability legislations
- International conventions
- Relevant draft legislations and regulations
- Current bidding documents and some applied practices
- Judicial resolutions and provisions
- Setbacks and challenges
- Proposals

Provided that the law as well as its key issues and sustainability features if any, are presented, and that only the most significant relevant legislations and conventions will be presented due to their multitude.

II. The Lebanese Constitution (constitutional law dated 23/05/1926)

It is the organic and supreme law which establishes general rules and describes the form of the state and its competencies. Our present study included the following:

- The preamble to the constitution, after it was amended in 1990, stated that Lebanon is a founding and active member in the League of Arab States and abides by its covenants, as is a founding and active member in the Organization of the United Nations and abides by its covenants and by the Universal Declaration of Human Rights, and that the State embodies these principles in all fields and areas without exception. Accordingly, all the declarations and charters of the United Nations on environment, labor, economy and rights become binding to Lebanon which ought to embody its binding in the procurement conducted by the State.

- The preamble confirmed, as well, the country's respect to the principles of social justice and equality in rights and obligations among all citizens and the need to secure job vacancies, social protection and economic development.
- The constitution preamble included that the State would maintain a balanced cultural, social and economic development of regions.

This is what the Constitution was confined to in the field of sustainability; it did not provide texts on environment or detail how to apply equity at work or health...

III. The Laws Governing Public Transactions

Laws are many and are distributed to legislations and regulations relating directly to public transactions and to others related to different topics; however, these laws crippled to organize a sub-theme addressing public procurement. There are also applicable regulations of organic laws including the bidding documents.

Some of these laws are applied to the State, whereas, municipalities and public institutions have texts of their own, the fact that makes all these laws unfamiliar for their antiquity and lack of development. Accordingly, the Lebanese State set two draft laws on public transactions and the establishment of Public Transaction Affairs Administration which – when adopted – would be applied to the public sector as a whole and bring a lot of the disparate laws together, thus creating a positive development in this context.

The following deals with provisions relating to the state – some of which are applied to municipalities and public institutions, starting from the Public Accounting Act and the Bidding System and others. We will briefly refer to transaction provisions carried out by public institutions and municipalities, dividing the texts according to their significance, that is what is directly related to public procurement, and the secondary texts that deal with other topics yet include some articles related to public procurement.

A. General Organic Provisions

- **The Public Accounting Act promulgated by Decree no. 14969 dated 30/12/1963**

It is considered as the organic legislation on the subject of public transactions; it determines the principles of preparing the State budget, its implementation, its definitive account and the management of public funds. It singles out a special chapter on supplies, works and services expenditures; furthermore, it determines public frameworks and submits to regulatory texts issued in implementation thereof.

The implementation of this act is limited to the State and to some large municipalities only; it sets forth:

- The mode of striking the bargain and adopts public tender as a fundamental principle and means for contracting.
- Provisions on public tenders.
- Basic contents for public and private bidding documents and contents thereof.
- Principles of tenders: publicity, equality and competition.
- How to make offers.
- How to assign the transaction to the tenderer who offers the lowest price or best offers.
- Giving preference to the offers of goods manufactured in Lebanon by 10 percent to offers presented for foreign goods...

In the framework of sustainability, we note the following:

- Article 147, clause 6 thereof, permits holding the transaction by mutual consent if it relates "to accessories and works made by the needy disabled licensed by the Ministry of Labor and Social Affairs provided that prices do not exceed those in the market." That shall facilitate the work of this category.
- This law permits the adoption of trade-off standards other than the price to settle the transaction without mentioning the nature or kind of these standards, the fact that gives path to the introduction of sustainable procurement standards.

The provisions of Public Accounting Act on public transactions set forth the principles of these transactions that were completed and applied to the utmost extent through jurisprudence, and notably the due diligence of the Court of Audit. These principles are related to the following:

- Publicity: In terms of announcing the transaction and its procedures of assignment and implementation.
- Competition: In terms of paving the way for the largest number of bidders to participate in public transactions.
- Equality: In terms of dealing with all those willing to participate on an equal footing and not prefer a bidder to another through the imposition of neutral or useless conditions.

These principles aim to obtain the best offers at the lowest prices without favoritism or equivocation and thus require to be granted validity when setting forth other criteria as environment and sustainable development.



- **The Bidding System: Decree no. 2866 dated 16/12/1959:**

The tenders department at the Central Inspection carries out the tenders of works and supplies in accordance with the provisions of this system which applies to public administrations, except for the Ministry of National Defense, the Internal Security Forces and the Public Security. As for municipalities and public institutions, they shall adopt the grounds provided by this system as long as they do not oppose their own.

It contains the status of the tender annual program and the way it could be announced; the assignment of tender committees, their mode of work and powers; and the mechanism of presenting offers, settle the same and establish the transaction.

- **Classification of Entrepreneurs : Decree no. 3688 dated 25/01/1966:**

This decree determines the conditions and requirements of registration on the list of competencies and classification to participate in the implementation of some transactions of public works and lessons thereto: roads, ports, airports, public buildings, water projects and electrical works.

Classifications in these categories are based on previous implemented works and years of experience only.

This decree is still in effect and despite the promulgation of decree 9333 dated 12/26/2002 which sets the criteria and new grounds for classification based on past experience, human and organizational structure, equipment, financial situation and field inspection.

Note in this context, the failure to address sustainability criteria for the registration of contractors/entrepreneurs on the list of highly qualified professionals to participate in public transactions; its addendum could be requested to give additional grades that qualify or increase the degree of classification.

- **Organize Exclusion from Participating in the Implementation of Public Tenders: Decree no. 8117 dated 29/08/1967:**

This determines how to cancel the classification or exclusion of the entrepreneurs from participating in the implementation of public transactions when they violate the terms agreed upon and which are currently related to technical and administrative conditions – the environmental, social and economic conditions can be added.

- **Identify the Terms of Receiving Transaction with Some Minor Flaws or Defects: (Decree no. 14601 Dated 30/05/1970:**

This decree regulates the process of receiving transaction with some minor flaws or defects in the phases of both provisional and final reception.

- **Identify National Commodities benefiting from Preference in Public Tenders: (Decree no. 10515 Dated 23/07/2003):**

This decree determines the kinds of commodities benefiting from the preference granted by law for foreign commodities in public tenders and which amount to 10%; this preference is granted to certain food and metal products, pesticides, pipes and others of commodities referred to in its customs clauses.

This decree did not mention environmental requirements or other specification related to sustainability.

B. Indirect Secondary Provisions

- **Court of Audit Regulation: Legislative Decree no. 82 promulgated on 16/09/1983:**

This legislative decree determines the principles of the Court of Audit work and its competencies including its prior supervision on transactions of accessories, works and services; it shows controlled transactions and how to deposit the transaction at the Court of Audit, and the mechanism of studying and deciding the same.

In addition to the prior administrative control which affects public transactions, in particular, the department practices a late judicial and administrative control on the staff and accounts which include the issues and formalities arising from public transactions.

- **Regulating Central Inspection: Decree 2460 dated 09/11/1959:**

The fifth chapter of this decree stipulated the provisions pertaining to the administration of tenders that deal with the tenders in the State except those related to the Ministry of Defense, Security Forces and Public Security.

- **The General Budget and Annexed Budgets for 2001: Act No. 326 dated 28/06/2001/Article 73:**

This article subjected the accounts of public institutions as well as the state institutions and public utilities to the internal audit system and independent audit of auditing and accounting offices; these private offices audit the accounts of these institutions in addition to the control of the Ministry of Finance and the Court of Audit; they include the accounts and documents thereto with contracts of public transactions and their mode of implementation.

- **Penal Code: Legislative Decree no. 340/NI dated 01/03/1943:**

This code punishes with imprisonment and fine he who commits fraud in a public transaction or in the materials that were used, provided, installed, manufactured

or in their essential specifications; who committed a gross and severe error; who conspired to subvert the process of subcontracting; or who provided corrupted or invalid materials.

- **Fiscal Stamp Fee (Legislative Decree no. 67 dated 05/08/1967):**

The public transactions are subject to proportional and lump sum fees. This law, with other tax laws as the income tax, could play a role in granting exemptions that encourage sustainable industry: for example, exemption from fee and tax for ten years in case of adopting certain environmental specifications.

- **The State Council Regulation (Decree no. 10434 dated 14/06/1975):**

The Council considers the issues relating to contracts, public transactions, obligations or administrative privileges held by the public administrations or the administrative services in the Parliament to ensure the functioning of public interests, and so the injured party or the claimant can present a review before the Council to demand the nullification of the administrative decision relating to a public transaction, or to claim for compensation resulting from a public transaction.

Currently in Lebanon, there is not a system for complaint to be adopted in resolving the disputes, before they are notified to the courts, through competent bodies that could be referred to by the contractors; however, some bidding documents include a text that gives the employee in the binding management a power to resolve disputes with contractors (for example the director general of roads and buildings). In the event solution fails, the contractor can refer to the Council whose provisions have accordingly become a considerable legislative reference for public contracts in Lebanon.

C. Provisions Relating to Municipalities, Public Institutions, Security Forces and the Army

We have noted above the various legal and regulatory texts governing public transactions which apply generally to the state and in some to public institutions, municipalities, the Army and the security forces. In addition to these provisions, these bodies apply special provisions of which the most significant is boiled down to the following:

- **Municipalities and Federations of Municipalities:**

Large municipalities apply the public accounting law by virtue of decrees to be implemented, whereas the other section including most of the municipalities applies decree 5595 dated 22/09/1982 which determines the principles of accounting in municipalities and the federations of municipalities not subject to the law of public accounting.

This decree is similar to the law of public accounting to a large extent.

- **Public Institutions:**

Every public institution is subject to a special financial system that determines the principles of preparing and implementing its budget and the management of its funds; these articles are similar to a large extent to the law of public accounting.

- **The Army and Security Forces:**

The Public Accounting Act stipulated special provisions applied to Military Administrations which enjoy a special status regarding the principles of contracting, tenders committees and the bidding documents we will refer to below.

IV. Laws of Sustainable Development

They are diversified into environmental, social and economic:

A. The Environmental Laws

Environmental laws and legislations are many and diversified, thus could not be acknowledged and detailed, some of which are relevant to environment only or to other issues including laws on some environmental issues.

In Lebanon, we note a developmental legislative movement in this framework, yet its application remains unremarkable. On the other hand, we do not note an activation relating to its association with public procurement. These laws deal with land use, construction, transport, energy, industry, agriculture, water and drainage, air, noise, soil, biodiversity, wastes, atmosphere, etc...

Our study could not include all these laws, yet we can mention the following:

- **Organic Laws on Environment:**

Environment Protection Law no. 444 dated 29/07/2002: It includes the fundamental principles pertaining to environment and established the following provisions:

- The public legal framework to implement the policy of protecting the national environment for prevention from all forms of deterioration and pollution and to promote sustainable usage of natural resources.
- Assessing and evaluating the effects of a certain project on the environment and setting the necessary measures to mitigate negative effects.

- Environment Management Plan: That is the application of a set of mitigation measures and the elimination of negative environmental impacts or mitigating the same to acceptable local levels, if any, or according to the United Nations standards.
- Biodiversity: The variability among living organisms derived from all sources including terrestrial and marine ecosystems and aquaculture.
- The human right to have a stable and healthy environment and the duty of every citizen to ensure the protection of the environment.
- The precautionary principle, which requires the adoption of effective and appropriate measures based on scientific information and the best available clean technology designed to prevent any threat of possible untreated injury that might damage the environment.
- The principle of preventive action for all damages caused to the environment.
- The principle of the "polluter – pays" which stipulates that the polluter bears the costs of preventive measures and pollution control measure.
- The principle of avoiding the degradation of natural resources.
- The principle of pollution control which aims to prevent pollution.
- The principle of relying on economic incentives as a tool to monitor and promote sustainable development policy.
- Guidance to use the alternative materials and energy and to safeguard natural resources.
- Grant customs reductions by 50% to whoever uses equipment and technologies that reduce pollution and process and recycle wastes... in addition to other incentives adopted by a resolution made by the Cabinet.
- Abide by not causing leakage or emission of air pollutants.
- Protection of beaches and water.
- Develop a mechanism to determine the list of fertilizers and pesticides allowed to be used and a list of hazardous wastes.
- Develop conditions of regulating noise and sounds.

In addition to this Organic Law, we find other laws and statutes as:

- Law no. 64 dated 08/12/1988, on environmental preservation against pollution from hazardous wastes and materials, which makes preserving the environment from pollution the responsibility of each physical or juridical person. It defines hazardous wastes, sets a schedule thereof requiring their discharge and the extraction of energy from them, and forbids the import or possession of nuclear wastes or wastes contaminated with radioactivity or containing chemical materials that threaten public safety.
- Resolution no. 52/1 dated 29/08/1996 which determines the specifications and proportions to reduce air, water and soil pollution, including the specifications of domestic drinking water and sewage water, the disposal and dumping of liquid or solid waste in surface water, the maximum allowable levels of air pollutants, with a reference that determining specifications is of such paramount importance on the subject of sustainable procurement through the adoption of these specifications at determining works or the required objects.
- Resolution no. 90/1 dated 10/17/2000 the environmental conditions for permits of residential buildings located within the campus of rivers under the protection of the Ministry of Environment; resolution no. 8/1 dated 30/1/2001 the specifications and standards for air pollutants and liquid wastes generated by classified institutions and sewage water treatment plants; resolution no. 4/1 dated 06/08/2005 determining the environmental conditions for licenses of establishing hot asphalt incinerators; resolution no. 106/1 dated 08/07/2010 the environmental conditions for licensing the foundation and exploitation of garment industry establishments.
- Mitigation of air pollution resulting from the transport sector and encourage the trend to use less polluting fuel according to law no. 341 dated 06/08/2001 which prohibits the import of contaminating vehicles according to a specification; grants incentives for the renewal of vehicles; requires the mandatory use of catalytic converter (pôt – catalytique) in the exhausts of all vehicles and provides determining the specifications acceptable to kinds of fuel used in motor vehicles and the specifications acceptable for their emissions.
- Discharge of sewage and impurities that was regulated by an old decree no. 2761 dated 19/12/1933 through determining the conditions and specifications of disposal constructions.

- **Ad hoc laws indirectly related to environment:**

Articles addressing environment preservation are included in various laws dealing with specific sectors influencing environment, in general, these laws include the following:

- **Construction Law** (no. 646 dated 11/12/2004) which requires taking into account the stages of establishing and demolishing construction, principles of environmental protection and sustainability of its natural resources... in addition to guiding designs and some of decrees determining the mechanism of drainage and some environmental conditions, but without access to the modern extent required environmentally, and in accordance with an accurate system that maintains the goal of sustainability.
- **Regulating Stone Quarries and Crushers** (decree no. 8803 dated 04/10/2001) which defines quarries and crushers and prohibits their investment in natural sites, natural reserves, regional and national parks, rivers and streams. Establishing and investing quarries and crushers is subject to a prior authorization issued by a governor's resolution pursuant to the consent of the National Council for quarries and imposes on the investor to re-arrange and rehabilitate the places that were affected by the investment in accordance with the maps, designs, conditions and time limits upon which the license was given.
- **Urban Planning Law** (Legislative Decree no. 69 dated 09/09/1983) which defines the designs and systems of towns and villages and the classification of territories within the comprehensive scheme of urban planning and the balance that must be maintained between the development of urban extension areas on the one hand and the preservation of the natural sites, agricultural activities and forest areas on the other hand, and the easements for the benefit of public safety, health, traffic, beauty and environment.
- **The Protection of Forests and Land & Maritime Public Properties** and others as provided in the Forest Protection Code no. 558 dated 24/07/1996, the public properties and provisions thereto (decision no. 144/S dated 06/10/1925) and the Regulation on the Occupancy of Maritime Public Properties (Decree no. 4810 dated 24/06/1966).
- **Regulation of the Electricity Sector** under Law no. 462 dated 02/09/2002, which deals with the production of electric energy by renewable heat, water or other resources, and regulating the water sector under law no. 221 dated 29/05/2000 which considers the protection and development of natural resource of water within the framework of safeguarding the environment and nature balances, the core of public interest.

- **Lebanese Standards and Specifications** (Law dated 07/23/1962), which gives the Lebanese Standards Institution (LIBNOR), solely, the right to develop such standards and specifications, and authorizes the government to give any of the Lebanese standards and specifications the capacity to bind or obligate and therefore, it can impose environmental standards through such institution.
- Identify the criteria required to be provided in the investment project to benefit from the **Law of Investments Promotion** in Lebanon, issued by decree no. 9311 dated 21/12/2002, which sets incentives for certain criteria, including socio-economic impact of the Investment Project, the project's impact on environment and the natural resources sustainability.

B. Social and Economic Laws

Miscellaneous texts were provided to secure certain social justice in a number of laws and regulations including the following:

- **Law of the Rights of Disabled Persons** no. 220 dated 29/05/2000, which requires securing a convenient environment for the disabled including the rehabilitation of buildings, public departments, sidewalks, public roads and gardens, and public utilities; and granting them the right to work like other members of the community through the State's commitment to provide help in entering the labor market based on the principle of equality and equal opportunities and by requiring the private sector to employ a proportion of wage disabled earners for example, 3 % for sixty workers.
- **Labor Law** dated 23/09/1946 which prohibits the employment of youth before they complete the age of thirteen in industrial projects and in exhausting works or deemed hazardous to health ... it also prohibits the employment of youth in hazardous work before they complete the age of sixteen, in addition to determining the cases of prohibition of women employment, stating the duration of work and leaves (holidays)...
- **Social Security Act**, which defined the rights of workers and employees regarding the social and family health presentations..., and required in Article 65 thereof obtaining a quitclaim from the Social Security to participate in public transactions, the issue that requires contractors to ensure their workers.
- **Development of Lebanese Areas:**
The Income Tax Act works on developing specific areas determined by the Cabinet through granting certain tax exemptions and establishing new industries...

These various laws were neither sufficient nor assertive in many environmental and social issues, such as regarding the extraction of soil and rock, the mandatory drainage installation to buildings and the prevention of noise; even the issue of classified institutions and the means of controlling the same is not free of particular faltering; moreover, the sound principles and provisions at the environmental and social level suffer from the lack of or poor application as for the re-arrangement of stone quarries and crushers, monitoring the felling of trees, employing the rate imposed of those of special needs, ensuring the salaries and rights of workers and their vacations and the employment of youth; therefore the problem takes two dimensions: one is legal and the other relates to the defaulting or poor application of law and the monitoring of good performance.

A law for sustainable procurement in this context may constitute an incentive to abide by other environmental, social and health laws, and also works as a controller of compliance with these laws in case the State intended not to contract except with those who meet the requirements.

V. The International Conventions

Lebanon is active in signing international treaties and conventions amounting to a large number with respect to environmental sustainability, balance, social equity and safeguarding the workers' rights especially the vulnerable groups of them. It is not possible to discuss all these conventions herein; however, we will refer to some of them as follows:

A. The Environmental Conventions

Lebanon has signed several conventions that aim to achieve environmental conditions starting from preventing the pollution of water, air and soil down to maintaining the atmosphere, preventing desertification and keeping proper agricultural production according to the following:

- Protection of the Mediterranean waters from pollution caused by discharges from rivers, coastal plants and ships... in order to reduce, combat and control this pollution. Among these conventions, we mention the Protocol for the Protection of the Mediterranean Sea against Pollution from Land-based Sources dated 17/05/1980; Protocol of the International Convention for the Prevention of Oil Pollution from Ships dated 17/02/1978; the Amendments of the Convention for Protecting the Mediterranean from Pollution approved under Law no. 34 dated 16/10/2008; the International Convention on Civil Liability for Bunker Oil Pollution Damage dated 29/11/1969, the International Convention relating to Intervention on the High Seas in Cases

of Oil Pollution Casualties dated 29/11/1969; the Convention on the Protection of the Mediterranean Sea Against Pollution and the two Protocols attached thereto; the International Convention on Oil Pollution Preparedness, Response and Cooperation dated 30/11/1990; the Protocol for the Protection of the Mediterranean Sea against Pollution from Land-based Sources ratified in Athens on 17/05/1980, the Protocol Concerning Mediterranean Specially Protected Areas ratified in Geneva on 03/04/1982, and the International Convention for the Control and Management of Ships' Ballast Water and Sediments of 2004 dated 13/02/2004.

- Protection of Ozone Layer in accordance with the Vienna Convention for the Protection of the Ozone Layer dated 22/03/1985; the Montreal Protocol on Substances that Deplete the Ozone Layer, 1987 dated 16/09/1987 approved by Law no. 253 dated 22/07/1993 and allowing the government to ratify the Copenhagen amendments related to the Montreal Protocol on Ozone Layer Protection by Law no. 120 dated 25/10/1999; and the Beijing Amendment (1999).
- Conservation of Biodiversity in accordance with the Cartagena Protocol on Biosafety and the Convention on Biological Diversity dated 05/06/1992.
- United Nations Framework Convention on Climate Change dated 05/06/1992, and the Kyoto Protocol annexed to the Convention as of 11/12/1997.
- The prevention of desertification through the ratification of the United Nations Convention to Combat Desertification signed in Paris on 15/10/1994 by developing strategies to improve land productivity and rehabilitation and to conserve land and water resources and to administer it in sustainable management.
- Protection of human health and the environment from persistent organic pollutants: according to Stockholm Convention on Persistent Organic Pollutants dated 22/05/2001, and the Rotterdam Convention to apply consciously the Prior Informed Consent Procedure to Certain Hazardous Chemicals and Pesticides Circulated in International Trade; the Basel Convention on the Control of the Trans-boundary Movement of Hazardous Wastes and getting rid of them across the border; the Rio Declaration on Environment and Development and Agenda 21; the Convention on the Regulation of Mineral Oils Transit across the Lebanese Territories dated 07/08/1962; Convention no. 136 relating to Prevention of Hazardous Poisoning resulting from Benzene dated 23/06/1971.
- The Convention on the Physical Protection of Nuclear Material, dated 26/10/1979; the Treaty on the Prohibition and Eradication of Biological and Toxic Weapons; the Convention on Assistance in Case of a Nuclear Accident or Radiological Emergency dated 26/09/1986.

- Convention for the Protection of World Cultural and Natural Heritage dated 23/11/1972.
- Improve the quality of agricultural production in accordance with the agreement concluded with the Food and Agricultural Organization of the United Nations (FAO) to implement the project of developing the agricultural sector in the greenhouses of Lebanon as of 10/01/2001 in order to create job opportunities and an appropriate income for small-scale farmers and to ensure good agricultural production; and a technical cooperation agreement in the area of protected cultivation dated 06/08/2001.

B. Social and Economic Conventions

In addition to domestic laws, Lebanon signed several agreements concerning this vital aspect from the humanitarian and economic viewpoint, thus by ratifying the treaties of the International Labor Organization (ILO) and other treaties as follows:

- Determination of working hours, work shift and holidays, as per the agreement on determining working hours in industrial installations in compliance with convention number 1 of October 29, 1919, special convention on paid annual leaves number 52 of June 24, 1936, convention on weekly leave in trade and offices number 106 of June 26, 1957, the fourteenth convention on weekly leave in industrial establishments, the fifty-second convention on annual leaves, and the eighty-first convention on labor inspection in industry and trade.
- Youth and women labor: convention number 90 of July 10, 1948 on youth nocturnal labor in industry, forty-fifth convention on the employment of women in underground mining labor, ratification of the eighty-ninth convention on the nocturnal labor of women employed in industry (amended in 1948), convention on the rights of the child dated November 20, 1989, convention number 182 of June 17, 1999 on prohibiting the worst forms of child labor and the measures to eradicate them.
- Prohibition of labor discrimination based on race, color, sex, religion, political opinion national origin or social origin: convention number 111 of June 25, 1958, convention on the eradication of all forms of discrimination against women ratified by the UN General Assembly on December 18, 1979.
- Labor protection from ionized radiation: convention number 115 of June 22, 1960, convention number 139 on the prevention and control of occupational hazards resulting from carcinogenic materials and factors dated June 5, 1974, and the recommendations of ILO convention number 170 on the safety in utilizing chemical materials at work dated June 25, 1990.

- Convention number 142 on vocational orientation and vocational training in human resources development dated June 23, 1975, and convention number 159: (vocational qualification and laborers – the disabled persons)
- Prohibition of forced labor in accordance with convention number 29 of June 22, 1930 and convention number 105 of June 25, 1957.
- Protection of the rights of the handicapped through the convention on the rights of disabled persons authorized by virtue of decree number 1052 of November 24, 2007, and the optional protocol of the convention on the rights of disabled persons.
- Protection of salaries and wages: convention number 95 of July 1, 1949, convention number 100 of July 29, 1951 on equality of male and female laborers in wages and salaries for an equal value labor, the twenty-sixth convention on making ways for determining the minimum salary and wage, and convention number 131 of June 22, 1970 on determining the minimum wages with a special indication to developing countries.
- International convention on the eradication of all forms of racial discrimination law number 44 of June 24, 1971.
- ILO convention number (174) on the prevention of grand industrial accidents of 1993 and the framework agreement for assistance in the domain of civilian protection.
- Prevention of deception and fraud in accordance with the supplementary Stockholm instrument of July 14, 1967 and the Madrid convention on restraining the data of false or delusional goods exporter dated April 14, 1981.

Observations on these conventions:

- It appears that Lebanon has ratified most of the important conventions on the environment, labor and social justice. Nevertheless, implementation was not compatible with these texts and the principles mentioned therein.
- The conventions legally ratified by the Parliament have a higher ranking than legislative law i.e. ordinary laws are considered automatically amended by the ratified conventions, and wherever such laws entail a social, economic or environmental flaw or discrimination, then such discrimination is deemed null and void by the conventions that are contradictory to the same.
- Many conventions require applied texts for placing them in practical execution, and this did not occur despite the elapse of non-short period of time since their ratification.

- These conventions do have a positive impact on domestic legislations and general concepts as well as a good and efficient implementation in several instances.

VI. Draft laws and regulations

Within the framework of its endeavor to modernize old laws, the Lebanese state prepared a draft law on public transactions and another law on the establishment of “the management of public transactions affairs”. However, these two laws have not been promulgated yet despite the necessity and urgency of their issuance in order to supersede old laws in this framework and namely, with respect to the law of tenders that supersedes the miscellaneous articles on public transactions mentioned in the public accounting law or otherwise and to the importance of establishing new rules that are not originally available.

In addition to the two laws, five exemplary bidding documents were drafted at the Ministry of Finance represented by the Basil Fuleihan Institute for Finance and Economy.

Concerning these two laws and the bidding documents, we outline the following:

A. Draft Law of Public Transactions

This draft law – specialized only in public transactions – defines these transactions and details the rules for making concession files and constituting committees, the required qualifications of the bidders and the mode of sidelining them, the subcontracting process, the coalitions, the mechanisms for concluding contracts and the modes of contracting. As such, it includes at this point methods previously unknown and clarifies the required guarantees, the revocation of transactions, the settlement of their amount, administrative reviews and litigations.

Concerning sustainability, it is mentioned in article 13 of the draft law the following:

“The contracting authority may utilize public transactions as a means to achieve national objectives such providing incentives to creativity as well as providing support for small and medium-size establishment in addition to support regional and rural development, achieve social objectives and environmental protection, thus provided the frameworks and implementation mechanisms are determined by virtue of decrees adopted in the Cabinet”.

It is evident from this text that the draft law authorized sustainable procurement but this authorization requires a framework and definition from the Cabinet in order to launch its execution. At the outset, this text did not detail the cases in which sustainable



procurement should be carried out; it merely gave the possibility without any detail entailing or encouraging at least the adoption of such method of procurement. At this point, it is possible to state that specific environmental criteria should be adopted whenever this is possible and accordingly, making non-sustainable procurement as the exception contrary to making sustainability an exception that administrations may easily disregard.

On the other hand, article 42 of the draft law authorizes amiable contracting in transactions related to accessories and works made by disabled persons registered according to rules, thus facilitating contracting with this group without compliance to an additional conditional. At the outset, it was plausible to make the contractors utilize disabled persons in works which they can perform on condition that they represent a percentage of the workers and employees.

Article 74 of the law defined the contents of the bidding documents but it did not explicitly mention any environmental or social conditions that may be placed as specifications for the works in these bidding documents or as qualifications that may be required from the bidders.

Upon dealing with the issue of subcontracting and splitting of transactions, the text is generally stated in articles 9, 10 and 11 without making an obligation of bidding on the basis of units (sections or parts of a single transaction) when this is possible, whilst preserving the mode of contracting so as to enable the participation of small and medium-size establishments.

B. Draft law on the establishment of “the management of public transactions affairs”

This draft law establishes a management for public transactions and known under the name of management of public transactions affairs. Its competencies encompass public administrations, municipalities, federations of municipalities, public establishments and state companies. Its mission is to propose the draft texts related to public transactions, prepare the bidding documents, train the competent employees for conducting public transactions, manage the bidding operations, and make opinion on the challenges within ten days ...

The positive aspect in creating such management is reflected in unifying the procedures applicable on all the transactions of public entities and which may lead upon their establishment to facilitate the procedures that may be adopted for implementing the required sustainability.

This draft law did not mention any obligation to be assumed by the entity concerning sustainable procurement. It is understood that such procurement requires the availability of a body that undertakes the task of monitoring and progress in execution as well as assists in setting criteria and making reports on work progress, and it is plausible to commission such task to this body in order to ensure the implementation of the best sustainable procurement upon adopting such law.



These two draft laws constitute a positive step in the field of public procurement and it is beneficial to adopt better conditions for sustainability in them.

C. Draft typical bidding documents

These bidding documents seek to unify implementation and make the required reform whereby inspection is consolidated and procedures are simplified with the eventual diffusion of transparency and promptitude at work. These typical bidding documents are related to the transactions of accessories, works and consultancy services, and three of them were place for large transactions and two of them simplified for small transactions.

In the issue of sustainability, we outline that these bidding documents mentioned within the terms the approval of the bidders to the social and environmental labor conditions but without detailing or binding, thus leaving to the administration the freedom of its imposition.

At the outset, the bidding documents mentioned the obligation of complying as much as possible with environmental conditions upon submitting copies of the tender, hence in reference to the paper that may be utilized and the obligation of indicating the levels of quality and environmental performance required in technical specifications.

In the booklet of conditions on public works, it is required of the contractor to adopt all necessary measures for environmental protection inside and outside the location as well as avoid jeopardizing persons or disturbing them or causing damage to their property as a result of pollution, noise or other matters that may result of the work method, as well as the safety of all activities in the location and compliance with the special conditions of safety, health, labor and the environment in accordance with the effective laws and as per the contract documents.

It is evident from these bidding documents that there is still possibility to introduce the necessary environmental and social conditions but without compulsion or determination, and they are still waiting to be adopted and diffused among public administrations, public establishments and municipalities.

VII. Current bidding documents and practical implementations

The Public Accounting Act requires the adoption of general and special bidding documents; the general containing common provisions for the same type of transactions, and the special proper to a specific single transaction. Based on the above, we note the following bidding documents:

A. The General Bidding Documents: The following general bidding documents were drafted:

- The bidding documents and provisions imposed on public works entrepreneurs issued on May 20, 1942:

It specifies the conditions applicable to public works transactions. It is an old traditional booklet seldom used and which does not fulfill the upcoming and detailed needs in public transactions. Moreover, it includes some technical and administrative conditions such as the mode of submitting tenders and guarantees as well as the mechanism of executing public works and prices...

Concerning sustainability, we notice that the booklet provides the following:

- Limiting the work schedule to the regular work shift applicable as per the type of work in the place of its execution (article 11).
 - Presentation of proofs to the administration on the payment of wages for workers in accordance with the laws in current effect (article 15).
 - Insuring workers against occupational hazards (article 16).
- The public administrative bidding document for the contracting of Army supplies certified by decree number 11574 of December 30, 1968 and which comprises making and executing the transaction as well as special transactions, funding and the settlement of expenses.
 - The public administrative bidding document for the contracting of Army works certified by decree number 11573 of December 30, 1968 and which comprises the mode of contracting, the execution of works and the settlement of the transaction amount.
 - The public administrative bidding document for the contracting of Internal Security Forces (ISF) supplies and the tenders regulation in the same certified by decree number 2868 of April 16, 1980, and it comprises the drafting of contract between the administration and the entrepreneur, the contractual deadlines, the prices, the conditions of participations in tenders, the conclusion of transactions and their execution, the cancellation of contracting, the revocation of the entrepreneur and the settlement of the transaction value...

These bidding documents are distinguished by lengthy provisions that explain the rules of bidding and contracting, its principles, the rights of the administration and the contractor, and among these provisions we mention the following:

- The obligation of the contractor/entrepreneur to inform the administration of his workers, his necessities of labor force and all the information that concern the unemployed seeking employment.
 - The contractor should receive the candidates presented by the administration.
 - Implementing labor legislation and its regulation on the establishment employees.
 - Non-reduction of the paid wage from the minimum value of salaries and wages.
 - Presentation of all necessary documents to verify that the paid wages were correctly calculated.
- Along with these bidding documents, there are general bidding documents for some public establishments such as the cooperative of state employees.

B. Special bidding documents

Every administration makes a special booklet of conditions for each transaction differing from the bidding documents made by the other administrations although most bidding documents are similar in terms of content, and it is noticeable the detailing and extension of the provisions of these bidding documents, thus dispensing of general bidding documents.

These bidding documents determine the administrative and technical conditions with respect to the required specifications and we do not notice in them the sustainability conditions in an explicit and intentional fashion, i.e. they do not point out to environmental conditions or intend to cause an economic development and growth despite including sometimes conditions related to the work of employees and workers such as work time, respect of official minimum wages and compliance with social security provisions.

Based on the aforementioned, we notice in some of these bidding documents (what concerns us in our research) the following:

- The specifications of works or required goods are determined on the basis of specific transactions not related to performance during the longevity of the good or work: for example, the vehicle is described by the year of manufacture, motor capacity and number of passengers without taking into consideration the consumption, Carbon Dioxide emission ... and without placing preferential signs for environmental specifications.
- Making specifications for public works are set to determine the required work, the measurements, and the required materials without any detail or

arrangement relating for example to providing energy (isolation of buildings) the source of pebbles (not being from illegal quarries and crushers) and the source of woods (legal or illegal forests) ...

- These bidding documents depend on adjudicating the transaction based on the minimum price and as such, they do not take into account other preferential criteria such as clean production and non-utilization of chemical materials from a specific brand hazardous to the environment ...
- These bidding documents do not intend to support medium and small establishments. Some of them intentionally seek to sideline such establishments from participation in the submission of tenders under the cause of inability of execution in view of the value of the transaction. For example, in the transactions of road asphaltting, the special bidding documents impose on the contractor the execution of asphaltting works for public administrations during the past two or three years in the amount of one billion or two billion Lebanese Pounds, being impossible for new or small establishments.
- We notice that some bidding documents at the Ministries of Finance and Agriculture and the Lebanese University ... contain the concessions for small transactions – which support that – based on the units available in the same i.e. they allow the contractors to participate in part of the transaction and execute the same without the necessity to comply with the entire transaction.
- We also notice that all bidding documents deem mandatory the contractor's registration at the taxation authority and the presentation of quitclaim from Social Security, despite the insufficiency of this procedure as the establishment/institution may be quitclaimed respect to Social Security, however some of its workers are not registered in the same...
- The bidding documents impose on the contractors the assurance of public safety during work such as traffic activity, not causing congestion and the placement of transfer and warning signs...
- In the bidding documents on housekeeping in public administrations, there is no imposition on utilizing non-chemical environmental-friendly materials but an explanation of the circumstances and deadlines for housekeeping....
- In the bidding documents on paper, it is not imposed the utilization of recycled paper or susceptible of being recycled.
- Some bidding documents refer to international standards for the required materials, such as adopting the French Specifications AFNOR or the US Specifications AASHTO for asphaltting works and materials for installations.
- It is mentioned in some bidding documents the environmental conditions such as the booklet of conditions of the Ministry of Public Works related to



the asphaltting of roads and which prohibits to cut down trees only by knowledge and approval of the administration, and the contractor should comply with all environmental laws and regulations and he should adopt environmental protection measures (soil, water and air) from pollutants, and determining places for waste disposal.

The main issue respect to these conditions is strictness in implementation, being significantly lacking as we notice the lack of interest in these environmental conditions and non-verification of the same. As such, it is mandatory to place them at the center of the administration's interest and focus on them in administrative contracts.

VIII. Judicial resolutions and judgments

In addition to the above-mentioned administrative practices, the judiciary declares postures that consolidate laws and general principles and cover legislative gaps or attempts interpretative judgments for achieving public interest. Therefore, how does the Lebanese judiciary consider sustainability? Will such judicial authority seek its implementation in public procurement or shall its view remain traditional "conservative" limited to the implementation of fundamental principles among which the principle of equality and accordingly, reject any other criteria or specifications and consider them in violation of such principles, we shall summarize the facts as follows:

The Court of Audit did not have the opportunity to issue sufficient independent opinions on the issue of sustainability in public procurement because public administrations did not significantly adopt such experience so that the fiscal judiciary may have a saying in the same. Despite that, it is evident in the Office's preliminary inspection of public transactions and in its consultancy opinions, the availability of specific features related to our subject and among which the refusal to approve public contracts upon the non-presentation of quitclaim from Social Security and the approval of the transaction if adjudicated in a row by public bidding along with granting contractors/entrepreneurs the right to participate in the totality or part of the main transaction or in several such transactions, thus providing the possibility for the participation of small establishments, whereas the Office did approve splitting in absolute terms unless there is justification for such procedure (Al Rai issue number 39/2002 of April 2, 2002).

In several cases, the Court of Audit refused to exaggerate in the conditions that should be available in the contractors for participating in the submission of tenders such as imposing on the contractors the ownership of an asphalt mixer and the execution of previous works for an amount multiply exceeding the estimated value for the concession.



In opinion of a consultant, the Office authorized to modify the transaction value so as to enable the contractor to pay the raises in the salaries of workers after modifying the minimum wage (Al-Rai number 17/92 of July 9, 1992). Whereas the Office did not authorize amiable contracting with consumer cooperatives for supplying the required materials to governmental hospitals despite the cooperative character of these consumer entities (Al-Rai number 47 of May 31, 1983).

As for the legislation and consultancy body at the Ministry of Justice, it was noticeable its submission number 1720/89 of Nov. 30, 1999 on the environmental preservation law against pollution from hazardous wastes and hazardous materials issued by virtue of law number 64/88 of Aug. 12, 1988 which issued a text on the provisions governing the disposal of wastes and which should be observed.

As for the legal judiciary, it issued judgments aiming at the preservation of the environment such as punishing the tree cutters and those causing pollution. In a case in which the action of the accused is considered an offence for having shipped to Lebanon poisonous chemical substances hazardous to public health although being aware of its nature (Penal Court of Mount Lebanon judgment number 97 of April 15, 1997).

We also outline a judgment that obliged a company, which obtained electric power concession, by virtue of the indemnity for damages as a result of the polluted gaseous emissions (single judge in Beirut number 224 of January 31, 1955). In other judgments, establishments were suspended for their pollution of the air, and penal orders were issued imposing sanctions against the air polluters for damaging the environment.

In the case of dense dust emanation from the chimneys of one of the companies, the judiciary mentioned that it is normal for factories and chimneys to emanate dust. However, there should be verification on the extent of surpass by these emanations of the legally authorized and approved measurements, and this matter requires specific expertise. This order reveals the difficulty in verifying environmental violations in view of the required expertise for uncovering complex technical affairs.

Arbitral labor councils issued resolutions that the rights of workers in wages, layoff indemnity and holidays ... (Award of the Arbitral Labor Council in Mount Lebanon of April 15, 2002 and award of the Arbitral Labor Council in North Lebanon number 1 of January 14, 1992).

The State Council proceeded to protect the environment by dismissing the review of cancelling the decree of regulating quarries and crushers, and it considered such decree related to public safety, public health, the environment, geological balances and water (Order number 381 of November 13, 2002). Moreover, the Council sought in more than one order to ensure the implementation of this decree and it considered as illegal the quarries and crushers operating without license (Order number 25 of October 13, 1999).

In other matters, the State Council decided to compensate the persons jeopardized from the activities of public works contractors as a result of the collapse of soil during the works and to prohibit the use of explosives in the quarry for causing damages to neighboring real estates. Furthermore, the Municipality is responsible for the damage

caused by wastes illegally thrown, such as being thrown by the municipality vehicles or private vehicles or catching fire...

In view of the aforementioned, the miscellaneous Lebanese independent opinions do not contemplate the entire aforementioned concepts of sustainability and environmental principles despite the increasing number of these judgments and opinions. We do not find explicit independent opinions dealing with the obligation of respecting environmental criteria in the public sector and the contracts concluded by the administration. We also notice the scarcity of provisions that contemplate air preservation and polluting or warm factors for air safety and water sources. This seems strange in light of the lack of laws or executive decrees as such lack greatly allows the making of independent judgments for covering the gaps and compensating for the flaws. However, this should be based in this framework on the important international conventions that Lebanon ratified, and it is expected in the future that the judiciary makes a better elaboration of the concept of environment and sustainability with the development of legislative activity in this framework.

IX. Setbacks and challenges

The setbacks hindering the implementation of sustainable procurement and the challenges that should be overcome to this effect are detailed as follows:

- Non-issuance of draft laws governing public transactions in Lebanon despite the antiquity of projects prepared in this framework, thus having a negative repercussion at all levels and which sustainability constitutes a part thereof.
- Mandatory availability of an explicit and determined political and administrative intent to adopt sustainable procurement.
- Difficulty to gather sometimes between the wide concepts of sustainability in one transaction in view of the multiple dimensions of this procurement that may affect the environmental, social or economic pillar.
- Increase in the prices of sustainable goods in comparison with the remaining goods, and this shall remain like that as long as there is little demand on these goods.
- The plurality of laws and the entire public sector not being subject to a unified law entail the examination of the various laws governing the transactions of ministries, public establishments and municipalities in order to decide what is appropriate concerning them, i.e. the amendment of a specific law without amending the other leads to the modernization of a

sector and the negligence of another which may be less important than the first.

- The making of a text without control and the obligation of its implementation renders it a dead letter without effect and this is noticeable in the available environmental laws and the mentioned conditions related thereof in the bidding documents for example, as well as the laws on labor and disabled persons.
- The right of man to a sound environment and social justice should be based on a constitutional foundation as per the text on these rights and made mandatory in the constitution itself such the German Constitution which provides the necessity to protect the flora and fauna resources with adequate legislation, hence being the aforementioned absent in the Lebanese Constitution not to mention also the difficulties and complications resulting from the difficulty of amendment that requires specific majorities from the Parliament and the ministers, not easily available.
- Non-issuance of comprehensive legislations that regulate the environmental, labor, and economic sectors and specifically, all the industrial and agricultural sectors, and the non-completion of some of them such as the executive decrees of environmental law number 444/2002 and upon which are based several practical applications among which, for example, the list of projects whose environmental impact should be reviewed as well as the cost charges...
- Difference in the means and methods of procurement from one department to the other and the adoption of different bidding documents and miscellaneous methods and accordingly, the extinction of the general framework governing public transactions, thus leading to a disparity in implementing the best practice in public procurement and in the procurement of analogous goods or works in different prices and non-compatible specifications.
- Lack of control of public procurements, the arrangement of their matters and census of their operations by one party guarantee coordination in operations and provide the required information, thus rendering difficult the modernization process and follow up of the execution.
- Not providing an occupation specific of public procurement at public administrations and non-employment of supply officials with specifications that facilitate specialized implementation and execution, but commissioning the task to administrative officials performing ordinary administrative tasks.

X. Proposals

The development of sound legal framework for the proper application of sustainable public procurement in Lebanon stemmed from work on new texts or the modification of old texts to fit with this policy, but it also relates to the revival and application of the texts originally available and neglected by public administrations or not given the required application extent. It is also worth mentioning the possibility of working on the implementation of some of the transactions with pure environmental impact i.e. being their goal environmental and not only providing the adoption of environmental standards in public procurement dealing with ordinary daily transactions, as it would achieve an environmental procurement and encourage the private sector to act within the State such as for example, afforestation and combating desertification and creating biodiversity...

Taking into account the above-mentioned, we summarize the proposals as follows:

1. Amendment of the law of public transactions in order to introduce the concept of sustainable procurement therein:

This modernization can be done according to three ways:

- Either through the amendment of the current text of the Public Accounting Act
- Or by setting a special provision to sustainable procurement
- Or through the introduction of the required amendments in the project currently proposed to the Parliament

That the required adjustment can be likened to the French system in this area, thus the text comes to ensure the following:

- Determining the required needs or works: it is mandatory to describe the required need from the administration clearly and accurately, taking into account the environmental sustainability criteria.
- Identifying the technical specifications of required goods and works can be done by imposing the criteria laid down previously by national or international institutions, and technical specifications can also be placed on the basis of performance in the bidding documents on condition to take into account all possible environmental standards.
- These specifications should not be an unjustified barrier preventing the participation of qualified persons to perform the work required.
- It is mandatory – whenever possible – to make standards and specifications allowing the implementation of the transaction or participation in its implementation by disabled persons.
- The rights of workers and employees should be respected by all participants in the implementation of public contracts.

- In order to ensure the widest competition and allow the participation of small and medium enterprises and with the exception of cases where it is not possible to discriminate parts of the transaction, the administration should conduct its transactions on the basis of units or groups (lots). To this end, the administration chooses the number of units and conditions of participation in each of them and conducts concessions on the basis of each unit per one transaction. The administration can adopt one transaction without dividing it into units when retail would reduce competition or when division is not technically possible or that it would impact on the quality of the work required, or make it more expensive ...
 - Conditions for the implementation of a specific transaction could include social or economic elements that may provide sustainable development, social justice, economic development and environmental protection.
 - Competition can be limited in some projects or parts of them to disabled persons or social assistance institutions or in which a large proportion of disabled persons work and whose condition prevents them to work normally.
 - It is possible to grant incentives that ensure the above-mentioned goals, including prepayment at certain rates and the reduction of warranty..
 - Upon preferentiality between the offered prices, it must be taken into account the price for the item longevity, the maintenance costs and its anticipated operating for the duration of regular use.
 - The competent administration is responsible for justifying the reason for not adopting the sustainable environmental, social and economic standards in the transactions that it carries out without being bound by them.
2. Pending the issuance of amendments, a decision could be adopted by the Cabinet or a circular from the same inspired from the Swiss experience, being hindered the issuance of its law, hence it did not find a legal impediment in adopting sustainable procurement due to absence in the text of any indication that may prevent such procurement, a situation similar to Lebanon and the wording of the circular shall comprise the following:
- Environmental, social and economic criteria can be developed (without obligation) upon setting the specifications of required goods or works, provided that it does not lead to a breach of equality between the bidders such as requesting a certain type or "brand".
 - Candidates contracting with the state should respect the environmental, social and economic conditions contained in various laws and regulations especially in regards to:
 - The right of disabled persons at work.
 - Labor rights as well as health and social working conditions.

- Preservation of the environment from pollution, and non-use of materials from illegal sources such as chopped trees and rocks extracted contrary to law.
 - Concessions on the basis of the units that make up one transaction whenever possible.
3. In all cases we must leave the details to the decrees issued by the Cabinet to clarify several matters that cannot be encompassed by law such as:
- Determine the percentage of preference given to tenders commensurate with the required environmental and social conditions to or greater than them.
 - Setting environmental specifications and standards
 - Identifying cases that should meet the three environmental, social and economic criteria
 - Determining the possibility of divisibility of some transactions for the involvement of small and medium enterprises.
 - Identifying the cases in which it is plausible the exceptional abandonment of sustainable procurement.
4. Application of the principles and provisions set forth in the Environmental Law 444/2002 and seeking to achieve them via their adoption in public transactions through:
- Conducting an environmental study for the projects to be implemented, especially the big ones or with a significant environmental impact in terms of strategic environmental assessment and environmental impact assessment.
 - Developing a legal mechanism to control environmental pollution and to identify the competent administrations to this effect.
 - Developing mechanisms to involve citizens, stakeholders and experts with environmental information and ways of dissemination as well as the successful implementation of the legislation and the achievement of its objectives.
 - Preventing the follow-up of a particular project before committing to environmental standards
 - The application of fines and penalties.
5. The issuance of decrees defining environmental standards and specifications and committing public administrations to the same, and such work can be done through the Lebanese Standards Institution (LIBNOR), depending on the specifications and standards such as ISO standards (e.g. ISO 14001 Environmental Systems Handbook). It is obvious that the importance of legal and practical at the level of the required specifications in the book of the conditions clearly and easily through reference to this specification known and proven previously.
6. Implement the conventions ratified by Lebanon in view of their legal utility and commitment, thus in all environmental, social and cultural domains, through the

issuance of national legislation set out in these conventions and granting them their executive extent...

7. Strict monitoring of the implementation of social security law, labor law and the law of the rights of disabled persons and other social laws.
8. Developing economic and financial incentives such as tax exemptions for the environmentally clean production and for the contractor/entrepreneur using marginalized groups, and granting preferentiality to the contractors who are committed to these principles in certain percentages in comparison to the rest of the candidates for public transactions ...
9. Issuing a decree by the Cabinet which requires public departments and institutions, and municipalities to adopt sustainability criteria in official buildings seeking to reduce carbon emissions, save energy and reduce maintenance costs, according to explicit criteria upon which buildings are evaluated, and it is possible to this effect to resort to international standards or accredited to other countries such as (LEED) standard, a standard of energy management and environmental design in the United States of America, which was developed by the American Council for Green Buildings (USGBC), upon which points were awarded for the building in different aspects. For instance, efficiency in energy consumption is given 17 points, sustainable sites are awarded 14 points, the efficient use of water is granted 5 points, and sources materials are granted 13 points whereas the points the quality and integrity of the domestic environment of the building reach 15 points. As for the processes of innovation in design, they shall be granted 5 points, and after assessing the points of each side by the Evaluation Committee, it is calculated the sum of points, which reflects the estimation of (LEED) and the building classification. Thus, the building that achieves a score of 39 points gets a Gold rating, and this classification means that the building achieves effects on the environment by at least 50% compared to a similar traditional building. As for the building that achieves a score 52 points, it shall obtain the platinum rating and this rating means that the building is achieving a reduction in environmental impacts by 70% at least. Furthermore, there are international standards concerned with the concepts of sustainability in buildings such as the ISO 15392 and 21929.

That application on buildings will lead to rapid and concrete results in the framework of energy consumption (imposition of isolation on windows and walls) and the provision of space utilization (the use of partitioning for the offices of wood or transparent glass) and the reduction of carbon emissions, which entail an economic saving in the long term.
10. Mainstreaming the use of alternative energy (sunlight) in the military headquarters and other public places where there are workers at night, for example, the imposition of the solar heater and saving bulbs in the barracks of the army and internal security forces ...
11. Work on the application of modern legislation and the adoption of sustainable procurement per stages i.e. the division of application into three stages, or more, according to market situation and the possibilities available for this application without economic disruption.

12. In order to apply the above principles, it is mandatory to establish a national body entrusted with the administration of the sustainable procurement sector and monitoring of its mode of application by all the departments, and which is involved in proposing laws and regulations related thereto, on condition to be represented in this body the ministries of environment, finance, labor, economy and the Court of Audit.
13. Providing the audit and inspection of public procurement by associating it to the results achieved thereof, whereby it is associated between the fiscal general policy (what is required to be completed) and the procurement (what has been procured, how, in what way, and how it was managed after purchase), and what is the cost of the procurement. For the provision of effective public services with an acceptable impact from the environmental, social and economic viewpoint whilst emphasizing age and occupational cost.
14. Amendment of laws related to occupational structures and general administrative cadres in order to create the procurement official occupation and utilize the required experience for each of the procurement levels and with good salaries.

XI. Summary

The adoption of sustainable procurement constitutes a pivotal transformation in the Lebanese system, transforming the same into new perspectives and investments not previously adopted.

The study of Lebanese laws and their analysis as well as the outline of related international conventions indicate that our legislative system is not devoid of the sustainability principles in their three dimensions, but the main problem remains in the sound implementation of the texts.

The matter seems more difficult when we impose new specifications and principles. At the same time, we should respect the traditional principles of public transactions, being first and foremost the principle of equality and opening competition to all.

In all cases, an accurate scrutiny and a calculation of cost in the long run reflect the negative impact of procurement which does not rely on the sustainable environmental, social and economic dimensions, and whose cost shall be significant while exceeding some increments that may result from sustainable procurement.

The kick start and establishment, based on international initiatives and conventions related to development, the environment and the implementation of the twenty-first century program, renders mandatory for us to adopt effective and legal measures for the prevention of pollution as well as preventing jeopardy to the environment, water, soil, health, forests, biodiversity and air... in addition to combat



unemployment, provide work for all, protect weak groups and ensure economic development.

The achievement of the aforementioned requires synergy, the implementation of laws as well as seeking to improve them and cover gaps in the same in order to avoid transgressions. It also requires outlining the most effective ways to achieve sustainability, thus being the responsibility of the competent ministries namely, the Ministry of the Environment and Finance from which proposals originate in order to be adopted in the Cabinet and approved in the Parliament, and this constitutes by itself a workshop whose execution should be initiated.