

EU, CHINA AND THE ENVIRONMENTAL CHALLENGE IN AFRICA

A case study from timber industry in Gabon

Serena Belligoli

PhD candidate - University of Louvain la Neuve, Belgium

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List of acronyms:

CCP: Communist Chinese Party

CFAD : Concession Forestière sous Aménagement Durable

CFSP : Common Foreign and Security Policy

CPAET : Conventions Provisoires d'Aménagement – Exploitation – Transformation

EIA : Environmental Investigation Agency

FLEGT: Forest Law Enforcement, Governance and Trade

FSC: Forest Stewardship Council

GPP: Green Public Procurements

MOFCOM: Minister of Commerce

NAMA: Nationally Appropriate Mitigation Actions

SASAC: State-Owned Assets Supervision and Administration Commission

SEPA: State Environmental Protection Administration

SFA: State Forest Administration

SME: Small and Medium Enterprises

TFT: Tropical Forest Trust

VPA: Voluntary Partnership Agreements (on FLEGT initiative)

Introduction:

The EU has positioned itself at the forefront in the fight for the protection of the environment, doing a widespread advocacy effort at the global level. This paper does not aim to broadly discuss EU environmental policy, but it rather investigate the role of the EU as a normative power in the environmental domain, with particular focus on the FLEGT initiative and on sustainable forest management. It will highlight strengths, weaknesses and contradictions of the EU approach. China's increasing presence in environmentally sensitive sectors on the African continent, and, among them, in timber industry, raises severe concerns about the environmental impact of such activities. This paper will therefore analyze the potential and actual achievements of the EU-China-Africa trilateral dialogue and cooperation, with particular regard to the FLEGT initiative.

The first part of this paper defines the concept of normative power in the environmental domain, with regard to the EU and China. It argues that, in this domain, while the EU positions itself as a normative power, China, despite enjoying an undeniable power of attraction, is not using this political capital as a normative power would do. Beijing in fact, rather focuses on domestic environmental challenges, while being less attentive to the external environmental dimension. Despite some timid signs of change, Beijing preponderantly advocates for self-centered principles such as national sovereignty and non-intervention.

The second part of this paper deals with a case study, issued from timber industry in Gabon. The choice of this economic sector is based on the fact that Chinese legislation in the forest sector is commonly considered rather advanced, which allows us to highlight the disparity between its domestic and external commitment to sustainable forest management. Forest sector is also particularly interesting since the EU FLEGT initiative (Forest Law Enforcement, Governance and Trade) is explicitly identified by the EU Commission as a promising area of trilateral cooperation between the EU, China and African countries. Gabon is the leading African timber exporter and, during the last two decades, it has seen a substantial export market shift from Europe to Asia, notably to China. After a brief outline of Gabon timber industry and of Chinese presence in this sector, the paper throws a critical regard on the EU FLEGT initiative, as well as on the Euro-Gabonese dialogue on FLEGT and EU-China-Africa trilateral dialogue and cooperation on FLEGT.

The third and last part provides some angles of enquiry about the factors that might raise Chinese awareness concerning the environmental impact of its activities overseas, leading Beijing to take some more substantial initiatives to tackle this issue and increasing the credibility and effectiveness of the EU as a normative power.

The research has been based on a series of interviews with Gabonese and European experts and officials, who prefer to remain anonymous. The Chinese counterpart proved particularly difficult to involve in our research. Despite that, we commit ourselves to maintain as much as possible an impartial regard. We would finally like to thank the IBL Chair on EU-China relations for supporting this research.

Part I: The EU, China and the external environmental dimension

1.1 China as a competitor normative power in the environmental sector?

According to Laidi's definition, a normative power is an actor using norms as a privileged instrument of international action, showing a distinctive preference for norms, actively and intentionally trying to export its norms.¹ The EU action in the environmental domain definitely corresponds to this description. In fact, the EU Commission Green Paper "Adapting to climate change in Europe – options for EU action" clearly states that "the growing concern about climate change impacts and resulting adaptation needs will influence EU relations with third countries"². Environmental concerns have therefore to be integrated into "existing policies and funding instruments, and where appropriate [the EU should] design new policies"³ covering every domain of EU external action, from CFSP to migration policy, from development policy to partnership agreements and trade negotiations.

Ian Manners⁴ affirms that a normative actor can rely on various complementary instruments in order to affirm its norms. Certain instruments have a coercive and therefore "hard power" character, such as the inclusion of conditionality clauses in bilateral and multilateral agreements, while other means rather aim to persuade and convince through the use of soft power. Another element influencing the success of a normative initiative is the market size of the aspirant normative power. In fact, according to what Vogel defines as "the California effect"⁵, the adoption of strict regulations in a significant market have a negative influence in terms of market access on those operators who refuse to comply with the norms, therefore providing strong incentives to adaptation. Kelemen⁶, for example, analyzes the impact of the EU REACH regulation on the chemical sector. As we will see, the market size factor also proves particularly relevant for timber industry and forest protection.

To return to the concept of soft power, Laidi points out the ambivalence of Nye's definition of soft power as "power of attraction", for at least two main reasons. First of all, the capacity of a certain actor to attract and entice is not independent from its power endowment and its power position, which means that a military power can exert a sort of fascination just by reason of its power position. However, holding a power position (whether military, cultural or economic) is not even a guarantee of power of attraction, since it can give rise to a range of different reactions going from attraction and admiration to rejection and envy.⁷ These distinctions made, we can't deny that China's power of attraction is increasing. Beijing is seen as a model of development, alternative to the Western model, which couples an explosive economic growth with a strong central government, refusing to establish a democratic rule. China also seems to have successfully and proudly redeemed itself from a humiliating colonial past and it claims to offer other developing countries the opportunity for a mutually beneficial, peaceful and equalitarian cooperation. It is exactly this double Chinese identity, at the same time as a great power and a developing country, which makes its successful example so appealing for the Third World. We could largely discuss the supposed limits of this model, in terms of environmental and social costs, sustainability of growth rates and political stability, as well as the impossibility to reproduce twice the unique Chinese model, but this falls far beyond the scope of this paper. What we rather ask ourselves is if China is deliberately using this soft power as a normative power would do, that is to spread its norms and standards. With regard to the environmental sector, we find no evidence of such a process. China is not advocating for specific standards, nor is it trying to spread its regulatory framework to third countries, even when its regulatory framework is quite

¹ Laidi (2008) p. 43 and p. 63

² COM(2007) 354 final p. 21

³ *Idem*, p. 22

⁴ Manners (2002) p. 244

⁵ For an extensive description of this dynamic please refer to Vogel (1995)

⁶ Fabry (2008) p. 29

⁷ Laidi (2002) p. 37

advanced.⁸ Despite its growing dynamism in developing alternative environmental governance institutions⁹, China is not exporting these policies abroad. This of course does not imply that the Chinese attitude might not change in the future, with Beijing becoming an active normative power in the environmental sector. Nevertheless, as we have said, we see no clear evidence of such an attitude so far. The well-known statement of Deng Xiao Ping during its visit to Ghana in 1985, as reported by Wei-Wei Zhang, symbolically exemplifies this anti-normative Chinese attitude: "Please do not copy our model. If there is any experience on our part, it is to formulate policies in light of one's own conditions."¹⁰

The Chinese government does not miss a single occasion to underline the centrality of national sovereignty and it unrelentingly affirm the principles of non-interventionism, common but differentiated responsibilities on climate change (which should be reflected in Nationally Appropriate Mitigation Actions or NAMAs), and the right of every country to pursue its own development pattern, balancing economic growth and environmental protection. These are clearly self-centered principles which prioritize national interests rather than universal norms and standards, although, considering the global nature of environmental challenges, we might argue that they represent a narrow and short-sighted concept of national interest.

With particular regard to the environmental issues, Beijing is making real efforts at the domestic level to improve the sustainability of its economic growth but it seems definitely less keen to get engaged in the management of global environmental resources, as we will show in the second part with a study case on sustainable forest management. The great attention paid nowadays to environmental issues at the domestic level in China is due to two major factors. On one side, China became aware of the economic potential of environmental protection. For example, Chinese operators are active in solar panels sector, thanks to their cost-saving technology, which, despite being less advanced compared to that of leading EU firms, is particularly appreciated by the developing countries. On the other side, and most importantly, the Chinese government realized that environmental protection is a matter of national security and domestic stability. The rapid economic growth had disruptive consequences on Chinese domestic environment¹¹ and, if these trends continue, unsustainable economic growth might cause major environmental and social crisis, and consequently put at risk the stability of the government. Confronted with this scenario, the CCP has no choice but to try to balance at its best environmental and economic priorities.

The forest sector is a good example of this dynamics. For a long time, forest and wastelands, especially all along Yellow and Yangtze rivers have been treated as wastelands. Industrial harvesting of forests started in the 1950.¹² In summer 1998, China experienced massive floods on the Yangtze river, which killed between 3000 and 4000 and affected millions of others, causing around US\$ 26 billion of damages.¹³ After these floods, the Chinese governments introduced a series of initiatives and reforms, from log bans to tree planting, which aimed to protect the remaining forest resources. Despite these strict measures, forests covers nowadays a relatively limited part of China (18.2% of its national territory in 2004, against a world average of 34%)¹⁴, while sand storms, one of the consequences of deforestation, heavily hit even Beijing.¹⁵ If international meetings, such as the Rio Conference in 1992, probably helped to raise awareness among Chinese officials of the ecological function of forests, it is only after a dramatic domestic environmental disaster, when large forest areas had already been lost, that the Chinese government resolutely decided to tackle the problem.

1.2 The external environmental dimension

The internationalization of Chinese firms has nevertheless raised concerns about their environmental impact in developing countries with weak governance structures, notably in South Saharan

⁸ Such as in the forest sector, *cf. infra*

⁹ For an interesting description of some of these initiatives, such as the green GDP and the National Environmental Model City, see Economy (2006)

¹⁰ Fironze (2007) p. 167

¹¹ Among various works dedicated to environmental problems in China we cite Scott (2008) and Economy (2005)

¹² Crossick (2007) p. 15

¹³ Spignesi (2004) p. 37

¹⁴ Fabry (2008) p. 90

¹⁵ Bodeen (2010)

Africa. Chinese investments in these countries are indeed concentrated in environmentally sensitive sectors, such as mining, infrastructures and timber exploitation. Chinese projects often help opening up previously inaccessible regions or resources, although then they often take place in particularly remote and ecologically fragile areas. On one side, after seeing the disruptive consequences of Chinese growth on its own domestic environment, there is a diffuse fear that China might export its negative domestic environmental performances. On the other side, after the introduction of stricter environmental norms on Chinese domestic market, such as in the forest sector, there is an increasing concern that Chinese firms might relocate polluting activities and substandard practices to less developed countries (the so-called environmental dumping). The fact that Chinese operators are not necessarily in line with a series of international established environmental standards and guidelines contributes to bolster these allegations.¹⁶

At first, Beijing reacted to these concerns simply reaffirming the principles of national sovereignty and non-interference. Nevertheless, we have recently seen signs of change. Beyond the continuous incitements of Chinese government and embassies for Chinese operators abroad to comply with local laws and regulations, we can list a series of other initiatives: the guidelines for private and public financing institution elaborated during the SFA workshop on Forest Finance in fall 2004¹⁷; the State Council nine principles regulating the foreign investments of Chinese companies (October 2006); SASAC 'instructing opinions about state-owned enterprises fulfilling social responsibility' (January 2008)¹⁸. The Exim Bank environmental policy, adopted in November 2004 (publicly available since April 2007 and upgraded with more specific guidelines in August 2007), states that environmental impacts have to be studied for a project to receive funding and that 'once any unacceptable negative environmental impacts result during the project implementation, China Exim Bank will require the implementation unit to take immediate remedial or preventive measures, otherwise, it will discontinue financial support.'¹⁹ In August 2007 China's State Environmental Protection Administration (SEPA), the People's Bank of China and the China Banking Regulatory Commission passed similar regulations. In June 2007, the Exim Bank also signed a memorandum of understanding with the International Financial Corporation on advisory services on environmental issues.²⁰ Since April 2007 new regulations issued by MOFCOM and SFA requires all imported timber to be accompanied by "legal documents" certifying its legal origin.²¹

These initiatives mostly provide for non-binding guidelines and, according to the above-mentioned principles of non-intervention and respect of sovereignty, they simply demand Chinese firms to comply with host countries regulations. Nevertheless, developing countries often present incomplete and inconsistent regulative frameworks as well as weak governance structures. The capacity of Chinese administration to effectively control the environmental performances of Chinese firms abroad, especially with regard to the myriad of SMEs, which do not receive financial support by Chinese lending institutions, remains highly problematic. The complexity of the situation is further increased by the explosion of mainly "informal" regional, provincial and city timber markets in China²² and by the fact that nowadays individual traders account for a higher rate of timber imports compared to state-run timber companies, which are easier to keep under governmental control.

Part II: A case study: Gabon's timber industry

2.1 Gabon timber industry: a brief overview

¹⁶ For example, since China is not a member of OECD, it doesn't adhere to the "Recommendation on Common Approaches on Environment and Officially Supported Export Credits", formally adopted by the OECD Council on 18 December 2003, cf. Bosshart (2008) p. 3

¹⁷ Canby (2006) p. 24

¹⁸ These initiatives both include a section dedicated to environmental protection.

¹⁹ Bosshart (2008) p. 6

²⁰ Ibidem

²¹ Holslag (2007) p. 10

²² + 70% since 1990s according to Canby (2006) p. 29

Forests cover more than 80% of Gabon's territory²³ and the forest sector is the first private employer (28% of workforce)²⁴. However, it represented in 2007 less than 8% of Gabonese exports²⁵, 1,8% of tax revenues and 4,3% of national GDP²⁶, still far behind the oil sector but rapidly increasing due to declining oil production. Two main species, Okoumé and Ozigo, represent 64% of all the wood harvested, but a diversification process is underway, especially among European operators. The regulatory framework is mainly based on law 106/01, introduced in 2001 with the aim of improving sustainable forest management, protecting biodiversity and industrializing the sector.²⁷ According to this law, in 2012, 75% of the log should be locally processed before export. Even though processed timber increased from 8% of all timber exports in 1992 to 45% in 2009²⁸, the industrialization of the sector is far from being achieved. In fact, several implementation measures have yet to be approved and, even when specific requirements have been introduced, they are not respected by both Asian and European operators.²⁹ The lack of human and material means of the Gabonese forest administration, which is well described in Farmer (2009), is obviously one of the main limits to the effective implementation of Gabonese norms.

Data concerning logging companies in Gabon are rather blurred, since different statistical sources are not consolidated and the informal sector is, by definition, impossible to quantify. The interactive atlas of the World Resources Institute, despite still being a pilot version, offers interesting figures concerning few major operators engaged in forest management and planning. In 2009, the biggest areas were allocated to French operators (40%), followed by Malaysian (21%) and Chinese (16%). Other operators were Italian, Lebanese, Indian, Portuguese and Gabonese nationals.³⁰ Gabonese timber industry has deeply changed during the past two decades, since the entry on the market of several, mostly Asian, companies has challenged the predominance of French firms.

The following section provides some relevant data concerning Chinese companies in Gabon's timber industry and it describes mutual perceptions among Chinese, European and Gabonese actors.

2.2 Chinese operators in timber industry in Gabon

China is the leading timber importer at the world level, due to the enormous needs of its construction, infrastructures and furniture industries. The US and the EU are the main exports markets of Chinese wood products, with a growth of nearly 1000% since 1997.³¹ Chinese wood industry, despite its rapid expansion, is still less advanced compared to Northern counterparts and it therefore demands large diameter logs from (sub-)tropical natural forests of first or second growth. In fact, African timber exports to China, which only represents around 4% of Chinese timber imports, are largely dominated by logs (85% in 2006).³² Gabon is by far the major African timber supplier to China.³³

Asia became the main Gabonese export market in 1993. Malaysian operators were the firsts to enter the market, shortly followed by Chinese companies. Since 1996 China is the major export destination accounting for 56% of Gabonese timber exports in 2007, against 21% for the EU (14.3 for France)³⁴. These figures might however be misleading, since there are also European firms with logging activities in Gabon which export to China. Disaggregated data do not exist, so the activity of Chinese firms in timber industry in Gabon, although undeniably significant, might result overstated.

²³ Quenet-Nguia (2008) p. 1

²⁴ WRI (2009) p. 5 Even though all sources affirm that the forest sector is the largest private employer in Gabon, they largely disagree about the number of persons directly and indirectly employed (from 10% to almost 40% of the population).

²⁵ Quenet – Nguia (2008) p.1

²⁶ Wesseige (2008) p. 396 However, according to Alves (2008), timber exports account for 7.7% of export revenues.

²⁷ For a detailed description of Gabonese regulative framework in the forest sector, see Wesseige (2008) and WRI (2009)

²⁸ Presentation of Gabonese forestry sector at the FLEGT Workshop in Gabon by Sylvain NZE NGUEMA (05/2009)

²⁹ Several interviews with European officials and a Gabonese expert, 03/2010

³⁰ WRI (2009) p. 28

³¹ Canby (2008) p. 2

³² Idem p. 6-9

³³ Other major Africa suppliers are Cameroon, Republic of Congo and Equatorial Guinea

³⁴ Quenet – Nguia (2008) p. 2

According to Jansson (2009), Chinese investors first penetrated the Gabonese market taking over several small companies in financial difficulties³⁵ and they managed to obtain permits and concessions by Gabonese administration in disregard of existing norms.³⁶ Quenet-Nguia argues that the economic crisis has intensified this trend.³⁷ For example, the French firm Leroy Gabon (Plyrosol) has been bought by the Chinese firm Honest Timber in April 2009.³⁸ However, comprehensive figures of this phenomenon are not available. Even though just seven Chinese operators are listed in the WRI Atlas, several others are supposed to be active on the Gabonese territory. Exact figures are unknown, but a Gabonese expert³⁹ makes estimates for around 15 Chinese firms. They are both privately owned (such as the already cited Honest Timber and the Rimbunan Hijau group, which operates under various different names) and subsidiary of Chinese parastatals (Hua Jia, a subsidiary of China International Forestry Group Corporation, and COFCO, which operates as Sunly, Sunry and SAFOR). Always according to Jansson (2009), none of the Chinese private companies are financially supported by the Chinese state.⁴⁰

Opinions about Chinese firms in Gabon logging industry, particularly concerning their environmental impact, vary substantially. Estimates of illegal logging in Gabon, for example, go from 20% to over 70% of all timber exported to China.⁴¹ Without going as far as talking of “China’s Predatory Timber Trade”⁴², there is a widespread perception among local and international stakeholders that the environmental performance of Chinese companies is poor.⁴³ A local actor affirmed that the attitude of Chinese firms toward voluntary certification mechanisms of wood legality is skeptical, hesitant and reluctant to confrontation, since they simply do not want to commit themselves to sustainable forest exploitation.⁴⁴ Chinese operators, on the other hand, feel victim of excessive and biased scrutiny, due to their competing interests with European firms. Several Chinese and Gabonese actors claim that the past examples of substandard environmental practices by Western companies⁴⁵ prove the hypocrisy of their present lobbying action on environmental issues. According to Jansson (2009), Chinese stakeholders are largely positive about their operating environment and willing to comply with rules when required. However, the same research reports that Chinese operators perceive Gabonese regulative framework as flexible and negotiable, which might mean that corruption is not an unusual practice. This impression is confirmed by a Gabonese expert affirming that, when required to comply with the law, Chinese operators first try to solve the problem through “shortcuts” and, only when this tactic results unsuccessful, they are ready to comply with the rules.⁴⁶ Of course, this implies that Gabonese administration is, at a certain extent, open to corruption, while it does not mean that Western companies are free from corruptive practices. As Francis Rougier, chairman of the board of directors of Rougier-Gabon, declared in an interview in 2004, “*Je connais des Asiatiques qui travaillent bien ; j’en connais également d’autres qui travaillent mal. En revanche, je connais des Français, des Italiens, des Libanais qui ne travaillent pas bien. Ce problème est celui de la gouvernance*”. Although Rougier-Gabon itself hasn’t been free from allegation of misbehavior⁴⁷, the governance problem remains truly relevant, even for the successful implementation of the EU initiative for Forest law enforcement, governance and trade (FLEGT), which is currently the core EU initiative in the forest sector.⁴⁸ The following section provides a short description of this initiative, with some critical remarks, and it analyzes the state of art of Euro-Gabonese dialogue on FLEGT.

³⁵ Jansson (2009) p. 85

³⁶ Interview with Gabonese expert, 03/2010

³⁷ Quenet – Nguia (2008) p. 4 and Jansson (2009)

³⁸ Idem, p. 1

³⁹ Interview with Gabonese expert, 03/2010

⁴⁰ Jansson (2009) p. 21

⁴¹ Burke (2007) p. 85

⁴² Thornton (2005) p. 4

⁴³ IUCN p. 9

⁴⁴ Interview with Gabonese expert, 03/2010

⁴⁵ For instance, in November 1995 the Rougier Group and IUCN signed an agreement for a sustainable development of natural resources in the Ipasa Mingouli area, financially supported by the EU. Due to various facts, the EU and IUCN delayed the beginning of the project. In the meantime, the Rougier Group, without informing its partners, deeply logged inside the core conservation zone of the Ipasa Mingouli Project and opened roads for logging trucks. This misbehavior was discovered during the CNN shooting for Wild Planet program by the CNN journalist Gary Strieker and the Italian activist Giuseppe Vassallo of WEESA, an environmental network of students from European Universities. WRM (1998)

⁴⁶ Interview with Gabonese expert, 03/2010

⁴⁷ cf. note 45

⁴⁸ For a short summary of previous EU action for forest protection, please refer to Sizer (2000) p. 57

2.3 The FLEGT initiative

Launched in November 2003, the FLEGT initiative addresses Central Africa, Russia, Tropical South America and Southeast Asia. Countries which agree to take part in this scheme should negotiate with the EU commission a bilateral and legally binding FLEGT Voluntary Partnership Agreement (VPA). The agreements will provide a license scheme to verify the legality of timber, based on FSC criteria but extended, with the necessary adaptations, to all the timber harvested in a certain country, both from primary forests and from non-lasting forms of timber exploitation (e.g. plantations). Negotiations also concern the wider national regulatory framework for the forest sector, which should be upgraded and completed, when necessary, in order to ensure the sustainable management of forests. The initiative is expected to assure a better enforcement of forest law and promote an inclusive approach involving civil society and private sector. FLEGT global approach should be the distinction mark of the EU initiative as compared to various other international initiatives and certification systems. Its intent indeed is not only to ensure the legality of timber operations, but also their sustainability under the social, the economic and the environmental aspect. Nevertheless, FLEGT licenses are to be issued by the forest administrations of the partner countries, which often dramatically lack human and material means to fulfill their functions. In order to guarantee the success of the FLEGT initiative, measures to increase governance capacity in partner countries should be discussed during FLEGT negotiations. Further criticisms of the FLEGT initiative concern the circumvention risk and the laundering risk. In the first case, illegal timber from FLEGT partner countries could be diverted to non-EU and non-partner countries for immediate consumption or for re-exportation to Europe with a different official origin. In the second case, illegal timber from a non-partner country might be imported in a FLEGT partner country, processed with legal timber and exported to the EU as FLEGT-licensed timber, since rules of origin define the country of origin as the place where the product was grown or where it had its last substantial transformation.

Since late 1980s EU logging firms have been confronted with the increasing preference of EU consumers for certified timber products and the increasing activism of the EU as a normative champion in the environmental domain.⁴⁹ In a first moment, EU firms have not been that eager to change their *modus operandi*. Nevertheless, after realizing that eco-certification and sustainable forest management, if equally imposed to all the operators in timber industry, could be a way to establish a common ground for fair competition with non-European firms, they started to commit themselves to sustainable management processes.⁵⁰ FLEGT was initially designed to cover exports from the partner country to the EU. However, the first two countries signing a FLEGT/VAP, Ghana and the Republic of Congo⁵¹, autonomously decided to extend the FLEGT licensing scheme to all their exports, whatever the destination country was. This decision has clear far-reaching consequences for all the operators and it has awakened the interest of EU companies for the FLEGT initiative, which might contribute to foster dialogue on FLEGT initiative in Gabon.

Despite participating to several workshops on FLEGT initiative since 2006 and despite having create its own FLEGT Task Force in October 2008, Gabon, who is the first African timber exporter, has yet to start FLEGT/VAP negotiations. This delay is probably due to a number of concomitant factors. If the respect of national sovereignty is obviously a motive of concern for the Gabonese government, other elements to take into account include the interest of part of Gabonese élite in maintaining non-transparent practices and in protecting their private interests in the forest sector. An observer mentioned a possible withdrawal of Chinese investments, consequent to stricter implementation of environmental norms, as a further reason of concern for the Gabonese government.⁵² On the EU side, there has also been a certain lack of capacity in conducting numerous negotiations at the same time, while maintaining a pragmatic,

⁴⁹ For a discussion about the emergence of environmental preferences in the EU, see Fabry (2008)

⁵⁰ Interview with EU official, 03/2010

⁵¹ Negotiations are currently underway in Cameroon, Liberia, Central African Republic, Indonesia and Malaysia.

⁵² Interview with Gabonese expert, 03/2010

differentiated, country-based approach.⁵³ The expected introduction of stricter regulations on the EU market⁵⁴, with an increased pressure from European donors and operators, the renovated importance of timber sector following the decline of oil revenues and the successful signature of the first FLEGT/VAPs, all seemed to be positive stimulus. However, the opening of FLEGT/VAT negotiations, scheduled for March 2010, has been postponed to a date to be defined.

According to a European official⁵⁵, the new Gabonese government lacks understanding of FLEGT initiative, although it has demonstrated its activism in the forest sector through a number of initiatives. A log and commercialization ban on five species (Afo, Douka, Ozigo, Moabi, Padouk) has been introduced in summer 2009 for 25 years starting from 1 February 2009, while in a log export ban, imposed in November 2009, was supposed to enter into force in January 2010. In February 2010, however, the government approved a three-month waiver to allow the operators to export the remaining stocks and to adapt to the new law. Confronted to lively protests from all the operators, which threatened massive discharges, the government did not back-pedal but it promised unspecified supporting measures. It is yet to be seen which will be the socio-economic effects of these measures. Nevertheless, if they will be effectively implemented, their impact will be relatively stronger on Chinese firms, which, as we have seen, mainly trade unprocessed logs. After this overview of timber industry and FLEGT initiative in Gabon, we will continue analyzing EU-China-Africa trilateral cooperation and dialogue on the FLEGT initiative.

2.4 EU-China-Africa trilateral cooperation and dialogue on FLEGT

Seen the increasing presence and influence of the new Chinese player on the African continent, the EU and its member states have tried to adjust their policies towards African countries. A particularly interesting example of the EU renovated approach is the EU-China-Africa trilateral cooperation, launched by EU Commission in 2008.⁵⁶ The annexes to the initiative outline same major areas of cooperation; amongst them, the “Partnership on the environment and sustainable management of resources”, where FLEGT is explicit cited as a promising area of collaborative action. Which have been the concrete initiatives within this framework? Which has been the Chinese reaction to this EU initiative? The following paragraphs will try to answer these questions, even if it is still too early for a final evaluation of this process.

In November 2005, China participated at the FLEGT ministerial conference in S. Petersburg, while an EU–China FLEGT conference took place in China in September 2007, at the presence of African representatives. The two parties made a high political commitment to fight illegal logging and to exchange information on trade, certification and other relevant issues. A follow-up meeting between the European Commissioner for the Environment and the SFA director took place in April 2008 during the China-EU High Level Economic and Trade Dialogue. In this occasion, a “Bilateral coordination mechanism on FLEGT” was established and the parties declared their will to cooperate further on forestry issues in Africa, especially in the Congo Basin countries. These major official meetings come with a series of workshops, study exchanges and diplomatic contacts at various levels. This general impression of engagement should however be offset by EU complains about the slowness of Chinese administration in answering to EU requests.⁵⁷ As two European officials affirmed a “cooperative logic has been established even though real cooperation has not yet taken roots”, since “China seems quite interested in deepening its knowledge about the FLEGT process but it is not showing any particularly positive reaction. Beijing does not seem especially willing to get actively involved.”⁵⁸

The main Chinese critic about the trilateral cooperation and dialogue on FLEGT is that it is nothing but trilateral. We can consider this critic as a pretext to slow down a dialogue considered of secondary importance. However, even European officials acknowledge that the trilateral dimension has been totally

⁵³ Interviews with EU officials and EU experts, 03/2010

⁵⁴ cf. infra, Part III

⁵⁵ Interview with EU official, 03/2010

⁵⁶ COM(2008)654 final

⁵⁷ Interviews with EU officials, 03/2010

⁵⁸ Ibidem

ignored, in favor of a bilateral approach, with a strong emphasis on EU-China relations, while “the subject has been hardly discussed with Africans”⁵⁹. The attitude of the latter ones has consequently been one of little interest and skepticism, towards an initiative that could be seen as an attempt to interfere in their relations with China or, at worst, as demonstration of unacceptable paternalism. The complexity and lack of clarity of the FLEGT system, which relies on several EU NGOs for its actual implementations, have also been reasons of concern.

Seen the hesitancy of the African counterparts, and not last, as we have seen, of the Gabonese government, China has adopted a pragmatic “wait-and-see” attitude. Nevertheless the fact that the first FLEGT/VAPs signed with Ghana and the Republic of Congo will be applied to all the exports and that the EU might introduce stricter rules on its domestic market⁶⁰, might increase Chinese commitment to the FLEGT process. The conclusive part of this paper will therefore investigate which EU initiatives might foster Chinese commitment for sustainable forest management in Central Africa, favoring the success of EU normative ambitions.

Part III: European commitment, Chinese commitment

Due to significant constraints on open debate, Chinese enterprises are subjected to less scrutiny by domestic media and NGOs in relation to their environmental performance, compared to European counterparts. Moreover, according to Sun (2009), the general public is mainly concerned by health and safety aspects of products, rather than with environmental externalities. This preference is reflected in the “green procurement guidelines” issued by the central government on several products, including timber. The efforts of Chinese, European and international NGOs to raise environmental awareness among Chinese citizens are certainly important and laudable, even though absolutely insufficient to be a driver for change in the short-medium term. Increasing naming-and-shaming pressure on Chinese companies by international media and NGOs, such as Greenpeace, Global Witness, EIA, and TFT, might have positive outcomes, since Chinese firms, especially large multinationals, pay great attention to their international image. However, small and micro enterprises, thanks to their size, are less likely to be in the sights of international blame and they are also often able to elude governmental controls. International and domestic public opinions prove therefore largely inadequate both in convincing Chinese firms to seriously take into consideration the environmental impact of their overseas operations and in making Chinese administration more willing to cooperate on these issues. Two other means of leverages should therefore be considered: the vulnerability of Chinese timber firms on supply side and on consumer side.

Vulnerability on supply side means that if timber exporting countries introduce stricter regulatory frameworks and assure their effective implementation, Chinese firms will be forced to comply with the rules in order to secure their investments. It is essential that this dynamic affects the large majority of timber exporting countries in order to prevent environmental dumpers from simply relocate their activities in neighboring countries with lax environmental standards.⁶¹ Despite positive signs of growing sensitivity for environmental protection among many exporting countries, we cannot be naively optimists. In fact, in order to guarantee the effectiveness of such a process, a considerable amount of political will is still lacked. Even more importantly, governance capacity of forest administrations in developing countries is usually extremely poor as we have already seen in the Gabonese case. A dramatic improvement of the capacity to effectively enforce national legislation on forest protection is needed. Despite growing interest from international donors for governance in forest sector, the situation cannot change overnight.

Initiatives focusing on consumer side vulnerability seem then more promising. These initiatives should be based on the leverage that huge environmentally sensitive markets can exert on Chinese exporters, according to the already cited “California effect”.⁶² A wood tracing system, covering the whole

⁵⁹ Interview with EU official, 03/2010

⁶⁰ cf. *infra*, Part III

⁶¹ Timber industry operators who did not made huge investments in sustainable management plans and who mainly trade unprocessed logs can easily shift logging equipments from one country to another, which illustrates the high capital mobility in logging sector.

⁶² cf. 1.1

value supply chain, would also help to overcome certain shortcomings of the FLEGT initiative, such as the laundering and the circumventing risk.⁶³ As an “Additional Option” to FLEGT, the EU Commission has presented in October 2008 a draft regulation, known as “Due Diligence”⁶⁴. The approach is different from the US Lacey Act⁶⁵, since the regulation does not punish the possession of illegal timber. The regulation focuses on the actions of the operators rather than on the products: European retailers at the points of first entry of timber products on the EU market are required to use ‘due diligence systems’ to minimize risk of placing illegal timber on the EU market. They should therefore be able to certify the legality of imported wood. This system aims to provoke a virtuous cycle with cascade effect on the whole market, since Chinese operators will be forced to adapt and certify the legality of their wood products, if they want to have access to the large Europe market. This seems so far the most effective way to ensure the legality of timber imports. Nevertheless, the concrete implementation of a certification system covering the whole supply chain will not prove easy, since several woods with different origins are often processed together in a single final product. Another extremely important aspect, even though it falls beyond the scope of this paper, is the definition of legal timber. The proposal of the EU Commission obviously recognizes FLEGT certifications. In countries which did not sign a FLEGT/VAP, since an internationally agreed definition of legal timber does not exist, timber is usually considered legal when harvested and processed according to the national legislation of the country of origin. National legislations, however, vary substantially under several aspects and do not always take into account social, environmental and economic sustainability of timber production.⁶⁶ Amendments by both the EU Parliament and the Council have watered down the original proposal, removing financial penalties for non-compliance. The “Due Diligence” proposal, which is expected to be approved in mid-2010, has raised many questions and several aspects concerning its implementation are still largely unclear.

The EU Commission has also issued guidelines on green public procurements (GPP), which are public procurement policies including criteria which favor the purchase of certified forest products (preferably according to FLEGT licensing criteria). The adoption of regulations on GPP fall within member states exclusive area of competence. So far, GPP policies have only been adopted in the United Kingdom, the Netherlands, Belgium, France, Germany and Denmark, even though similar policies exist at the local level in a number of countries.⁶⁷ The diversity of environmental requirements in European national regulations on public procurements diminishes the potential impact of these measures on non-European suppliers.

Conclusion

The EU asks China to shift from a self-centered attitude which “strongly reflects well-perceived domestic interests and priorities” to “an acceptance of a wider global environmental responsibility.”⁶⁸ It is widespread opinion that Chinese actors can be more flexible than Western operators and that, if willing to, they can show an unsuspected capacity to rapidly adapt to new standards and practices.⁶⁹ With regard to forest sustainable management, the introduction of high standards and strict regulations on the EU market could exert a considerable market pressure on Chinese operators, providing a strong incentive to adaptation. EU normative initiatives at the international level (such as FLEGT) can be useful entry points for legislative and governance reforms in timber rich countries. However, external effects of the EU domestic regulations and norms should not be underestimated and they are probably major sources of leverage for the EU. Imposing high standards and strict requirements on the EU market could demonstrate the actual

⁶³ cf. 2.3

⁶⁴ COM(2008) 644/3

⁶⁵ The 2008 Farm Bill amended the 1900 Lacey Act, by expanding its protection to a broader range of plants and plant products. Since 15 December 2008, anyone who imported, exported, transported, sold, received, acquired or purchased the wood products made from illegal timber, as defined by the country of origin, who knew or should have known that the wood was illegal, may be prosecuted for violation of the Lacey Act. For further details, Hance (2010) and EIA (2010)

⁶⁶ cf. Canby (2006) p. 16

⁶⁷ National policies do not always apply at local public procurements. (e.g. in the United Kingdom)

⁶⁸ Carter (2006) p. 341

⁶⁹ Interviews with European and Gabonese experts, 03/2010

commitment of the EU and its member states to the protection of the environment. It could also increase the legitimacy of the EU as normative power, showing that the EU and its member states do not limit themselves to advocacy actions but that they are willing to be the firsts to get engaged at the highest level.

European member states declare themselves committed to environmental protection. Nevertheless, most of them delay concrete actions to tackle these issues and try to downsize the EU Commission initiatives. EU domestic regulations coupled with the size of the EU domestic market could be real drivers for change. Delays in implementing the EU initiatives undermine the potential leverage effect of the EU market on third countries operators.

The image of a two- or multiple-speed environmental Europe (as in the case of GPPs) and the gap between advocacy efforts and domestic commitment (as in the “Due Diligence” case), adversely affect the credibility of the EU as a normative actor, as well as the willingness of other actors to adhere to EU normative proposals.

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