

BEYOND EUROPEAN CONDITIONALITY AND CHINESE NON-INTERFERENCE: AN INCLUSIVE APPROACH IN REGULATING EU-CHINA-AFRICA TRILATERAL RELATIONS

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I. INTRODUCTION

In 2006, China published its first white paper on African policy. This signals China's ambition to play a greater role in the African continent based on its great amount of foreign aid thereto coupled with trade and investment activities. The EU, a traditional major actor through a variety of policy instruments including preferential trade, partnership agreements, official development aid, gradually realises China to be a competitor, if not a threat, in exercising its influences in Africa. The competition of influences and conflicts of interests between the EU and China in the African continent seem inevitable. This relates not only to geopolitics but also to human rights, environmental protection and energy security. The worries of European politicians, academics and civil society centre on China's appetite for African resources and its resulting human rights violations and environmental impacts. The pivotal point here is the fundamental value differences between the EU and China: European conditionality versus Chinese non-interference.

On the other hand, China's intensified engagement with Africa poses to challenges to multilateral regulatory framework. China's development activities with African countries are often coupled with trade and investment activities and thus blur the line between development assistance and development cooperation. Further, since China is not a member of the Development Assistance Committee in the Organisation for Economic Cooperation and Development (the OECD DAC), the effectiveness of this regulatory framework may be undermined. Concerns and worries are amplified given the lack of transparency in China's foreign aid towards African countries.

In this context, this paper aims to examine the confrontation of the EU and China in the African continent and explores the feasibility of such EU-China-Africa trilateral relationship. It starts with a survey and critique of the EU's and China's existent regulatory frameworks on African development policies, with particular focus on preferential trade, foreign aid (for trade), and economic partnership agreements. Several policy documents will also be analysed. I will then examine the Commission communication entitled *The EU, China and Africa: Towards trilateral Dialogue and Cooperation* and explore how it fits into existent framework. Further, I will also analyse the role of multilateral framework to bring in all stakeholders and thus bring about a constructive result. Particular focus will be placed on the OECD DAC. A

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short conclusion summarising the main findings and arguments of this paper will be provided in the end.

II. THE EU'S REGULATORY FRAMEWORK ON AFRICAN DEVELOPMENT POLICY

A. EUROPEAN CONSENSUS ON DEVELOPMENT, EU-AFRICA SUMMIT AND AFRICA-EU JOINT STRATEGY

In 2005, the European Commission, European Parliament, the European Council and the representatives of Member States adopted the *European Consensus on Development*² which articulates the European vision on development and EU (then: the EC) development policy. The European vision on development policy sets out common objectives and principles for development cooperation while the EU development policy aims to formulate a roadmap for the renewed EU development policy. The *European Consensus on Development* puts the eradication of poverty in the context of sustainable development on the top of the EU development cooperation.³ It further speaks of development as a central goal by itself and defines sustainable development as composing good governance, human rights and political, economic, social and environmental aspects.⁴

The *European Consensus on Development* reiterates the common values of EU partnership and dialogue with third countries of respect for human rights, fundamental freedoms, peace, democracy, good governance, gender equality, the rule of law, solidarity and justice".⁵ Policy coherence for development in EU development cooperation is underlined⁶ and effective multilateralism whereby the whole international community shares responsibility for development is subscribed to.⁷ *European Consensus on Development* also addresses the conditionality issue. In selecting the modality for implementing the development aid, the *European Consensus on Development* instructs the EU to clearly define the added value of additional conditionality, if any, and to disburse its development aid based on the results and performance indicators whereby conditionality should evolve into towards the concept of a "contract" based on negotiated mutual commitments.⁸

In the political sphere, EU-Africa Summit represents the most important forum for EU-Africa relations. Since its inception and institutionalisation in 2000, it gradually gains its

² European Parliament, Council, Commission Joint Statement by the Council and the representatives of the governments of the Member States meeting within the Council, the European Parliament and the Commission on European Union Development Policy: The European Consensus, 2006/C 46/01, 24 February 2006.

³ The European Consensus, para. 5.

⁴ The European Consensus, para. 7.

⁵ The European Consensus, para. 13.

⁶ The European Consensus, para. 9.

⁷ The European Consensus, para. 13.

⁸ The European Consensus, para. 113, 115.

weight in EU's development policy. The Lisbon EU-Africa Summit was at its high tide where the EU and Africa endorse to *The Joint Africa-EU Strategy*⁹ which aims to set out an overarching framework for EU-Africa relations.¹⁰ The EU and Africa both subscribe to the guiding fundamental principles of "the unity of Africa, the interdependence between Africa and Europe, ownership and joint responsibility, and respect for human rights, democratic principles and the rule of law, as well as the right to development."¹¹

The Joint Africa-EU Strategy then puts forward four main objectives, namely, "to reinforce and elevate the Africa-EU political partnership"; "to strengthen and promote peace, security, democratic governance and human rights, fundamental freedoms, gender equality, sustainable economic development....., and to ensure that all the Millennium Development Goals (MDGs) are met in all African countries by the year of 2015"; "to jointly promote and sustain a system of effective multilateralism"; "to facilitate and promote a broad-based and wide-ranging people-centred partnership".¹² *The Joint Africa-EU Strategy* further prioritises four strategic aspects, including peace and security; governance and human rights; trade and regional integration; and key development issues.

The Joint Africa-EU Strategy underlines the central role of promotion of democratic governance and human rights in EU-Africa dialogue and partnership. In accordance with this spirit, the EU and Africa would join efforts to enhance the effectiveness of multilateral framework and to promote the values of democracy, human rights and rule of law.¹³ *The Joint Africa-EU Strategy* further points to the limitation of EU's conditionalities in order to ensure the predictability of development aid. By contrast, the EU's development aid is directed to be result-oriented, based on the MGD indicators and performance.¹⁴ Closer cooperation with international actors, including emerging donors, through tripartite dialogue so as to ensure the coherence and complementarity of development aid is encouraged.¹⁵ In that regard, Paris Declaration on Aid Effectiveness is pertinent.¹⁶

B. COTONOU AGREEMENT AND ECONOMIC PARTNERSHIP AGREEMENTS

One of the major instruments governing the EU-Africa relations is the Cotonou Agreements signed by the EU on the one part and the African, Caribbean, and Pacific countries (the ACP countries) on the other. This agreement finds its predecessors Lomé

⁹ The Africa-EU Strategic Partnership: A Joint Africa-EU Strategy (the Joint Africa-EU Strategy), adopted in 2007, Lisbon EU-Africa Summit.

¹⁰ The Joint Africa-EU Strategy, para. 5.

¹¹ The Joint Africa-EU Strategy, para. 6.

¹² The Joint Africa-EU Strategy, para. 8.

¹³ The Joint Africa-EU Strategy, para. 27.

¹⁴ The Joint Africa-EU Strategy, para. 52.

¹⁵ The Joint Africa-EU Strategy, para. 54.

¹⁶ The Joint Africa-EU Strategy, para. 51.

Convention and Yaoundé Convention back to the earlier days when the European Economic Community was conceived. Regardless the continuity, the breakdown with the Lomé Convention and coming into being of Cotonou marks a new era of EU-ACP relations and displays the shift of the essence and nature of the EU-ACP relations. The reduction and eventual eradication of poverty which should be realised in a way consistent to sustainable developments and gradual integration of the ACP countries into world economy is prioritised in the Cotonou Agreement.¹⁷ Besides, the Cotonou Agreement also spells out the essential elements including respect for human rights, democratic principles and rule of law¹⁸ and identifies good governance as fundamental element.¹⁹

Article 96 and 97 then provide consultation procedures and appropriate measures regarding the infringement of essential elements and fundamental element. Whenever the EU or its member states or any ACP country considers that the other Party has failed to fulfill an obligation stemming from respect for human rights, democratic principles and the rule of law” as referred to in Article 9(2) of the Cotonou Agreement, a consultation procedure should be initiated with the supply of relevant information to the other Party and Council of Ministers with a view to reach mutually acceptable solution.²⁰ If a mutually acceptable solution is not possible after the consultation procedures or the consultation is refused, measures in accordance with international law and proportional to the violation may be taken. Nonetheless, the measures should be revoked as soon as the reasons for taking them cease to exist. Further, in deciding the measures to be taken, priority should be given to those which least disrupt the application of the Cotonou Agreement and its suspension is understood to be the last resort.²¹

Regarding the fundamental element, namely the good governance, the Cotonou Agreement qualifies the application of consultation procedure and appropriate measures as provided in Article 97 to serious cases of corruption. In other words, only serious cases of corruption constitute a violation of the fundamental element.²² Similar to the arrangement of Article 96 of the Cotonou Agreement, Article 97 provides the consultation procedures and appropriate measures to be taken. The agreement also dictates “the Party where the serious cases of corruption have occurred to take the measures necessary to remedy the situation immediately.”²³ Nonetheless, when a mutually agreed solution is not possible or the consultation is refused, measures proportional to the seriousness of the situation may be taken.

¹⁷ The Cotonou Agreement, Art. 1.

¹⁸ The Cotonou Agreement, Art. 9(2)

¹⁹ The Cotonou Agreement, Art. 9(3).

²⁰ The Cotonou Agreement, Art. 96(2)(a).

²¹ The Cotonou Agreement, Art. 96(2)(c).

²² The Cotonou Agreement, Art. 9(3).

²³ The Cotonou Agreement, Art. 97(3).

The Agreement also instructs the Parties, in deciding the measuring to be taken, to select those which least disrupt its application, the suspension being the last resort.²⁴

As the preamble declares of the Cotonou Agreement declares, “[A] political environment guaranteeing peace, security and stability, respect for human rights, democratic principles and the rule of law, and good governance is part and parcel of long term development;” and “responsibility for establishing such an environment rests primarily with the countries concerned.”²⁵ The political dimension of the Cotonou Agreement attaches great importance to essential and/or fundamental elements of sustainable development. Serious violation would trigger sanction against the affected ACP countries.²⁶ The inclusion of the conditionality in the Cotonou Agreement differs significantly from its predecessor. According to Olufemi Babarinde, the EU’s attempts in influencing the behaviour of ACP countries under the Lomé conventions consistently failed. The EU’s success in persuading the ACP countries to accept these conditionalities can be attributed to the global change emanated by Eastern Europe and to the realization of ACP countries that they have to compete for the EU’s resource with other late comers.²⁷

In commenting on EU’s conditionality in its development policy toward Africa, Uwe Wissenbach also notes, in earlier days of EU-Africa aid and trade cooperation, the EU strictly respect the sovereignty and non-interference principle due to the sensitivity of colonialism. The conditionality is actually a distinguished feature post-cold war development policy. The reason why the EU adopts its conditionality results from its earlier failure to bring about satisfactory political and social-economic progress in Africa as contrasted to the transformation in Central and Eastern Europe.²⁸ Realising the contribution of good governance to African sustainable development leads to political and financial incentives for African countries to abide by those good governance principles. He thus argues that the EU’s development policy toward Africa is a middle-way between the unconditional support of African dictators in exchange of strategic benefits during the Cold War and the over-prescriptive Washington Consensus.²⁹

In relation to trade aspect, as Olufemi Babarinde and Gerrit Faber point out, one of the principal provision in all four Lomé Conventions was nonreciprocal trade preferences.³⁰

²⁴ The Cotonou Agreement, Art, 97(3).

²⁵ The Cotonou Agreement, fifth preambular.

²⁶ O Babarinde, 'The Changing Environment of ACP-EU Relations' in O Babarinde and G Faber (eds), *European Union and the Developing Countries: The Cotonou Agreement* (Martinus Nijhoff Publishers, Leiden; Boston 2005) 29-30.

²⁷ *Ibid.*, at 20.

²⁸ U Wissenbach, 'The EU's Response to China's Africa Safari: Can Triangular Cooperation Match Needs?' (2009) 24 *European Journal of Development Research* 662, 666.

²⁹ *Ibid.*,

³⁰ O Babarinde and G Faber, 'From Lomé to Cotonou: EU-ACP Partnership in Transition' in O

EU-Africa relations under the Cotonou Agreement, compared to its predecessor, envisage reciprocal trade relations which will be negotiated and implemented by economic partnership agreements at a later stage. The negotiation of the Cotonou Agreement was placed with the context of the WTO framework where the EU's banana trade regime has repeatedly challenged by Latin American countries. Further, the EU-ACP waiver obtained in Doha Ministerial Conference expired on 31 December 2007; a WTO-compatible EU-ACP trade regime is thus of great concern to the EU.

In the context of EU-Africa trade relations, the Cotonou Agreement instructs the negotiation between the EU and African groupings to start the new trading agreements in September 2002 with the aim to effectualising those agreements when the preparatory period phased out in 31 December 2007.³¹ Since 2005, Least developed countries should be allowed "duty free access for essentially all products" building on the level of existing trade arrangement.³² Alternative possibilities should be provided for non-LDC not in a position to enter into economic partnership agreements in order to maintain the equivalence of their existent situation.³³ As a consequence, in terms of EU-Africa trade relations, African countries might go for economic partnership agreements, as noted before. Nonetheless, a WTO-compatible economic partnership agreement implies the reciprocal market access and trade liberalisation and may be detrimental to economic interests of African countries. Alternatively, least developed African countries can also opt for the Everything but Arms (EBA) initiative for nonreciprocal preferences. Further, for those African countries not enlisted as least developed countries may also avail themselves under the Generalised System of Preferences (the GSP).³⁴ Regarding financial support, explicit criteria based on need and performance are set out for in the Cotonou Agreement.³⁵

The result of negotiation reflects a mixed picture. Regarding the West Africa, the second phase of negotiation was initiated in January 2010 while Ivory Coast and Ghana have signed the EPAs. In relation to Central Africa, negotiation is undergoing while the EU-Cameroon interim EPA has been done. As for Eastern and Southern Africa, the negotiated was stagnated and parties agreed to re-open the negotiation. The EU's EPA policy seems to be more successful toward Eastern African Community with which an interim EPA was signed in 2007 and the final act was later inked. The situation with Southern African Development Community is rather complicated. The EU signed an interim agreement and final act with

Babarinde and G Faber (eds), *European Union and the Developing Countries: The Cotonou Agreement* (Martinus Nijhoff Publishers, Leiden; Boston 2005) 4.

³¹ The Cotonou Agreement, Art. 37(1).

³² The Cotonou Agreement, Art. 37(9).

³³ The Cotonou Agreement, Art. 37(6).

³⁴ Babarinde and Faber, above n. 30, at 8

³⁵ *Ibid.*, at 8-9.

Botswana, Lesotho, and Swaziland in 2009. Mozambique later joined the agreement on 15 June 2009. The EU keeps persuading Namibia to join the agreement while the relations between the EU and Angola and South Africa are currently governed by the existent frameworks. Angola is a least developed country and can benefit from the duty free market access into the EU market through EBA initiative under the GSP while the EU-South Africa trade would be governed by the Trade and Development Cooperation Agreement signed in 1999.³⁶

C. GENERAL SYSTEM OF PREFERENCES

Since some economic partnership agreements between the EU and regional groupings are under negotiation and not yet finalised, the maintenance of the existent trade preferences enjoyed by the African countries appears challenging. As noted above, least developed countries may refer to the EBA initiative under the GSP regime, while the non-LDC African countries may apply for the standard GSP. Similar to the Cotonou Agreement, the GSP is also subject to the scrutiny of the WTO rules. In fact, the challenge of the India in the WTO dispute settlement mechanism for EU's tariff preferences accorded under the special arrangements for combating drug production and trafficking bring about the reform of the EU GSP regime. The EU thus reformulates its GSP regime with the adoption of Council Regulation (EC) 980/2005.³⁷

The preferences as provided in the reformed GSP are put into three categories: a general arrangement; an arrangement for least developed countries; a special incentive arrangement for sustainable development and good governance. The reformed GSP provides additional tariff preference with the suspension of common customs tariff, with limited exception, for those countries which ratify and effectively implement core international agreements on sustainable and good governance. The special incentive arrangement is referred to as positive conditionality, which implies that additional tariff preferences would be granted conditional upon the ratification and effective implementation of core international agreements on sustainable development and good governance.³⁸ By contrast, negative conditionality implies that the additional trade preferences may be withdrew due to the beneficiary's failure to implement relevant international agreements. In addition, even under the general arrangement, the normal trade preference may also be suspended in case of "serious and systematic violations of principles" laid down in the core international human rights conventions;

³⁶ <http://ec.europa.eu/trade/wider-agenda/development/economic-partnerships/negotiations/> (last accessed 20/04/2010)/

³⁷ Council Regulation (EC) No 980/2005 of 27 June 2005 applying a scheme of generalised tariff preferences OJ L169/1, 30 June 2005.

³⁸ L Bartels, "The Application of Human Rights Conditionality in the EU's Bilateral Trade Agreements and other Trade Arrangements with Third Parties", study prepared for European Parliament. Directorate-General for External Policy of the Union, Directorate for Interparliamentary delegation and Policy Development, under invitation EXPO/B/INTA/2008/57, p. 7-8.

“export of goods made by prison labour”; “serious shortcomings in customs controls on export or transit of drugs, or failure to comply with international conventions on money-laundering”; “serious and systematic unfair trading practices”; and “serious and systematic infringements of the objectives of regional fishery organizations or arrangement”.³⁹ The EU’s suspension of trade preference under the general arrangement relates to the case of Burma and Belarus, while the suspension of additional trade preference relates to Sri Lanka.

In terms of EU-Africa trade relations, as African countries mostly enjoy better trade preference under the Cotonou Agreement during the preparatory period, the GSP is thus of little relevance. Nonetheless, with the phasing out of the preparatory period, those African countries which do not care for an economic partnership agreement with the EU may choose to benefit from the GSP. In commenting the GSP in the context of Cotonou Agreement, Christopher Stevens suggests the GSP to be upgraded to offer ACP states similar trade preference to the Cotonou Agreement during the preparatory period. This upgrade should not accelerate the erosion of their trade preferences.⁴⁰ By carrying through the *acquis* of the Cotonou Agreement to the GSP and including more developing countries, it will be easier to obtain consensus in the WTO and at the same time, African countries will be forced to enter into EPA negotiations under the threat of the withdrawal of existent preferences.⁴¹ However, this suggestion seems not effective since a large number of African countries, willingly or unwillingly, go into the EPA games with EU, while some African countries, such as Angola, do go for the GSP for trade preferences. Nonetheless, the case of Angola is simpler since it is a least developed country. As long as it does not grow up, it can enjoy “duty free access for essentially all products”. By contrast, the case for those non-LDCs would be a bit more complicated in that they have to balance between a less favored trade preferences under the GSP regime and reciprocal trade liberation under the EPAs.

D. EUROPEAN DEVELOPMENT AID

Similar to preferential trade regime, the EU’s development aid is also mostly governed by the Lomé Conventions and Cotonou Agreement. As observed by Paul Hoelbink, a major objective to reform the Lomé development aid regime is to simplify the aid procedures and to give the Commission and partner countries to rationalise the financial part of their

³⁹ Council Regulation (EC) No 732/2008 of 22 July 2008 applying a scheme of generalised tariff preferences for the period from 1 January 2009 to 31 December 2011 and amending Regulations (EC) No 552/97, (EC) No 1933/2006 and Commission Regulations (EC) No 1100/2006 and (EC) No 964/2007, L211/1 6 August 2008, Art. 15(1).

⁴⁰ C Stevens, 'An Alternative Strategy for Free Trade Areas: the Generalized System of Preferences' in O Babarinde and G Faber (eds), *European Union and the Developing Countries: The Cotonou Agreement* (Martinus Nijhoff Publishers, Leiden; Boston 2005) 115.

⁴¹ *Ibid.*, at 112-113.

cooperation by allowing partner countries to concentrate the aid to specific sector.⁴² It emphasises on the flexibility, performance of the recipient countries and the possibility to adjust the changing situations.⁴³ Similar idea is reflected in *European Consensus on Development* where ownership is addressed. As declared, the EU commits to the principle of ownership of strategy and programmes of partner countries where space to adapt specific needs of the beneficiary should be provided.⁴⁴ The *European Consensus on Development* further puts forward that the preferred modalities to support African economic and fiscal reforms and poverty reduction strategies is budget support which enables recipient countries to “cope with growing operating budgets, promote harmonisation and alignment on national policies, contribute to lower transaction costs and encourage results based approaches”.⁴⁵ The European Consensus on Development further notes that such approach will normally require the support of international financial institution and thus instructs the EU to coordinate in that regard in order to ensure the complementarity of their efforts. In providing the budgetary support, the *European Consensus on Development* underlines the importance of the multilateral framework and thus directs the EU to respect the recommendations of the OECD DAC and abide by the Good Practice Guidelines on budget support, in particular in terms of alignment, coordination and conditions.⁴⁶

In order further to strengthen the ownership and robust the participation of civil society in development aid, the non-State actors may be eligible for development financing.⁴⁷ In the context of EU-African development aid, African national and/or regional public or semi-public agencies, departments or local authorities; private organisations and private operators; Community enterprises; EU or African financial intermediaries; and agents of decentralised cooperation and other African or EU non-state actors may be eligible for EU development financial support, subject to the agreement of African State(s) concerned,⁴⁸ On the other hand, the Cotonou Agreement pays special regard to co-financing and the encourages the a coordinated co-financing which may lessen the burden of procedures and enhance the aid effectiveness.⁴⁹

Regarding debt relief, the Cotonou Agreement points to the debt burden and balance of payments problems that African countries are faced with, the EU is committed to contribute to debt relief initiatives at the international level and to explore the possibility to mobilise

⁴² P Hoelbink, 'European Development Aid in Transition' in O Babarinde and G Faber (eds), *European Union and the Developing Countries: The Cotonou Agreement* (Martinus Nijhoff Publishers, Leiden; Boston 2005) 148.

⁴³ *Ibid.*, at 153.

⁴⁴ European Consensus on Development, para. 1.4.

⁴⁵ European Consensus on Development, para. 113.

⁴⁶ European Consensus on Development, para. 114.

⁴⁷ The Cotonou Agreement, Art. 77(3).

⁴⁸ The Cotonou Agreement, Art. 58(2).

⁴⁹ The Cotonou Agreement, Art. 65.

resources other than European Development Fund to those internationally agreed debt relief initiatives.⁵⁰ The *European Consensus on Development* further clarifies that debt reduction is comparable to indirect budget support and thus calls for coordination between donors and reductions of transaction costs with the aim to help African countries to shield themselves from external shocks.⁵¹

In addition to financing and debt relief, another focus of the EU's development policy towards African countries is its aid for trade. The *Africa-EU Joint Strategy* points to the objective to integrate African countries into the world trading system and underlines the contribution of trade in the promotion of growth and eradication of poverty. Coherent efforts in achieving this goal will be conducted in accordance with the *EU Strategy on Aid for Trade*⁵² by the EU, through the EDF and other instruments, and its Members in well coordination with other development actors.⁵³ In order to ensure international complementarity and cooperation between the EU and other donors, the *EU Strategy on Aid for Trade* directs the EU to reinforce its dialogue with multilateral financial institutes, namely, the World Bank, the regional banks and the European Investment Bank (the EIB). The EU should also upgrade its aid for trade in order to strengthen the complementarity and cooperation at the regional level.⁵⁴ The *EU Strategy on Aid for Trade* also emphasises on the monitoring and evaluation and attaches great importance to the synergies between the EU monitoring system and WTO/OECD reporting system.⁵⁵

III. CHINA'S AFRICAN POLICY

A. FORUM ON CHINA-AFRICA COOPERATION AND THE BEIJING DECLARATION

Established in 2000, the FOCAC has become the major institutional framework governing political exchange, economic and trade cooperation and cultural exchange between China and African countries. As pointed out in the Beijing Declaration of the Forum on China-Africa Cooperation in 2000, the FOCAC is a "a framework for collective dialogue between China and African countries on the basis of equality and mutual benefit and that to seek peace and development is our common objective."⁵⁶ A Ministerial level meeting take place every three years, while a Summit, composed of the Head of the States, will be convened every six years. After the Ministerial conference, a three-year action plan,

⁵⁰ The Cotonou Agreement, Art. 66(1).

⁵¹ European Consensus on Development, para. 117.

⁵² Conclusions of the Council and of the Representatives of the Governments of the Member States Meeting within the Council on EU Strategy on Aid for Trade: Enhancing EU support for trade-related needs in developing countries, adopted on 15 October 2007.

⁵³ The Africa-EU Joint Strategy, para. 46.

⁵⁴ *EU Strategy on Aid for Trade*, para. 3(d), (e).

⁵⁵ *EU Strategy on Aid for Trade*, para. 6.

⁵⁶ Beijing Declaration of the Forum on China-Africa Cooperation, 10-12 October 2000, available at <http://www.focac.org/eng/ltada/dyjbzjhy/DOC12009/t606796.htm> (accessed 08/11/2009).

accompanied with a number of follow-up actions, will be launched. The FOCAS is multilateral in the sense that its actors comprising China and most African countries, except those who maintain diplomatic relationship with Taiwan. Nonetheless, the essence of the FOCAC remains bilateral since China's foreign aid to and economic cooperation with individual African countries is usually settled down bilateral before the FOCAC. Therefore, the FOCAC is a stage where China announces its offer instead of forum for negotiation. In contrast to the EU-ACP relations under the Lomé Conventions and Cotonou Agreement, generally referred to the biggest North-South cooperation initiative, the FOCAC is defined as a part of efforts under the South-South cooperation framework.⁵⁷

Regarding the main spirit underpinning the FOCAC, as indicated by the 2000 Beijing Declaration, China and African countries attach great importance to purposes and principle of the UN Charter and the Charter of the Organisation of the African Unity (the OAU). They place equal, if not more, weight on the Five Principles of the Peaceful Coexistence as advanced by Zhou Enlai. With a stronger tone, they further added that “no country or group of countries, has the right to impose its will on others, to interfere, under whatever pretext, in other countries' internal affairs, or to impose unilateral coercive economic measures on others.”⁵⁸ The Parties further declare that, in accordance with their own courses of development, a country has its own right to choose its social system, development model and ways of life and to choose its own approaches and models to promote and protect human rights.⁵⁹ “[T]he politicisation of human rights and the imposition of human rights conditionalities on economic assistance should be vigorously opposed to as they constitute a violation of human rights.”⁶⁰ The FOCAC thus presents itself a forum of which the values and norms differ from those of Western countries. In contrast to the lengthy preaching of *European Consensus on Development*, the Beijing Declaration of the Forum on China-Africa Cooperation appears straight and powerful, and arguably more laudable. The axiom of Western donors, i.e., the improvement of human rights violation through the imposition of conditionality, is here condemned. Similar ideas were expressed in the 2006 Beijing Summit of the FOCAC. The *Declaration of the Beijing Summit of the Forum on China-Africa Cooperation* firstly declares the China-African relations and cooperation founded on the Five Principles of Peaceful Coexistence and “international principles that promote multilateralism and democracy in international relations” and calls for South-South cooperation where China, being the biggest developing countries and African, being a continent with the biggest number of developing countries should work together.⁶¹

⁵⁷ Beijing Declaration of the Forum on China-Africa Cooperation, para. 9.

⁵⁸ Beijing Declaration of the Forum on China-Africa Cooperation, para. 1.

⁵⁹ Beijing Declaration of the Forum on China-Africa Cooperation, para. 4.

⁶⁰ Beijing Declaration of the Forum on China-Africa Cooperation, para. 4.

⁶¹ Declaration of the Beijing Summit of the Forum on China-Africa Cooperation, 5 November, 2006,

B. WHITE PAPER ON CHINA'S AFRICA POLICY

In 2006, China published its white paper on African policy, entitled *China's African Policy*. This is the first policy paper of its kind. Although it does not provide detailed and in-depth elaboration, it attracts lots of political attention and academic interests. *China's African Policy* firstly reinstates the fact of China being the biggest developing country and of Africa being the continent of the biggest number of developing countries. *China's African Policy* puts forward four general principles and objectives guiding China's foreign policy toward Africa: sincerity, friendship and equality; mutual benefit, reciprocity and common prosperity; mutual support and close coordination; learning from each other and seeking common development.⁶² China reinstates its adherence to Five Principle of Peaceful Coexistence and reiterates that One China principle is the foundation of the relations between China and African countries.⁶³

In terms of trade relations, *China's African Paper* states that effective measures to facilitate the entry of African commodities into Chinese market would be adopted and China's promise of the duty-free access into Chinese market of certain products originating from least developed African will be implemented.⁶⁴ In terms of debt reduction and relief, China maintains that it will enter into consultation with African countries with a view to resolve the debt owed to China by African countries, including thorough debt reduction. It is also encouraged that international community should make substantial efforts in that regard.⁶⁵ In relation to economic assistance, China then declares its willingness to increase its assistance to African countries with no political strings attached.⁶⁶

In writing on China's African policy, in the very beginning, He Wenping claims that the issue is "beyond resource". He points the competition of diplomacy between Taiwan and China in the 1980's and early 1990's and the support of African countries in several international forums, including the United Nations Conference on Human Rights and the negotiation in the Doha Round in particular on agriculture subsidy issues.⁶⁷ He further notes that, notwithstanding its more market-oriented economic policy, China still maintains a non-interference policy toward African countries internal politics and thus respecting the national sovereignty and territorial integrity and ruling power of legitimate governments.⁶⁸

available at <http://www.focac.org/eng/ltada/dscbzjhy/DOC32009/t606841.htm> (accessed 08/11/2009). In addition, African countries also reiterate their adherence to "one China policy" and support to the peaceful reunification of China.

⁶² China's African Policy, Part III.

⁶³ Ibid.

⁶⁴ China's African Policy, Part IV, para. 2(1)

⁶⁵ China's African Policy, Part IV, para. 2(8)

⁶⁶ China's African Policy, Part IV, para. 2(9).

⁶⁷ W He, 'The Balancing Act of China's Africa Policy' (2007) 3 China Security 23, 24-25, 27 & 32.

⁶⁸ *ibid.*, at 33.

Nevertheless, He also observes the delicate impact of China's quiet diplomacy. He argues that, through behind the scene consultations, the talks of political leaders and even the "hope" of China's special representative of African affairs Liu Guijin to Sudan, eventually make the Sudanese government to accept to UN resolution and approving the AU-UN joint peace-keeping force to enter into Sudan.⁶⁹ It seems that, even though China expressly clings to the non-interference approach, China may exercises its influence, politically or diplomatically, formal or informal, to induce the change of the behaviours of African countries. The non-interference approach is not as firm as one tends to imagine.

C. PREFERENTIAL TRADE POLICY TOWARDS AFRICAN COUNTRIES

In contrast to the EU's preferential trade policy which is normally regulated by legal instruments, either through international conventions or agreements as in the case of Lomé Conventions or Cotonou Agreement, or through the EU autonomous instruments as in the case of the GSP, China has adopted or maintained a clearly-defined legal instrument. The preferential trading policy, especially towards the least developed African countries, is generally decided by policy-makers and announced by the highest leaders. The FOCAC is one of the best stages for China to present its preferential trade offer. At the 2006 Beijing Summit, Chinese President Hu Jintao, in his speech, offered to further open up its duty-free market to 29 least developed African countries with diplomatic relations with China by increasing from 190 to over 440 export items.⁷⁰ Moreover, according to the FOCAC Sharm El Sheikh Action Plan adopted at the fourth FOCAC Ministerial Conference on 12 November 2009, China promised to further open its market to the least developed African countries, in a pushed manner, with the aim to exempting the tariff of 95% of exports therefrom. The first step is to grant zero tariff treatment to 60% of products from these least developed African countries in 2010.⁷¹ While China's preferential trade policy towards African countries share the same feature of unilateralism as the GSP does, it suffers greater weakness of legal certainty and decision-making transparency. Nevertheless, the trade preferences offer is unconditional, in terms of both positive conditionality and negative conditionality; even though the EBA under the GSP for the least developed countries also bear very limited conditionality, namely, the exclusion of arm-related products.

In commenting the trade preferences offered in 2006, Adam Minson points to the parallel trade preferences provided by the EU under the Lomé Conventions or Cotonou Agreement and by the United States under the African Growth and Opportunities Act (the

⁶⁹ *ibid.*, at 35.

⁷⁰ "Address by Hu Jintao President of the People's Republic of China at the Opening Ceremony of the Beijing Summit of the Forum on China-Africa Cooperation", available at <http://www.focac.org/eng/lttda/dscbjhy/SP32009/t606840.htm> (accessed 08/11/2009).

⁷¹ Forum on China-Africa Cooperation Sharm El Sheikh Action Plan (2010-2012), para. 4.4.3, available at <http://www.focac.org/eng/zxxx/t626387.htm> (accessed 14/11/2009)

AGOA) and notes that the tariff exemption constitutes a significant margin of preference by cutting an average of 10.4%. Nonetheless, Minson points to the sensitive product of cotton where high tariffs are still imposed upon.⁷² Harry Broadman also cautions that such unilateral trade preference may diminish when the market access barrier for other countries are lowered.⁷³ In that regard, Minson focuses on the competition between Asian and African least developed countries to which China offer the same zero-tariff preference and have similar industrial composition.⁷⁴ It may be argued that preferential trade treatment may not trade creation as a whole, and economic integration through the form of free trade agreements can be pursued. The negotiation of a free trade agreement between China and the SACU is initiated but without significant progress. It is partly due to the industrial composition of South African where the textile industry is against such proposal; it is also partly due to the political reason since Swaziland maintains official diplomatic relations with Taiwan.

D. OFFICIAL DEVELOPMENT AID

China's official development aid is governed by a complicated and compartmentalised system. Chinese aid to African countries often takes the form of infrastructural construction, and is generally coupled with economic cooperation and trade activities and thus blurs the line between official development aid as defined by the OECD DAC and other forms of development assistance. The construction programmes in return are generally implemented by Chinese enterprises funded by Chinese banks, notably, the Export-Import Bank of China. Similar to the trade preferences offer, China adopts a unilateral approach and tend to announce its foreign aid to African countries in the FOCAC. For example, at the 2006 Beijing Summit, Hu Jintao announced that China would double its 2006 assistance to Africa by 2009; provide 3 billion USD of preferential loans and 2 billion USD of preferential buyer's credits to Africa during the period of 2006-2009; set up a China-Africa development fund; and building a conference centre for the AU. The FOCAC is also a good opportunity for China to announce its decision to cancel debt of African countries. For example, at the 2006 Summit, Hu Jintao also cancelled the debt of heavily indebted poor countries and least developed countries having diplomatic relations with China for those interest-free government loads that matured at the end of 2005.⁷⁵ Similarly, as set out for by the FOCAC Sharm El Shelkh Action Plan adopted at the 2009 FOCAC Ministerial Conference, China also offered to their

⁷² A Minson, 'China's Preferential Trade Policy for Africa' (South African Institute of International Affairs, Johannesburg, ZA 2008) 2-3.

⁷³ HG Broadman (ed), *Africa's Silk Road: China and India's Economic Frontier* (World Bank, Washington DC 2007) 181.

⁷⁴ Minson, above n. 72, at 3.

⁷⁵ Address by Hu Jintao President of the People's Republic of China at the Opening Ceremony of the Beijing Summit of the Forum on China-Africa Cooperation.

interest-free government loans due at the end of 2009.⁷⁶ The pattern is that the due government zero-interest loads will be periodically cancelled or forgiven.

In addition to the debt cancellation, the FOCAC Sharm El Shelkh Action Plan also addresses the issue of China-Africa Development Fund, funding for African infrastructure and preferential loans to African small and medium enterprises (the SMEs). China agreed to increase the size of China-Africa to 3 billion USD to support the expansion of investment from Chinese businesses to Africa.⁷⁷ Regarding the infrastructure, China promised to play a greater role in African infrastructural development with the provision of loans and free assistance to African countries. Preferential loans up to 10 billion USD during the period of 2010 to 2012 will be offered to African countries mainly for infrastructure and social development projects.⁷⁸ In order to support the growth of African SMEs, a special loan with the quota of 1 billion USD is to be established in Chinese financial institutions.⁷⁹

IV. EU-CHINA-AFRICA TRILATERAL COOPERATION AND MULTILATERAL FRAMEWORK

A. THE EU, CHINA AND AFRICA: TOWARDS TRILATERAL DIALOGUE AND COOPERATION

In responding the rise of China as a key development partner of Africa, the Commission, in 2008, published a communication entitled *The EU, China and Africa: Towards trilateral Dialogue and Cooperation*.⁸⁰ The Commission firstly articulated the changing landscape of EU-China-Africa trilateral geopolitics, referring to some key events such the birth of the African Union (the AU) and the formulation of New Partnership for African Development (the NEPAD); the EU-Africa Summit in Lisbon and the *Africa-EU Joint Strategy*; and the evolution of the Forum on China-Africa Cooperation (the FOCAC) and the publication of *China's African Policy*. The Commission then stresses the need of trilateral dialogue and cooperation complementing bilateral partnerships.⁸¹ The Commission thus calls for a gradual but progressive EU-China-Africa trilateral cooperation. The Commission then points to three guiding principles for this trilateral dialogue and cooperation and proposed four specific sectors. The three guiding principles are: pragmatic and progressive approach; shared approach; and effective aid. The effective aid here referred to aims to avoid the duplication of

⁷⁶ FOCAC Sharm El Shelkh Action Plan, para. 5.1.3.

⁷⁷ FOCAC Sharm El Shelkh Action Plan, para. 4.2.3.

⁷⁸ FOCAC Sharm El Shelkh Action Plan, para. 4.3.3.

⁷⁹ FOCAC Sharm El Shelkh Action Plan, para. 4.6.3. While this paper focuses on economic, trade and financial aspects, China's development assistance to African countries is not limited to preferential trade, debts, or loans. For example, China offers to make a 30 million USD contribution to the United Nations Food and Agriculture Organization (UNFAO) by setting up a trust fund under the framework of UNFAO Special Program for Food Security and a 1.5 million USD contribution to NEPAD's projects to train nurses and maternity assistants in Africa. *Ibid.*, paras. 4.1.4 & 5.2.3.

⁸⁰ Communication from the Commission to the European Parliament, the Council, and the European Economic and Social Committee and the Committee of Regions: the EU, China and Africa: Towards trilateral Dialogue and Cooperation, COM (2008) 654 final, 17 October 2008

⁸¹ The EU, China and Africa: Towards trilateral Dialogue and Cooperation, para. 1.

efforts, to better coordinate EU's and China's activities, and to improve aid effectiveness and exchange experiences on the role of the ODA and foreign direct investment (the FDI) in African development.⁸²

Four sectors are pinpointed on: peace and security in Africa; support for African infrastructure; sustainable management of environmental and natural resources; and agriculture and food security.⁸³ In order to achieve these objectives, development policy dialogue and partnership are encouraged at continental level, regional level, and national level. It is also suggested that the African policy should be regularly placed on the agenda of EU-China Summit. As for the platform for coordination of donors, in addition to existent frameworks, the Commission points to the role of International Poverty Reduction Centre in China which has reached out to OECD DAC and traditional donor and encourages the EU to support such endeavours.⁸⁴ The Commission concludes that the trilateral cooperation can address global development challenges in an effective multilateral way and contribute to shared responsibility for global governance and development.⁸⁵ In the end, the Commission invites EU Member States, African and African and Chinese partners to consider to, *inter alia*,

- Organise an annual meeting of senior officials (EU-AU-China) at the rotating initiative of the partners to coordinate dialogue and cooperation strategically.
- Invite the AU troika to join the EU-China annual dialogue on Africa.
- Enter into specific agreements between agencies, institutions and associations to facilitate results-oriented joint initiatives.⁸⁶

Shifting the focus to the EU-China Summit, one can identify the inclusion of African development policy into this Summit since 2006. In the 2006 joint statement, the EU and China committed to work together on Africa's peace, stability and sustainable development while they differed as to the norms and values on development assistance. The EU attached great importance to principles of good governance and human rights, whereas China upheld its Five Principles of Peaceful Coexistence, in particular the non-interference principle.⁸⁷ In order not to marginalise Africa, EU and China also agree to cooperate with Africa in the spirit of partnership with the support of, *inter alia*, the NEPAD with the aim of the realisation of the Millennium Development Goals (the MDGs).⁸⁸

⁸² The EU, China and Africa: Towards trilateral Dialogue and Cooperation, para. 2.1.

⁸³ The EU, China and Africa: Towards trilateral Dialogue and Cooperation, para. 2.2.

⁸⁴ The EU, China and Africa: Towards trilateral Dialogue and Cooperation, para. 2.3.

⁸⁵ The EU, China and Africa: Towards trilateral Dialogue and Cooperation, para. 3.

⁸⁶ The EU, China and Africa: Towards trilateral Dialogue and Cooperation, para. 3.

⁸⁷ Joint Statement of 9th EU-China Summit, Helsinki, 6 September 2006, para. 15.

⁸⁸ *Ibid.*

In the 2007 EU-China Joint Statement, the two sides stopped clinging on their ideological and value preferences. Instead, they concentrated on the importance and the MDG and sustainable development. They praised the efforts and progress made in resolving the Darfur crisis and attempted to explore effective ways and channels of cooperation among China, the EU and Africa. China was thus invited to participate in the EU-Africa Summit as an observer.⁸⁹ This initiative is similar to the idea of inviting the AU troika to the EU-China Summit as advanced in the Commission communication on the EU, China and Africa: Towards trilateral Dialogue and Cooperation with the same objective to trialateralising the EU-China-Africa relations. This trilateral approach seems to have found some positive response from China. In 12th EU-China Summit held in Nanjing, China on 30 September 2009, the EU and China “welcomed trilateral dialogue between the EU, China and Africa, and agreed to explore appropriate areas for cooperation.”⁹⁰ They further reaffirmed their commitment on the full and timely realisation of the MDGs and support of African sustainable development and early economic recovery.⁹¹

In commenting on this trilateral approach, Bernt Berg and Uwe Wissenbach maintain that the advantage of such trilateral approach will help to exploit the synergies and complementarity of the EU’s and China’s African policies as Africa is to suffer first and foremost from EU-China antagonism. Nonetheless, they qualify the added value of such a trilateral approach to be steered by Africa. Nonetheless, they qualify the added value of such a trilateral approach to be steered by Africa.⁹² They further point out three keys challenges shadowing this trilateral approach. Particular regard should firstly paid to the extent to which the EU and China can cooperate in Africa as part of their strategic partnership, regardless their contradictory positions on development. The second key challenge lies in the capacity of Africa to deal with multiple partnerships in such a way to advance its actorness in international relations and to avoid remaining an object of great powers. The third challenge relates to how China, while maintaining its economic and trade interests in Africa, meets with the expectations of traditional donors and thus prevents the collision on critical issues with other actors.⁹³ Helmut Asche and Margot Schüller also caution the tendency to adopt a confrontational approach and stress the alternative model which the EU may contribute to the China-Africa debates: the integration of China into African development programmes and political processes. This alternative model necessitates a self-critical recognition of the

⁸⁹ Joint Statement of 10th EU-China Summit, Beijing, 28 November 2007, para. 9-10.

⁹⁰ Joint Statement of 12th EU-China Summit, Nanjing, China, 30 September 2009, para. 13.

⁹¹ Ibid.

⁹² B Berg and U Wissenbach, 'EU-China-Africa Trilateral Development Cooperation: Common Challenges and New Directions' German Development Institute, Discussion Paper, 12/2007, 7.

⁹³ Ibid., at 8-9.

weaknesses of the EU development policies and prohibits a lecturing tone on the assumption that the European values are representative of universal values.⁹⁴

By contrast, Penney Davies notes that such trilateral approach can easily motivated by fact that EU, China and Africa are interlinked in global trade and investment patterns. In order to ensure that benefits derived from those trade and investment activities are equally shared and that challenges those activities bring about are effectively addressed, a trilateral approach where EU, China and Africa have their respective roles may contribute to a constructive dialogue and positive solution.⁹⁵ Davies further stresses that such trilateral dialogue should be based on genuine interest in mutual learning with the objective of fair and sustainable development. Such trilateral dialogue should go beyond the government bodies, all stakeholders such as parliaments, local authorities and civil society organisations, should also be included in order to ensure the ownership of development policies.⁹⁶

B. OECD DAC AND OTHER MULTILATERAL FRAMEWORKS

In addition to the EU's nervous attention, the high profile of China's engagement in African continent also poses challenges to existent regulatory frameworks and exacerbates their ineffectiveness. The existent regulatory frameworks may lack of coordination and suffers from the weaknesses of fragmentation; the voice of China in those existent regulatory frameworks may not well reflect its current economic power. China's engagement in Africa is such a complex since it relates to a wide spectrum of regulatory regimes of which China's voice varies from one to another. In case of the human rights crisis in Darfur where the UN peacekeeping is at stake, China, being a Permanent Member of the UN Security Council, plays a pivotal role. In terms of the aid for trade and other preferential arrangements, China's engagement in Africa may be subject to the regulatory control of the WTO where it has a great influence but no veto power. In relation to the OECD DAC, one of the major regulatory frameworks governing the official development assistance, China is not yet a member. China even has different influences in the IMF and the World Bank. The relevance of multilateral frameworks in regulating China's engagement in Africa is difficult to generalise. I thus use the OECD DAC as an example to illustrate its complexity.

In observing the development policies of the non-DAC actors, Tatjana Chahoud finds the following features. First, most non-DAC countries are based on a holistic approach where their provision of development assistance is not strictly separated from their trade and investment activities and a perception from the ODA may not catch the full picture. Second,

⁹⁴ H Asche and M Schüller, 'China's Engagement in Africa: Opportunities and Risks for Development' (Deutsche Gesellschaft für Technische Zusammenarbeit, Hamburg 2008) 74.

⁹⁵ P Davies, 'Think Piece on Aid and Development Cooperation post Accra and Beyond - Steps towards a Development Dialogue in 21st Century the Example of EU, China, Africa' (Diakonia, 2008) 6.

⁹⁶ *Ibid.*, 7-8.

while most non-DAC countries accept the Paris Declaration, they do not generally take it as a framework for their bilateral development cooperation. Third, the scope and volume of development assistance provided by non-DAC actors varies considerably, and fourth, a major proportion goes to infrastructure.⁹⁷ She then points to two challenges posed by the emergence of non-DAC actors: the absence of worldwide-accepted definition on development assistance/development cooperation; and the unavailability of information of the development activities of non-DAC actors.⁹⁸ For the existent regulatory framework on development activities, namely, the OECD DAC, the non-DAC actors blurs the line between development assistance and development cooperation and thus makes it difficult for the DAC to oversee. The difficulty is exacerbated due to the lack of transparency on development activities of the non-DAC actors. Regarding the Paris Declaration, some non-DAC actors hold that the declaration is more shaped and formulated by DAC actors than non-DAC actors and there exists a lack of ownership of the declaration.⁹⁹

Those concerns are largely applicable to China's engagement in Africa. On the one hand, regardless of its tremendous economic growth, China has not yet sustained itself to join the rich countries' club. On the other hand, China, always presenting itself as the largest developing country in the world, is also reluctant to identify itself as one of those rich countries. Leaving China, a major actor in African development policy, out of its regulatory regime, the OECD DAC suffers some weaknesses in effectively regulating official development assistance. While China has currently loosely participated in the activities of the OECD DAC; yet, stronger involvement should be encouraged. China had its first presence in the High-Level Forum in Paris in 2005 and endorsed the Paris Declaration on Aid Effectiveness (the Paris Declaration).¹⁰⁰ Subsequently, China also participated in the High-Level Forum held in Accra in 2008. In view of the broader composition of the Forum, including traditional donor countries, emergent donors, aid-recipient countries, multilateral institutions, civil society organisations, etc., the Forum enjoys greater legitimacy in regulating and pursuing the aim of aid effectiveness.

In this line, the reorganisation of the Working Party on Aid Effectiveness is thus a welcoming step in building a more inclusive regulatory framework. As claimed, this reorganisation is a move from "a working party" to "the international partnership on aid effectiveness"¹⁰¹ The membership of the Working Party is extended from 3 to 5 member

⁹⁷ T Chahoud, 'Financing for Development Series: Southern Non-DAC Actors in Development Cooperation' German Development Institute Briefing Paper 13/2008, 1.

⁹⁸ Ibid.

⁹⁹ Davies, above n. 95, at 3-4.

¹⁰⁰ In the Joint Statement of 9th EU-China Summit, it is stated that both EU and China are signatories to the Paris Declaration on Aid Effectiveness. They also committed to promote aid effectiveness principles as contained in the Paris Declaration.

¹⁰¹ OECD DAC, Working Party on Aid Effectiveness – Restructure, <http://www.oecd.org/document/23/>

categories, including countries receiving ODA; countries both receiving and providing assistance; countries reporting ODA to the DAC (donors); multilateral institutions; and civil society organisations, foundations (the CSOs), local governments and parliaments. Compared to its predecessor, two news categories of membership are included: countries both receiving and providing assistance and the CSOs, local governments and parliaments. A closer look of the composition of the Working Party will find that some emergent donors, such as India and Thailand, are included under the category of countries providing and receiving assistance. The reorganisation is a positive response to the trend that, emerging donors which are aid-recipient countries, but at the same time also provide assistance should play a greater role in OECD DAC than before.

Similar progress was made in *Accra Agenda for Action* adopted on 2-4 September 2008 in Accra, Ghana. One of the three major themes underpinning the *Accra Agenda for Action* is to build a more effective and inclusive partnerships. The *Accra Agenda for Action* makes clearly that, when developing countries are in a good position to coordinate and manage all efforts made by development actors, those efforts are more effective in achieving their goals. *Accra Agenda for Action* thus underlines the Paris Declaration and encourages all development actors to use the declaration as a point of reference.¹⁰² The *Accra Agenda for Action* then refers to the importance and particularities of South-South cooperation and encourages a trilateral cooperation.¹⁰³ The *Accra Agenda for Action* then recognises observance of South-South cooperation to “principles of non-interference in internal affairs, equality of developing partners, and respect for their independence, national sovereignty, cultural diversity, identity and local content”.¹⁰⁴ The perception of non-DAC actors on development activities are partly addressed by the *Accra Agenda for Action*. On the other hand, the *Accra Agenda for Action* also deals with the conditionality issue. The *Accra Agenda for Action* firstly reiterates the importance of the ownership of development policy and directs donors to draw conditions from developing countries’ own developing policies. The nature of conditionality should be mainstreamed to limited mutually agreed conditions based on country development strategies. Those conditions should be more harmonised, result-based and receptive to contributions of civil society and should be made public.¹⁰⁵ Judging from the re-assessment of the role of conditionality, one may be safe to say that *Accra Agenda for Action* embraces a more tolerant and inclusive approach on development philosophy and strategies.

0,3343,en_2649_3236398_43415127_1_1_1_1,00.html (accessed 15/11/2009).

¹⁰² The *Accra Agenda for Action*, adopted on 2-4 September 2008, in Accra, Ghana, para. 19(a).

¹⁰³ The *Accra Agenda for Action*, adopted on 2-4 September 2008, in Accra, Ghana, para. 19(b).

¹⁰⁴ The *Accra Agenda for Action*, adopted on 2-4 September 2008, in Accra, Ghana, para. 19(b), (e).

¹⁰⁵ The *Accra Agenda for Action*, para. 25.

V. CONCLUSION

The high profile of China's development activities in Africa alarm most Western countries and bring about the "China in Africa" debate. China's engagement with African countries poses challenges not only to development policies of traditional actors but also to the effectiveness of existent regulatory regime. This paper examines different approaches in African developing policies between the EU and China. I analyse major legal instruments governing EU's developing policy toward African countries, including the Cotonou Agreement and the GSP. I also deal with the contribution of major EU-African dialogue forum to African development. Some policy documents are also touched. In relation to China-Africa relations, I focus on the FOCAC, China's African Policy, its preferential trade and foreign aid policy. With the objective to finding a compromise between European conditionality and Chinese non-interference, I then use the Commission's communication to explore the possibility of a trilateral cooperation and dialogue. I argue that a pragmatic trilateral cooperation should be applauded, but at the same time, I also stress that such trilateral cooperation should be driven by African own development policies. I then explore how the multilateral framework, namely, the OECD DAC can contribute to the debate in that regard. Some positive progresses are evidenced. China has gradually participated in this regulatory framework and endorsed to the Paris Declaration. It also participated in the High-Level Forum in Accra. The *Accra Agenda of Action* carefully strikes a balance between conditionality and non-interference by recognising the particularities of South-South cooperation and by mainstreaming the conditionalities based on developing countries' own developing policies and strategies.