

Enhancing China's green procurement of legal forest products



Mingming Sun and Ke Zhang

INTRODUCTION

The scope of China's Green Public Procurement (GPP) policy is currently limited to the purchase of goods and does not include other activities such as services or projects. It relies on two "lists": Energy Conservation Products (ECP) and Environmental Labelling Products (ELP). While these lists have simplified implementation of the GPP, they provide inadequate incentives for other environmentally integrated and innovative services, projects and goods to enter the GPP market, such as legal and responsibly sourced forest products. Although China's GPP market has grown dramatically in recent decades, it still has huge growth potential considering the scope for future expansion on procurement and increasing demand for environmentally friendly products.

In order for the GPP policy to meet the sustainability requirements of the market for responsibly sourced forest products, China needs to have a clear GPP legislative framework, and develop and integrate consistent and credible criteria for timber legality verification into China's environmental labelling standards, including adoption of bilateral agreements, forest certifications, and Forest Law Enforcement, Governance and Trade (FLEGT) licences. In addition, there is an urgent need to expand the GPP scope from goods to project and service procurement to increase GPP demand, and facilitate a smooth market transformation of the forestry industry in China.

This article summarises eight key findings from research conducted by TRAFFIC and The Sustainability Consortium (TSC) in 2016, and provides initial recommendations to enhance China's GPP policy for forestry products. More specific content can be found in the research report (Sun and Zhang, 2016).

BACKGROUND

Public procurement is increasingly becoming one of the important sectors for promotion of responsible sourcing in both mature and emerging markets, with purchasing values varying from between 5% and 30% of GDP or even higher (O'Rourke *et al.*, 2014). In order to promote responsible public procurement, the Chinese government promulgated a series of policies and regulations, including building up a management mechanism of unified supervision by the financial sector, combined with the independent organisation of centralised procurement by local public procurement centres. The Thirteenth Five-Year Plan (2016–2020) made clear comprehensive "green

development" recommendations. The development of a Green Environmental Industry was specified, in particular calling for the implementation of "green labelling, green certification and green public procurement system" (The State Council of the People's Republic of China, 2016). According to the China Manufacturing 2025 report issued by the State Council in May 2015, it particularly specified that "Public procurement policies supporting innovation should be improved and implemented to promote development of innovative products and large-scale application of manufacturing, and to create green supply chains to accelerate the establishment of resource-conservation and environmentally friendly procurement, production, marketing, recycling and logistics systems, and implement producer responsibility extension systems" (The State Council of the People's Republic of China, 2015).

Along with meeting growing demand from the Chinese domestic market, the GPP policy can have a huge impact on global environmental issues, including supporting efforts to combat illegal logging and the illegal timber trade. In 2016 TRAFFIC and TSC undertook research to understand China's GPP policy on forest products and to provide some initial recommendations to develop the scope of the policy.

TOP EIGHT FINDINGS OF CHINA'S GPP ON FOREST PRODUCTS

1. China GPP is entirely commodity focused and is not mandatory for forest products

Looking at the key milestones along the trajectory of China's GPP policy, the two "lists"—ELP and ECP—eventually become the only gateway for entering the China GPP market. The "Direct" regulations and laws provide the key context of China GPP policy, while "Indirect" laws and regulations play crucial roles in the implementation of that policy. In practice, 80% of the public procurement is centralised through invitations for bidding from suppliers; whether or not they can win the bid will depend on whether the overall products in the bids are listed in the ECP or ELP. However, currently only use of the ECP list is mandatory, while use of the ELP is voluntary. This means that only products in the ECP list can be purchased. With regard to products on the ELP list, such as forest products, it is not mandatory to purchase them but, under equal conditions, they should be given priority over other products.

2. The need for adoption of projects and service procurement into China's GPP

China's Public Procurement is composed of three types of procurement—goods, projects and services. The value of procurement of goods has largely been declining in the past 15 years, while projects and services procurement have increased dramatically: 53% and 16% respectively based on the whole procurement value of 2015. In terms of forest products, projects procurement include construction and decorative materials, such as wooden flooring and wooden frames.

Fig. 1 shows the consumption structure of forest products by volume in China in 2014. The construction industry is the largest consumer, accounting for more than 30% of the total timber consumption volume in China. However, most of the forest products consumed by this sector are not covered under the existing scope of the GPP policy. Therefore, considering that China's GPP policy is entirely commodity/goods focused, there is an urgency for allowing projects and services procurement to be covered by the GPP policy.

3. Lack of Environmental Labelling Standards of Forest Products

Under the framework of China's GPP, any forest products sold on the China GPP market need to be certified under the corresponding China Environmental Labelling Standards and listed in the ELP. According to the China Public Procurement Catalogues Directory (MOF, 2013), there are six types of forest products: a) Code A05 Books and Files; b) Code A06 Furniture; c) Code A08 Paper, paper products and copy materials; d) Code A09 Office Consumables and similar items; e) Code A10 Construction materials, e.g. timber, wood-based panel, etc. f) Code A12 Agriculture, forestry, livestock, and fishery products.

Currently, 99 product-based China Environmental Labelling Standards have been released, but only six apply to forest products: copy/printing paper, furniture, wood-based panels, wooden doors, cabinets and wooden toys. Therefore,

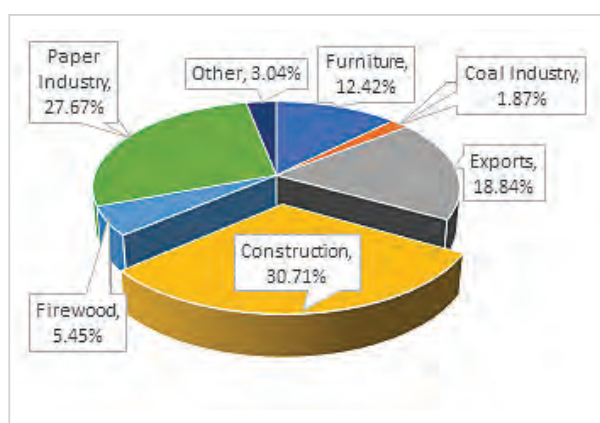


Fig. 1. China's Timber Consumption in 2014.

Source: China Forestry Development Report, 2015.

many of the products listed in the China Public Procurement Catalogue are not covered by the Environmental Labelling Standards, which means they cannot be listed in the ELP and sold as GPP products, even though they may be legal and not harmful to the environment.

4. The scale of China's GPP is increasing but small compared with other mature markets

Based on data from the Ministry of Finance (MOF, 2016), although the total value of goods purchased under the China GPP policy has maintained a high growth rate in recent years, reaching USD300 billion, it is still considered small compared with other mature markets. According to statistics, public procurement can reach 20–25% of the total expenditure in Asian countries, while European government institutions are the main consuming groups in Europe, with annual public procurement accounting for 16% of the EU's GDP and half of Germany's GDP. For all other countries, government procurement expenditure also ranked first in the GDP proportion among national procurement groups. For example, the public procurement of member governments of the Organization for Economic Cooperation and Development (OECD) took up between 9% and 25% of their GDP, which was considered to be high (Liu *et al.*, 2015). Thus, in spite of the large quantity of public procurement in China, a broad gap still exists between China and major mature markets, and the potential for growth is enormous.

5. ECP and ELP lists will play limited roles in the development of China's GPP market

The value of public procurement of ECP and ELP-listed goods has been slowly increasing in the past few years and, on average, the ratio of ECP-listed products purchased through public procurement reached more than 80%, much higher than the ratio of ELP-listed goods (70%) (MOF, 2016). This is very likely due to the fact that the purchase from the ECP list is mandatory, while purchase from the ELP list is not.

However, considering that the ratio of ECP- and ELP-listed products purchased through GPP has reached a relatively high value, there is a clear market signal that the "list"-based China GPP has lagged behind the rapid development of China's GPP market. The scope of the China Environmental Labelling Standards cannot cope with the range of products in the China Public Procurement Catalogue, and the ELP list plays a passive role in influencing and guiding the future of the GPP market.

6. The requirements of timber legality in existing China Environmental Labelling Standards are weak with a lack of transparency and quality control in the certification process

Table 1 summarises the requirements for the sourcing of timber products from four China Environmental Labelling Standards, including pulp for paper. Overall, the requirements related to domestic timber have been

China Environmental Standard	Product	SUSTAINABILITY REQUIREMENTS:		
		Domestic Timber	Imported Timber	CITES
HJ 459-2009	Wooden doors	Production enterprises should use secondary, small, firewood and wood-based panels for production; use of forest sources must comply with national laws and regulations.		
HJ 571-2010	Wood-based panels	The origin of domestic wood materials should comply with China's forestry laws and regulations	Imported timber must come from sustainable forest sources	Timber materials must meet CITES requirements.
HJ 2547-2016	Furniture	Domestic timber must comply with GB/T 28951 China Forest Certification Scheme on Forest Management and or GB/T 28952 of Chain of Custody Standards; domestic raw materials originating from natural growth should comply with the <i>Regulations of the People's Republic of China on Nature Reserves and the Regulations of the People's Republic of China on the Protection of Wild Plants</i> .	Imported timber must comply with the relevant national timber trade and import and export regulations.	The import of wild plant species and their products listed in CITES (excluding exemptions) should be in compliance with CITES provisions; the import of non-CITES species and related products but including those listed in the Wild Import Export Species of Flora and Fauna Catalogue should meet relevant requirements in China.
HJ 410-2017	Paper for books, etc.	Domestic pulp and timber/wood must comply with GB/T 28951 China Forest Certification Scheme on Forest Management and/or GB/T 28952 of Chain of Custody Standards.	Imported pulp and timber must comply with the relevant national timber trade and import and export regulations.	—

Table 1. Timber legality requirements in China Environmental Labelling Standards, 2009–2017.

Source: MEP, 2009; 2010; 2016; 2017

clearly defined. However, the requirement heavily relies on the compliance with CFCC (China Forest Certification Council) established by the State Forest Administration in 2007. Although CFCC has mutual recognition with the Programme for the Endorsement of Forest Certification (PEFC) in 2014, it creates a barrier for the application of other forest certification schemes for domestic sources, such as the Forest Stewardship Council (FSC). Furthermore, with regards to imported timber, based on Table 1, only HJ571-2010 has a requirement to source from sustainable forestry, while other standards only require legal sources that comply with China's national regulations and the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). Another challenge is that there is no clear explanation of how to define "sustainable forestry". Most of the requirements of China's Environmental Labelling Standards are related to environmental emissions, such as toxic, noxious gas and other pollutants; requirements regarding the sourcing of timber products are relatively few compared to those dealing with environmental emissions.

The study found that China's environmental labelling standards are written by the Environmental Protection Department of the Ministry of Environmental Protection (MEP) and are certified by the China Environmental United Certification Center (CEC) and its subordinate unit. Meanwhile, Public Procurement Centres are set up at all levels of government. In 2012, about 75% of public procurement in China was implemented by cities or counties (Hu and Yi, 2014). Therefore, the effective implementation of China's GPP policy is very dependent upon the capacity of these Public Procurement Centres.

Based on Fig. 2, this study found that China Environmental United Certification Center (CEC)³, a State-owned enterprise under MEP Environmental Development Center, is the only certification body authorised by the Certification and Accreditation Administration of the People's Republic of China to conduct the audits and issuance of certificates of China Environmental Labelled products. Although the overall qualification and certification quality is under the supervision of local Environmental Protection Bureaus, the Quality Supervision Bureau and other public sector bodies, the existing procedure for standard development/amendment, qualification of certification bodies and the development of certification specifications lacks stakeholder involvement and market supervisions, particularly compared to those found in other international certification processes. For example, Accreditation Service International (ASI), a third-party non-profit-organisation, is verified by FSC to grant qualifications of FSC Certification Bodies and supervise the quality of certification. Further, the FSC General Assembly is the highest decision-making body, with strong stakeholder involvement and consultations.

As shown in Fig. 2, besides being the only certification body for China Environmental Labelling Standard, CEC also develops Certification Specifications for each Standard, including those for forest products. Therefore, how CEC interprets the Standards is becoming very crucial, especially on how timber legality requirements will be verified.

³<http://en.mepcecc.com/content/25.html>

7. Lack of clear legislative support

China's GPP needs compliance with seven different laws and regulations, especially the *Public Procurement Law* and *Bidding Law*. However, there is clear conflict between the two laws during execution of procurement.

The patterns of China GPP in 2012, 2013 and 2015 show a clear trend that centralised procurement is increasing and reached 79.3% in 2015 (MOF, 2016). Therefore, as long as the procurement value reaches the standardised value as stated in the *Bidding Law*, the procurement process needs to comply with that law, as most of the centralised procurement is executed through invitations for bidding. Therefore, most of the State-owned enterprises meet the requirements of the *Public Procurement Law* and only need to comply with the *Bidding Law* (Denjean *et al.*, 2015).

In most of bidding procedures, the majority of the parameters relate to price and quality, and those concerning timber legality and sustainability are few, with little incentive for suppliers to go for forest products derived from a legal source. While the GPP policy requires environmentally-friendly products, it is not designed to create a market value for it.

8. Lack of capacity on timber legality verification

Unlike auditors of forest certifications, the auditors of China Environmental Labelling Standards lack the knowledge and capacity to conduct preliminary verification for timber legality, primarily because China's Environmental Standards are focused on environmental emissions. In practice, forest certificates are the most common and important documents to prove legality. However, for non-certified timber sources, timber legality verification is a challenge.

Furthermore, more than 75% of the public procurement in China is executed at Public Procurement Centres at local government level—mainly municipal and county levels—rather than by central government. Therefore, the capacity of Public Procurement Centres is extremely critical for effective implementation of public procurement of forest products.

CONCLUSIONS

The development of China's GPP in recent years has failed to provide market guidance either in terms of laws and regulations or enforcement. The overlapping of the *Public Procurement Law* and the *Bidding Law*, the voluntary nature of the ELP list and the limited scope of products present barriers to the further development of China's GPP policy.

It will be a win-win solution if the China Environmental Labelling verification process can adopt a risk mitigation approach and due diligence system for timber legality. This will fundamentally raise timber legality awareness to thousands of manufacturers in China, through a bottom-up approach.

However, inclusion of project and service procurements into the existing GPP framework remains a challenge, but one in which civil society can play an important role in providing better solutions for policy makers in China.

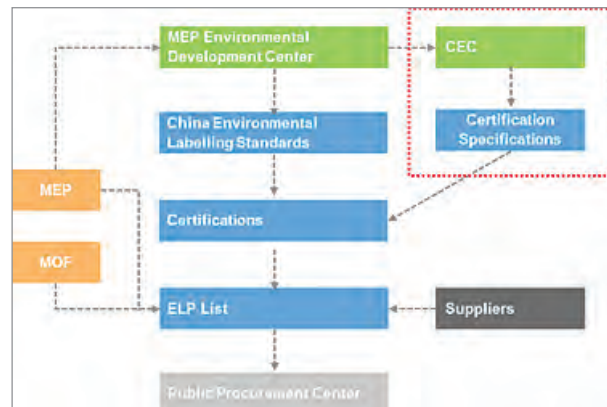


Fig. 2. Public Procurement and Control Agency for Environmental Labelling Products. Source: Hu and Yi, 2014

RECOMMENDATIONS FOR IMPROVEMENTS OF TIMBER LEGALITY IN CHINA'S GPP

Based on this study, the following recommendations are proposed to enhance China's GPP for timber products.

- **Introduce bilateral agreements on timber legality verification**

There is a perception among some Chinese authorities that exporting countries are responsible for timber legality, and that trading documents (mainly Customs and commodity inspection documents) accompanying the products are sufficient and legally acceptable in the Chinese market. However, this perception ignores the risks and complexity of the supply chain of timber products. In some countries, including developing countries with rich forestry resources, law enforcement in the forestry industry can be weak, resulting in high levels of illegal timber flowing into trading markets. As a result, a system based entirely on trading documents is often not sufficient to verify timber legality.

The signing of bilateral agreements with harvesting, processing and exporting countries should be encouraged, taking into consideration the discrepancies and complexity of timber legality in different countries, as well as respecting the forestry law enforcement measures in the exporting countries. For example, in May 2003 the EU released the Forest Law Enforcement Governance and Trade Action Plan (FLEGT) that aims to promote the signing of Voluntary Partnership Agreements (VPAs) with countries of origin; in November 2016, Indonesia and the EU launched their first FLEGT licensing system, which requires that agreed timber products exported from Indonesia to the EU are accompanied by a FLEGT licence. Such licensed products can be exported directly to the EU and there is no need to conduct any further due diligence. This is a model that China can learn from.

- **Build capacity of risk assessment for timber legality for China Environmental Labelling Verifications, and local Public Procurement Centres**

China Environmental Labelling standards place more focus on various environmental emissions, while the requirements

for timber legality are few. Therefore, building capacity to address timber legality, including through influencing the development and amendment of Certification Specifications, should be a priority. Through the process, technical capacity about risk assessment of timber legality can be built to guide the work of the GPP auditors, leading to a more professional timber legality verification process on China's GPP, especially for imported timber.

More than 75% of public procurement in China was executed at Public Procurement Centres at local government level, mainly municipal and county level. However, awareness of GPP policy in less developed regions of China is lower than in the more developed eastern provinces. Understanding the practices at the local level and building awareness of legality will be crucial.

- **Align different timber legality verification schemes in the market, and allow them to be adopted by the China Environmental Labelling verification process**

There are many different timber legality verification schemes in the market, and others are under development. In order to support the adoption and effective implementation of these, a risk assessment approach should be identified that embraces the existing timber legality verification schemes and tools.

- **Explore the collaborations with the MEP Environmental Development Center and develop more China Environmental Labelling Standards for forest products that are in the China Public Procurement Catalogue**

A proactive approach can be taken to collaborate with the MEP Environmental Education Center and develop more labelling standards for forest products, especially those in the China Public Procurement Catalogues Directory. By doing so, responsible Chinese manufacturers of timber products can be better engaged and collectively influence the GPP policy development agenda.

- **Policy influence on project and service GPP, especially on construction projects**

There is a clear demand and urgency to establish policies on how to include project and services procurement into China's GPP. Although policymakers in China have been aware of this, the know-how on how these policies can be implemented may be lacking. Policymakers should be encouraged to explore and learn from other markets on how such policies are developed and implemented.

- **Make ELP list mandatory**

The ELP purchase list should be compulsory rather than voluntary. Without enforceability, there will be inconsistent implementation and weaknesses in implementation. This will also ensure consistency in how the ECP and ELP lists are used.

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Mingming Sun, Consultant

E-mail: b-side@126.com

Ke Zhang, Project Manager, TRAFFIC

E-mail: ke.zhang@traffic.org