

Chinese companies in Africa: A complex governance matrix that affects social and environmental compliance

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Read the original r^] [*Chinese businesses in Africa: Perspectives on corporate social responsibility and the role of Chinese government policies* + <http://pubs.iied.org/17581IIED.html> for the full research findings.



Introduction

Research context

IIED as a policy and action research institute uses research to identify practical policy solutions to improve development outcomes. This particular research grew out of our intention to grasp with leverage points for improving social and environmental practices of Chinese businesses operating in Africa. Too often, NGOs, media and international organisations assume that the key to better practices lies with Chinese government policies and oversight.

Contrary to such popular belief, however, our research found that the Chinese government policies play a limited role in shaping & [{] æ) behaviours on the ground. Instead, the role of contracts, host country legislation as well as other institutional norms embedded in local business context . the %o~ } , ! ā c c. ^stped Áut ās Important. The overall results from 58 interviews and surveys can be found in the original report¹, but this brief focuses on the key insights related to the 25 construction companies in our sample.

In regards to the infrastructure sector, specific findings in relation to potential leverage points to improve their practices were the following:

1. Huge influence of the host government as the project proprietor in determining environmental and social outcomes of most projects;
2. Companies have limited legal obligations in terms of resettlement and compensation . a key area of contention for civil society concerned with Chinese-linked infrastructure projects;
3. One potential entry point for civil society engagement may lie with ensuring ~ ā } æ} & ^ ! • q Á safeguards monitoring and holding companies accountable to their internal policy, and
4. Companies themselves complain of unfair and cut-throat competition among the Chinese business community in this sector in Africa, calling for more active government role in fostering fair competition.

Method

The interviews and surveys were conducted by a team of IIED and partner researchers (7 Chinese, 1 American and 1 Ugandan) in Kenya, Mozambique and Uganda in the summer of 2015. The sampling largely relied on snowball sampling and access through personal contacts due to the difficulty in accessing interviewees. Our method comes with several limitations which are explained in the original report. Please also refer to the annexes in the original report for interview and survey questions.

Who are the “Chinese companies” in this research?

China has a high profile in the media when it comes to infrastructure building in Africa, partly because it has funded some flagship projects on the continent. When it comes to talking about the Chinese construction companies . the focus of this brief and the original report . however, few of them own projects in Africa and most operate as contractors in Engineering Procurement Construction (EPC) contracts.

When discussing the social and environmental impacts of Chinese-built infrastructure in Africa, this point matters greatly. Different from Southeast Asia where more Chinese companies own BOT (Built,

¹ Weng, X. and Buckley, L. (eds.) (2016) Chinese businesses in Africa. Perspectives on corporate social responsibility and the role of Chinese government policies. IIED Discussion Paper. IIED, London.
<http://pubs.iied.org/17581IIED.html>

Operate and Transfer) projects, EPC contractors face a very different set of constraints, legal obligations and the political economy contexts. Understanding such contexts is important; this will allow us to examine what ~ æ & c [! • Á æ ~ ~ ^ & c Á Ô @ã } ^ • ^ Á & [-making related to social & [{] æ } ã ^ and environmental practices and suggest potential entry points for engagement.

Key findings

Limited awareness of Chinese government policies related to social and environmental issues

Echoing the general sentiment across various sectors, the company interviewees on the ground displayed limited level of awareness toward Chinese government policies governing overseas business activities. The large state-owned enterprises (SOEs) with long years of internationalisation, however, fared better compared to private companies in their awareness level; some also displayed keen interests to learn. Among the various policies, the interviewees scored better on those related to labour and safety in comparison to Chinese policies targeted at environmental issues and general corporate social responsibility practices.

Beyond the Chinese policies, we asked the interviewees what rules they were most concerned with complying. Host country laws and regulations as well as institutional norms (which an interviewee c ^ ! { ^ á Á æ • Á % } , ! ā c c ^ } Á the most important, along with some emphasis on á Á ~ ã } æ } & ā ^ ! • q Á] [| ā & ā ^ • Á æ } á Á ã } c ^ ! } æ | Á & [!] [! æ c ^ Á] [| ā & ā ^ • È potential leverage points for the civil society and international stakeholders to engage.

Huge influence of local government as project proprietors

First, the Chinese interviewees repeatedly mentioned that they had limited power vis-à-vis project owner in determining social and environmental safeguards in contract stipulations.

In particular, most interviewees with EPC contracts emphasised their limited sphere of influence with local governments (the project proprietors) in determining the standards intended to minimise those impacts. According to several respondents in Kenya and Uganda, contracts with the host government as proprietor usually follow the local standards and regulations, which are perceived to be less environmentally stringent than the international standards.

As some interviewees emphasis^ á È Á ã } ~ | ~ ^ } & ã } * Á c @^ Á & [} c ! æ & c Á ! ^ ~ ~ ã ! ^ { ^ } stipulations related to social and environmental aspects could be a key avenue to ensure that Chinese companies hold up a high standard of quality and services in these regards.

Resettlement: more emphasis on host government's responsibility

A key area of contention in large infrastructure projects is resettlement and compensation issues. Contrary to popular belief, legal responsibilities for resettlement and project-level EIA lie with the project proprietor in most EPC contracts, not the contracting companies. For example, a Chinese company explained that they are sued by local communities just to testify in the court that it is not responsible for resettlement. V @^ Á & [{] æ } ^ Á % & [~ | á Á á [Á] r [t o c c @ã ,] j u s t t o e x p l a i n t h a t [t h e s e [~ ! Á | æ , ^ c @ã } * • Á , ^ ! ^ á Á } [c Á [~ ! Á ! ^ •] [} • ã à ã | ã c ^ È +

Resettlement is also often a key source of tension for Chinese companies in relation to the local government (the project proprietor). C E • Á [] ^ Á Ú U Ó { æ } æ * ^ ! Á ^ ç] ! ^ • • t r u c i o n ã } Á ~ ! ~ • c team cannot move an inch in some sections • the government has not resolved the land disputes on c @^ Á ! [~ c ^ Á c @^ ^ Á r] p r o j e c t i n K e n y a h a s b e e n d e l a y e d d u e t o l a t e c o m p e n s a t i o n payments from the government to the landowners, while another has been stopped due to disagreements over fair compensation and the relocation site. A project in Uganda started operations , ã c @Á c @^ Á * [ç ^ !] { ^ } c q • o u t e b e i n g a v a i l a b l e , b u t [w a s s u f f e r i n g] f r o m s a i d e d e s i g n Á ! of the route, resulting in far higher costs for the contractor at the time of the interview. One interviewee

mentioned that his company had voluntarily provided additional monetary compensation to landowners in the field when the host government and landowners had not been able to agree on a compensation package, even though the SOE was under no legal obligation to provide it (it is a moral responsibility).

Interviewees detailed unmet legal responsibilities that host governments, as proprietors of construction projects, fell short in handling: managing stakeholder interests and conflicts through a transparent process in land allocation, relocation and compensation and resolving disputes in a timely manner to avoid severe and costly construction delays.

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Ò } @æ} & ã } * Á ~ ã } æ} & ã ^ ! • q Á • æ~ ^ * ~ æ! á • Á { [] ã c [i ætterÁ æ]] ^ æ! ^ á Á practices on the ground. Our research indicated that the social and environmental-safeguard requirements imposed seem to differ between financiers such as Chinese policy banks (such as the Export-Import Bank of China [EXIM] and China Development Bank), other multilateral and bilateral financiers (e.g. the World Bank, African Development Bank, Japan International Cooperation Agency, Korea International Cooperation Agency), and commercial banks.

A SOE interviewee in Uganda commented that one of the non-Chinese bilateral financiers routinely came to inspect them for compliance with environmental requirements. World Bank and IFC were particularly noted by interviewees as having more stringent requirements on corruption, social and environmental concerns, and procurement of goods.

More research is needed to examine how various financiers enforce their safeguard policies and monitor the level of compliance in their projects *on the ground*. But ã {] ! [ç ã } * Á ~ ã } æ} & ã ^ ! • q Á • environmental policies . in particular their enforcement . seems to be a key avenue for advocacy if i) influencing local governments does not work and ii) companies are not motivated beyond legal obligations.

More scrutiny of internal corporate policy

Internal corporate policy is another potentially promising avenue of influence often neglected in the current discussion about how to improve Chinese overseas business conducts.

Our research suggests that the internal corporate policies of SOEs and some private businesses can play a key role in integrating Chinese government policies and international industry best practices. According to a SOE manager based in Kenya, for example, when SASAC and MOCOM issue a new policy, company managers at the highest level are responsible for reporting a management plan that details the responsibilities of each department head, the person who will evaluate their performance, and how this will be done. Each department head in turn drafts a concrete plan for employees in that department and sends a copy back to the manager. It is through these feedback cycles between levels (yceng yi ceng wang xia chuanda, yi ceng yi ceng wang shang bao) that the general Chinese policies can become concrete action plans for every employee in the organization. These new action plans may c @^ } Á à ^ Á ã } c ^ ! } æ| ã : ^ á Á ã } c [Á c @^ Á & the { future } the international ã á ^ | ã } ^ • Á ~ community could promote more transparency regarding these internal corporate policies and use these policies to assess actual implementation on the ground.

Cut-throat competition: policy needs from Chinese companies

Finally, nearly a half of the interviewees hoped the Chinese government will take stronger actions in & ~ ! à ã } * Á ± ç ã & ã [~ • Á & [{ contractors especially in the construction sector. ^

U ~ Á æ| | Á æ •] ^ & c • Á [~ Á c @^ Á Ô @ã } ^ • ^ Á * [ç ^ ! } { ^ } c q • Á ! ^ * ~ | æ c ã [} were most critical of the * [ç ^ ! } { ^ } c q • Á ã } æ à ã | ã c ^ Á c [Á in the construction ~ | | ^ Á & [} • ^ & c [! È Á CEÁ] ! ã ç ! æ c ^ ã Á & [} c Á æ [^ { q { ^ } c ^ á È Á % V @^ Á Ô @ã } ^ • ^ Á [| ã & ã ^ monitoring and regulation of Chinese companies . whether SOE or private company . in a way that ~ [• c ^ ! • Á ~ æ ã ! Á & [{] ^ c ã c ã [] È + Á CEÁ Ù U Ó Á • ^ } ã [! Á { æ } æ * ^ ! Á ^ & @ [^

