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Neil Renwick, Jing Gu and Song Hong

1. Introduction

1 This paper examines China's role in the extractive industry sectors of sub-Saharan Africa and issues surrounding governance—particularly that of the maximisation of host country economic gains. It includes a specific study of the Democratic Republic of Congo (DRC). China's involvement in the DRC's extractives sector has grown substantially over the past decade and a half. This growing role is driven by three factors: (i) the need to meet a growing demand for resources; (ii) a need to establish reliable long-term sources of supply to balance indigenous resource depletion; and (iii) a strategic need to increase the security of supply through risk diversification. However, it is important not to overstate the current scale of China's role. China's total outward Foreign Direct Investment (FDI) in the extractive industries in 2011 still only amounted to USD 67 billion and, as Peter Nolan has pointed out, its total stock of outward FDI in these industries represented a quarter of the assets of Royal Dutch Shell and a third of those of ExxonMobil (2014, 143-144).

2 China's growing presence is controversial (Hairong and Sautman, 2013). China and its African government partners stress the mutual benefits of their relationships and there is substantive evidence of China's capacity-building and infrastructural impact. In the steel sector, for example, a recent study concludes that China's selection of Guinea and Liberia as priority partners suggests 'potential for structural change in their integration with the world economy. For China this could offer vast iron ore resources [...] [and] [...] see selective commodity markets increasingly driven by intra-developing country dynamics [...]' (Johnston, 2017). Such 'win–win' potential notwithstanding, long-standing concerns remain regarding the structure of trade and a raft of social, environmental and corporate responsibility issues (McGreal, 2007). These concerns were voiced by the then South African President Jacob Zuma, who pointed out at the 2012 Forum on China-Africa

Cooperation (FOCAC) meeting that 'Africa's commitment to China's development has been demonstrated by supply of raw materials, other products and technology transfer. [...] This trade pattern is unsustainable in the long term. Africa's past economic experience with Europe dictates a need to be cautious when entering into partnerships with other economies' (*Financial Times*, 2012). China's relationship to Africa's so-called 'resource curse' has also been subject to scrutiny (Su, Wei and Tao 2016). Critics argue that China is simply replicating the 'resource curse' of many of its developing partners, locking them into structural underdevelopment, and undermining efforts being made to pursue sustainable development effectively and, critically, to strengthen the quality of governance in their countries. As Lawson-Remer and Greenstein note: 'Instead of creating prosperity, resources have too often fostered corruption, undermined inclusive economic growth, incited armed conflict and damaged the environment' (2012, 1). The debate also encompasses the social impact of Chinese firms. A recent German Institute of Global and Area Studies (GIGA) study concluded 'that the effect of Chinese mining companies on African local development is ambiguous: while proximity to Chinese-operated mines is associated with anti-Chinese sentiments and unemployment, populations living close to Chinese mining areas enjoy better infrastructure, such as paved roads or piped water' (Wegenast et al., 2017).

3 A key issue is that of the extent to which there is Chinese synchronisation with the rules, principles, norms and behavioural expectations of established international regimes such as those centred upon the Extractive Industry Transparency Initiative (EITI) and the UN Convention against Corruption and how this relates to issues of governance in China's partner countries, such as transparency and accountability (Global Witness, 2013). Recent studies have sought to explore new approaches to governance of natural resources through the prism of China–Africa relations in the natural resources sectors (Alden and Alves, 2015). This interest reflects both the scale of Chinese involvement in these industries in many developing countries as well as the critical importance of these industries to host state economies.

4 This paper argues that the growth of Chinese trade and investment with Africa and the concomitant increased presence of Chinese firms, many operating with little or no corporate social responsibility (CSR), has posed significant difficulties for the overall structure of trade, local producers and traders, labour relations and worker rights, and environmental and wider social and community relations. Nevertheless, issues such as CSR are being addressed by the Chinese government, perhaps not as quickly and with the degree of enforcement power that some critics wish to see, but still with testable outcomes and evidence of improved CSR behaviour and reporting.

5 In a 2015 analysis, the South African Institute of International Affairs (SAIIA) argued that African institutions are in a dysfunctional state. The SAIIA study offers recommendations on how to achieve more effective and resilient institutions at the national, regional, and continental levels. Its central argument is that there is a need for institutional designs that are responsive to local contexts, are adaptable to changing circumstances, and reflect a shared consensus and shared aspirations (SAIIA, 2015). Governance challenges in conflict and post-conflict societies, such as the DRC, remain substantial. One such study investigated local governance, conflict and peace-building in the DRC, focusing on Congolese governance processes at national, provincial, and community levels. This report found that 'political' decentralisation is 'just a more limited "territorial" form rooted in elite struggles for power. The relevant legislation and policy documentation

makes scant reference to the core principles of political decentralisation as understood more broadly – accountability and participation. […] [a]nd there is consequently a significant reluctance at national level to cede power and roll out the programme as originally planned' (Gaynor, 2013, 1-2).

6 The current agenda has come to focus on achieving greater resilience in governance related to extractive industries (Culverwell et al., 2002; World Bank, 2016*b*; Wilton Park, 2014; GIZ, 2014; McCullough, 2016); assessing the EITI (Moberg and Ponsford, 2016); environmental issues (Compagnon and Alejandro, 2013); transparency and accountability (McHenry et al., 2015); CSR (Abuya, 2016; Wilson, 2015); studies of human rights, particularly those of indigenous peoples (see, for example, O'Faircheallaigh and Ali (2008) or Acura's more recent study of indigenous peoples and socio-environmental conflicts (2015)); and the sector's role in conflict and post-conflict societies (Maconachie, 2016; Akiwumi and Hollist, 2016; CSG, 2015). The focus today is on local content provision (Andreasson, 2015; Albo, 2015), equitable management (UNDP, 2012), community participation (Andrews, 2018), as well as revenue allocation and local politics (Arellano-Yanguas and Mejía-Acosta, 2014), and revenue transfers for social development, a central issue here being that of anti-corruption measures in the extractives sector (OECD, 2016).

7 Simons and Jacklin identify a 'governance gap' between the extractive industries and host states, using human rights as their primary analytical prism, arguing that it is domestic policy and practice that offer the most potential for effective action (2014). As Table 1 below illustrates, the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) lists the governance challenges in the extractive industries:

Box 1. Governance challenges in the extractive industries

an inadequate fiscal regime
a lack of both capacities and clear definition of responsibilities within and between state institutions
the absence of a uniform legal framework for the extractive sector; instead we see individual contracts, contradictory legislation, poor transparency and competition between individual ministries
inadequate regional harmonisation and cooperation between governments of countries that share resources
negative impacts in extractive regions caused by lack of involvement of municipalities in designing the frameworks for resource extraction
excessive expectations of the population regarding the benefits of extraction
inefficiency and mismanagement caused by corruption
failure to meet human rights obligations.

Source: GIZ, 2014

8 This extensive list takes us to the heart of the issue, namely, governance. The concept of 'governance' is widely understood to refer to political culture—the values and principles that give rise to what Kjær describes as the key concepts of 'legitimacy, efficiency, democracy and accountability'. In this reading, governance is primarily concerned with the qualitative efficacy of the political system and is principally about 'authority' and 'trust' (2004, 7-11). In China, the Western concept of governance is very well understood, but has limited play in the Chinese language literature; 'governance' is still principally defined 'government', itself defined in terms of public administration and its utilitarian effectiveness. The Chinese translation of 'governance' is '*Tongzhi*' or '*Zhili*', which have strong authoritarian connotations in Chinese. Consequently, very few people apply this concept of 'governance' within China, preferring terms such as 'public administration' or 'governmental management', embodying the import value of the duty of the citizenry to serve the public good (Xun, 2012).

9 In their analysis of political instability in the Middle East, Chen and Li emphasise the overriding importance of economic development for national governance, stability and security (2011). Indeed, this is evident in the Dublin City University (DCU) study of the DRC noted above, where the empirical evidence pointed to the paramountcy of economic rights and justice, more employment, and the ending of poverty and inequality (Gaynor, 2013). Here lies the heart of the issue. Whilst there is a declaratory commitment to 'Western'/'traditional' donor emphasis on 'political' governance, it is actually China's notion of governance embedded in economic rights that is most attractive to China's strategic partners in Africa, given the continuing challenges they face daily in meeting the basic needs of many of their citizens and the rising aspirational aims of a burgeoning middle class.

2. China in sub-Saharan Africa

10 China has been Africa's largest trade partner since 2009. China has set a target of USD 400 billion, which it intends to reach by 2020. China's total trade with Africa rose 16.8 per cent to USD 38.8 billion in the first quarter of 2017, the first year-on-year increase since 2015. This was due to a 46 per cent rise in annual imports from Africa in the first quarter with agricultural imports rising 18 per cent, while Chinese exports recorded a smaller fall of 1 per cent from a year earlier (*Reuters*, 2017). China's enterprises have been encouraged and supported by the Chinese government and Chinese financial agencies to internationalise and 'go out' to Africa (Brautigam, 2009; 2011), Africa being regarded as 'the last golden land' (Gu, 2009; 2011). Deconstructing China's investment in Africa is a complex and often opaque process involving Chinese central and state loans, provincial-level investment, state-owned and private direct foreign investment (FDI). One commentary notes that China's then Minister of Commerce, Chen Deming, stated in mid-2012 that as of the end of 2011 China's cumulative FDI in Africa 'exceeded USD14.7 billion, up 60 per cent from 2009.' Also in mid-2012, the resident Chinese ambassador to South Africa, Tian Xuejun, stated that: 'China's investment in Africa of various kinds exceeds USD 40 billion, among which USD14.7 billion is direct investment' (Shinn, 2012, 1). Bilateral China-Africa partnership and official Chinese development assistance is framed significantly by FOCAC. The 2015 FOCAC, for example, saw China commit to USD 60 billion in development project cooperation (BBC, 2015). In addition, China's engagement with Africa works multilaterally through the BRICS (Brazil, Russia, India,

China and South Africa) group (Gu et al., 2016) and trilateral cooperation (Gu et al., 2017), and is also supported by the country's strengthening aid provision (Brautigam, 2011). Further buttressing this emerging Chinese multilateralism is the Belt and Road Initiative, the so-called new 'Silk Roads' project that embraces Africa (Gu, 2015).

11 After a fall in Chinese FDI in 2015, Chinese investment into Africa was not affected by a slowdown in trade in 2016. In the period between January 2013 and July 2016, the number of projects recorded rose by 112 per cent, the number of jobs created increased by 413 per cent and the number of companies investing more than doubled, rising by 108 per cent (Curtis, 2016). In January–November 2016, direct investment from Chinese enterprises into Africa increased 25 per cent, with more than USD 3 billion invested (MOFCOM, 2017). China's FDI recorded a 64 per cent increase in the first quarter of 2017, with countries such as the Republic of Djibouti, Senegal and South Africa all experiencing rises of over 100 per cent in the period (*Reuters*, 2017).

12 There has been substantial coverage of China's commitment to infrastructural capacity-building in sub-Saharan Africa, the Beijing Government receiving many plaudits for its funding and on-the-ground record of project delivery. This commitment is bilateral between China and each of the states in the region and operates through mechanisms such as the new South–South Fund. But it is also substantially multi-lateralised, not only through FOCAC, but also via the Asian International Investment Bank (AIIB) and the BRICS' New Development Bank (NDB), the Contingency Reserve Agreement (CRA) and the China-financed infrastructure fund of the African Development Bank (AfDB). But, despite this, concerns and caveats remain, and include project commitments not completed; 'footloose' Chinese money and corporate interests seeking higher returns, fresh markets and the enhanced corporate strategic security offered by diversification of supply by resource-rich countries in regions such as South-East Asia and Latin America; and the strategy of 'new normal' annual GDP of 'around' 6.7 per cent.

13 A recent study argues that 'the Chinese government and firms engage in a *modified one-tier* bargaining process with the host country government in Africa'. The study argues that the Chinese Government represents state-owned and private Chinese natural resource multinationals collectively in negotiating with host governments. There is little or no *second-tier* negotiation between the Chinese natural resource MNEs and the host country government. The authors conclude that '[t]he home and host country governmental-level negotiation leads to a generally friendly FDI environment for investments by Chinese firms as well as specific investment opportunities for Chinese firms. [...] Chinese MNEs act as executers of government negotiation outcomes between home and host countries, and fulfil the Chinese government's commitments to the host country government' (Li, et al., 2013, 300).

3. The DRC and China

14 In 2014, the DRC's extractives sector accounted for 95 per cent of exports, 22 per cent of GDP, 28 per cent of government revenues and 11 per cent of employment (EITI-DRC, 2015 a, 1). Government and host governance in the DRC have been severely debilitated by the long years of post-independence coup-ridden, autocratic, inept and corrupt political and economic rule, civil wars and external interventions. The civil war that lasted from 1997 to 2003 resulted in an estimated six million deaths. Conflict between numerous warring groups has continued in eastern DRC and a UN peacekeeping force is deployed. The DRC is

endowed with substantial mineral resources, particularly copper (Jamieson, 2016), offering the country the potential for significant natural wealth. The DRC has about 3 per cent of global copper reserves, 45 per cent of global cobalt, and 25 per cent of global diamonds as well as other precious minerals such as gold and tantalum, but also zinc, uranium or tin. Copper has been the DRC's largest export, accounting for approximately 3 per cent of world production, with cobalt the second largest export earner, accounting for 50 per cent of global cobalt (IMF, 2015). On the back of high international demand and high prices for the DRC's minerals, the economy is estimated to have recorded 9.5 per cent annual GDP growth in 2014. However, as global and particularly Chinese demand started to decline, the rate fell to 6.9 per cent in 2015 and to 3.9 per cent in 2016 (World Bank, 2016b).

15 Realising the economy's full potential has, throughout the country's history, been highly problematic. Quite apart from the ravages of conflict, resources have been exploited by the country's political elite and the militias and warlords engaged in civil conflicts, and revenues lost to a venal political culture, weak institutions, disadvantageous mining contracts with international extractives enterprises, and ineffectual management and enforcement of the country's mining regulations. In 2007, the government reported it received only USD 400 million from the oil, gas and mining sector, with oil and gas rather than mining being the primary sources of this revenue. The EITI-DRC Report concluded that there is a 'more resilient mining sector, characterised by increased production, employment and revenues' (EITI-DRC, 2016). DRC EITI membership since 2007 is held to have facilitated a virtual revolution in the size of revenues accruing to the national, provincial and local tiers of government and administration. Revenues were raised to USD 2 billion compared to 2007, the actual disbursements of revenues to the respective tiers of government and the monitoring and enforcement of the mining code (EIDI-DRC, 2015).

16 China is the DRC's principal trading partner. China was the DRC's main destination for exports and source of imports in 2015. China accounted for 46 per cent of exports, amounting to USD 2.61 billion, and 25 per cent of imports with a total value of USD 1.41 billion. To put China's significance to the DRC economy into some kind of context, Zambia was the DRC's second most important export destination, accounting for 16 per cent of exports, worth USD 933 million, whilst South Africa was the country's second most important import partner, representing 16 per cent of imports, with a value of USD 896 million (OEC, 2016).

17 The DRC has recorded a steady rise in inward FDI. In 2014, FDI inflows almost doubled, reaching USD 5.5 billion, with falling commodity prices not deterring investors, making the DRC the second-ranked recipient of FDI in Africa. China is the primary source of the DRC's FDI, followed by France and the US. In 2009, a 'minerals-for-infrastructure' agreement was reached between the DRC government led by President Joseph Kabila and a group of Chinese extractive enterprises backed financially by the Chinese Exim Bank. The Kabila government was seeking a substantial source of new funds to implement its electoral pledge regarding 'five public works' it had prioritised—infrastructure, health, education, water and electricity, and housing and employment—whilst China sought guaranteed sources of supply for strategically important minerals. For example, China accounts for 45 per cent of the global demand for copper, increasing its demand in 2016 alone by 5.3 per cent. The agreement provided for China to invest USD 3 billion to redevelop a disused mine in the DRC and another USD 6 billion in the form of

infrastructure investments (3,215 km of railroads, around 7,000 km of roads, 177 hospitals and health centres, two hydroelectric dams, two universities and 5,000 accommodation units). Chinese firms would acquire access rights to 10.6 million tons of copper and 600,000 tons of cobalt in the Katanga region. In the years since, significant tensions have dogged both the agreement and the project (Gu and McCluskey, 2015; Jansson, 2013, 1).

18 For example, in 2015, planned projects included the development of public arenas, roads, solar projects and other works. The approximate total spending for these projects for 2015 was USD 250 million. In addition, as of the end of 2014, a total of 14 joint Sino–Congolese mining projects were active. The total initial pledge towards these projects amounted to USD 3.72 billion, including USD 320 million for a hydroelectric power plant. The total actually invested in calendar year 2014 was USD 1.037 billion (APO, 2015). Case evidence of China's involvement includes the 2011 agreement regarding the purchase of the DRC's copper producer Anvil Mining Ltd (AVM) for USD 1.3 billion by Minmetals Resources Ltd, a unit of the state-owned China Minmetals Group, primarily to supply for China (MOFCOM, 2011). Later the same year, in December, China-based Zijin Mining Group invested USD 412 million in Canadian firm Ivanhoe Mines' Kamoa copper project, and in November 2016 it was announced that the owners would transfer an additional 15 per cent holding to the DRC government, taking its stake to 20 per cent. In 2016, both owners—Freeport-McMoRan and Lundin Mining—announced the, separate, sales of their respective stakes in the Tenke Fungurume mine to Chinese investors for a combined price of USD 3.8 billion (Els, 2017).

19 The stance of the DRC's state mining company, Gécamines, is important with regard to these transitions, with the company initially opposing both the Kamoa and Tenke Fungurume sales in 2012 and 2016, respectively, but ending its opposition to both after reaching deals with the new Chinese owners. The Anvil Mining purchase went ahead after Minmetals agreed to a payment of USD 55 million to Gécamines, and in January 2017, Gécamines—a 20 per cent stakeholder—ended its opposition to the Tenke Fungurume sale after agreeing substantial compensation with Lundin (Els, 2017). The role of Gécamines is further illustrated by various agreements reached with Chinese mining firms. In July 2015, Gécamines sold a copper- and cobalt-mining permit from its Compagnie Minière du Sud Katanga unit (CMSK) for USD 52 million to Huayou's Congo Dongfang International Mining Sàrl. The company, based in Lubumbashi, also signed a 'strategic cooperation accord' with CNMC in June 2015. The purchase of Gécamines' Luiswishi and Lukuni assets aimed to give Huayou 354,619 metric tons of copper and 62,903 tons of cobalt. The accord with CNMC would explore 'five large projects' around Lubumbashi, Likasi and Kolwezi in Congo's Katanga province. Gécamines and CNMC subsequently agreed with CBMC to build two factories at these existing mines with the aim of increasing the existing annual output of 15,000 tons of refined copper by an additional 100,000 tons. The first factory, in the town of Kambove, would process 35,000 tons per year of copper cathode while the second, at the Deziwa mine, would process around 80,000 tons initially in return for a 51 per cent stakeholding. CNMC would then be reimbursed through an off-take agreement over a fixed period that had not yet been agreed, before full ownership was transferred back to Gécamines.

20 The DRC government has played an active role in facilitating infrastructure development in areas strategically important to the mining sector and to Gécamines' projects. For example, in June 2016 the DRC Government awarded a USD 660 million contract to a consortium of Chinese investors to build a 240-megawatt hydroelectric project at

Busanga, near the location of the Sicomines copper project, a joint venture between Gécamines, China Sinohydro and the China Railway Group Ltd.

21 However, it is the DRC's quality of overall governance that is the critical factor in understanding the China–DRC relationship. The challenges of governance remain immense and fragility substantial, making host Government bargaining and regulatory enforcement problematic despite periodic attempts to exert greater control (Jamasmie, 2016). There are three principal weaknesses. The first of these is governmental governance. This remains vulnerable to political whim and the political culture is authoritarian and intimidatory towards investigative journalists (BBC, 2016). Controversy surrounding adherence and opposition to the rule of law and constitutionalism is experienced worldwide, for example in Myanmar (Cheeseman, 2016). With respect to the DRC, Reporters Without Borders' World Press Freedom Index 2018 ranks the DRC 154th out of 180 countries and argues that 'reporters have been systematically targeted by the security services, which act with complete impunity. Radio stations that interview government opponents are often shut down or ransacked. The authorities often disconnect the Internet or block access to social networks, depriving the public of access to freely reported news and information' (RSF, 2018, 1). The current president, Joseph Kabila, was elected in 2006 in the country's first free elections for 40 years, and controversially re-elected in 2011. Refusing to leave office at the end of his official term in 2016 citing conflict in eastern DRC, the date for the presidential election was announced in November 2017 following the visit of the US's UN Ambassador Nikki Haley, and set for December 2018 (*VoA News*, 2017a). Kabila received military training in China. Amidst highly contested government party claims that the country could not afford—either economically or more pertinently politically—a presidential election in 2016, as required under the Constitution, an agreement was reached with some opposition parties to postpone the presidential election due in 2016 in return for opposition leaders being brought into government. This so-called national dialogue was boycotted by the main opposition party, which argued the 'dialogue' and agreement were simply a way of President Kabila staying in office, contrary to the country's Constitution. Étienne Tshisekedi of the Union for Democracy and Social Progress (UDPS) was appointed by the president to lead a transitional council. This agreement led to violent street protests across the DRC and an estimated 40-50 deaths (Burke, 2016).

22 However, the death of Tshisekedi in February 2017, aged 84, placed a major question mark over the agreement (Burke, 2017). During 2017-18 the political situation remained fragile. In January 2017, the 31 December agreement brokered by the Catholic Bishops was said by the Congolese Bishops' Conference to be in jeopardy and the Conference withdrew from the mediation talks, spurring the opposition coalition UDPS to call for popular protests. By mid-2017 the agreement had collapsed. This left the country's political system in a state of great uncertainty and hiatus, reinforced by UN and European Union sanctions on political and military leaders as conflict in Eastern DRC descended into intensifying violence and atrocities, prompting the Trump Administration's November call for free and fair elections by 2018 and message that the DRC government would not receive international help with the vote if there were further delays. The US's stance, however, was criticised by opposition leader Olivier Kamitatu: 'Calling for Kabila to stay in power beyond Dec. 31, 2017, is the equivalent, pure and simple, of making oneself complicit with the evil genius!' (*VoA News*, 2017b).

23 The second weakness is the fractured character of the country, with enduring poverty, growing inequality, and social deprivation. This raises central questions about the redistributive capacity of the mining revenues regime. Revenue-raising is not disengaged from the disbursement of revenues for sustainable development. Whilst the country's GDP has risen, the DRC's GDP per capita is, at USD 442, one of the lowest in the world. Despite this, there have been signs of improvement. By 2012-13, the poverty rate (based on USD 1 per day) had fallen from 71 per cent (in 2005) to 64 per cent (World Bank, 2016a; IMF, 2015), life expectancy had increased to 51.7 years (from 47.8 years in 2005), child mortality had decreased by 30 per cent (between 2007 and 2012) and educational opportunities had expanded substantially (IMF, 2015). The country moved from the low human development classification to the medium category in the 2015 Human Development Index, but was still ranked in 176th place out of 188 countries and territories (UNDP, 2015). Extreme poverty remains a major challenge. If the benchmark of USD 1.25 a day is used, the poverty rate also decreased, but only by 5 percentage points. Despite a significant reduction in rural poverty by 14 per cent compared to 2.3 per cent for urban areas, poverty has been more pronounced in rural areas (65.2 per cent) than in urban centres (60.4 per cent), and has affected more men (56 per cent) than women (49 per cent). The DRC accounted for 5 per cent of the number of extremely poor people in the world in 2011 and ranked second for the number of extremely poor people in sub-Saharan Africa in 2012 (IMF, 2015: 4). Reinforcing this has been an increase in inequality. From 2005 to 2012, the Gini index increased to 0.45[1], indicating a rise in inequality in the DRC (IMF, 2015, 7).

24 The third weakness is the capacity and performance of the mining sector's own governance regime. In 2010, a new five-year World Bank project "DRC-Growth with Governance in the Mineral Sector" identified a series of critical deficiencies in the governance of the country's minerals sector. It set out three objectives: 'To strengthen the capacity of key institutions to manage the minerals sector, improve the conditions for increased investments in and revenues from mining, and help increase the socio-economic benefits from artisanal and industrial mining in project areas'. In 2010, the Bank's litany of five weaknesses in the effective governance of the DRC's mining sector included the poor performance of key institutions in the minerals sector with regard to the enforcement of the legal and regulatory framework; a lack of available data to support transparency and accountability mechanisms, dependent on NGO reports or poor quality media reporting with little informed debate; the need for more private investment in the minerals sector; and limited data regarding the working and living conditions of artisanal and industrial mining communities.

25 By 2017, the project's "Implementation Status and Results Report" was able to detail progress on instituting a systematic topographical baseline and the introduction of an artisanal and small-scale mining strategy—the Government Service to Support Artisanal Miners (SAESSCAM)—and creation of a system for the registration of artisanal miners, and the provision of traceability and certification systems in Eastern DRC and Katanga. However, the 2017 Report also identified weaknesses that needed to be addressed, leading to the project's completion date being extended by three years to December 2018. The Report stated that the 'Ministry's communications with stakeholders in government, the private sector and civil society are unplanned and ad hoc which hampers the development of a coherent vision for the future of the sector'; that '[s]ocial and environmental impacts of mining activities [are] not well understood and managed';

there are ‘few outreach programmes available to improve women’s standing in the mining sector’; the National Geological Survey ‘exists but not under the Ministry of Mines’; provincial CAMI offices are not covered by the online cadastre system; human resources in the Ministry of Mines and its specialised agencies are problematic, with ‘40% of Ministry of Mines staff not on the payroll’. The group of mine engineers and geologists is aging; SAESSCAM is ‘not clear, coherent, or implementable’, despite an Artisanal and Small-Scale Mining (ASM) registration system being put in place, there is limited registration carried out by artisanal miners; and the traceability and certification systems in Eastern DRC and Katanga only have limited reach, covering two provinces (Katanga and South Kivu). Much of this ASM experience synchronises with evidence from the wider African experience (Mutemeri et al., 2016). A 2014 study examined Chinese participation in Ghana’s ASM. Rural Ghana has seen an influx of many thousands of Chinese nationals seeking to illicitly extract gold. The study shows a lacklustre host government response and that the formation of a national task force to tackle the problem simply fails to address the deeper and larger causal problem of governance, ‘namely the sector’s perpetual informality, brought about by an excessively-bureaucratic legalisation process and failure, on the part of the government and donors, to deliver adequate and appropriate support to desperate operators’ (Hilson et al., 2014, 292). This finding is supported by research published in 2015 evaluating Asian investment in artisanal and small-scale mines in rural Cameroon. This highlighted ineffectual sectoral governance by the host government in failing to enforce existing government regulations, which thereby ‘risks facilitating enclaves of uncontrolled resource exploitation’ (Weng, 2015, 64).

4. Analysis

Chinese Involvement in International Regimes

26 A number of regimes influence the context within which the Chinese government and Chinese firms operate in the global extractives sector. These include: (a) the “2030 Agenda for Sustainable Development” (United Nations, 2015), the Sustainable Development Goals (SDGs), and the “Busan Partnership for Effective Development Cooperation”; (b) the “United Nations Global Compact” promoting corporate social responsibility (CSR); (c) the United Nations Framework Convention on Climate Change (UNFCCC) and the 2015 COP 21 Paris Agreement; (d) the work and agreements of the Group of 77; (e) the 1978 “Buenos Aires Plan of Action for Promoting and Implementing Technical Cooperation among Developing Countries” and emerging practices of trilateral cooperation (TC); (f); the 2005 “Paris Declaration on Aid Effectiveness” and 2008 “Accra Agenda for Action”; (g) “UN Guiding Principles on Business and Human Rights”; (h) the United Nations Convention against Corruption (UNCAC); and (i) the Extractive Industries Transparency Initiative (EITI) promoting an international standard for openness around the management of revenues from natural resources, currently implemented by 48 countries. This constitutes an extensive network of regimes promoting international principles and practices seeking to enhance the quality and effectiveness of governance. China is party to many of these regimes. Given the criticism of Chinese firms in Africa, however, there is continuing scepticism among some observers regarding Chinese commitment to compliance, transparency and accountability.

27 If we consider CSR, then the reasons for such concerns become apparent. CSR has been embodied in Chinese corporate law and labour and contract law since 2006 (effective 2008); a decade on, CSR is not deeply embedded in Chinese business culture. However, this is changing, with 1,722 Chinese companies filing CSR reports in 2012 compared to only 1 in 2006 (Larson, 2013). China has become party to the International Standardisation Organisation's ISO 26000. Initiated by ISO in 2010, this sets out guidance on how businesses and organisations can operate in a socially responsible way—that is to say, operate in an ethical and transparent manner contributing to the health and welfare of a society. Interestingly, ISO had a Chinese President, Dr Zhang Xiao, for the three-year term 2015-17. In 2008, China's State-owned Assets Supervision and Administration Commission of the State Council (SASAC) issued an important policy directive, the " Guidelines to the State-owned Enterprises Directly Managed under the Central Government on Fulfilling Corporate Social Responsibilities". SASAC further mandated that all State-Owned Enterprises (SOEs) under its supervision publish their first CSR report by the end of 2012 if they had not already done so (Liu, 2015). In response to their negative image and to the antipathy of local communities, evident in sub-Saharan Africa states, some leading Chinese SOEs—such as Sinosteel, Synoptic, China Minmetals and CNPC—have begun to disclose publicly their social investment and impact in Africa through their CSR reports. These reports include specific attempts to address and exhibit sustainability activities in Africa.

28 A 2012 World Economic Forum/Boston Consulting Group study noted that there were at least 60 major Chinese companies utilising the "Global Reporting Initiative Guidelines". However, the study recommended that the Chinese government take additional measures to strengthen Chinese understanding and practices of CSR, promoting 'a better understanding of corporate citizenship among the general public in China' and 'research and training on corporate citizenship'; 'continuously requiring better information disclosure by Chinese companies' and 'multi-stakeholder dialogue that encourages companies to learn from other leading companies, both domestically and internationally'. Chinese firms were encouraged to 'define a clear goal to align business strategy and corporate citizenship', 'invest sufficient resources and develop a dedicated internal team, with senior executive or board sponsorship, to integrate corporate citizenship requirements into daily business operations', 'communicate more effectively with the public by reporting more comprehensive information on corporate citizenship', 'engage more effectively with various stakeholders through active participation in regional and global multi-stakeholder dialogue platforms', and 'build in organisational flexibility allowing companies to create innovative solutions to changing environments' (WEF, 2012, 22-24). One response to such calls is that of China's Company Law promulgated in September 2013 and entering into force in March 2014. This law is noteworthy insofar as it explicitly refers to the duty of Chinese companies to uphold their corporate social responsibilities.

29 There is evidence of subsequent Chinese responsiveness to such recommendations on CSR in the extractives sector. In 2014 the China Chamber of Commerce of Metals, Minerals and Chemicals Importers and Exporters (CCCMC) developed 'Guidelines for Social Responsibility in Chinese Outbound Mining Investment'. The Guidelines regulate Chinese mining investments and operations and are intended to guide Chinese companies in improving CSR and sustainability strategies, as well as management systems. The Guidelines are essentially based on ISO 26000 with some exceptions to better reflect the

specifics of the mining industry (Business and Human Rights Resource Centre, 2014). The CCCMC then followed up by producing “The Chinese Due Diligence Guidelines for Responsible Mineral Supply Chains”. According to the CCCMC, these use the UN Guiding Principles on Business and Human Rights and the OECD Due Diligence Guidance on Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas as their basis, and are intended to promote integration and coordination with other related standards, regulations and initiatives (CCCMC, 2016). The Chinese government has also sought to address issues of environmental CSR. In February 2013, China’s ministries of Commerce and of Environmental Protection published “Guidelines for Environmental Protection in Foreign Investment and Cooperation” (MOFCOM, 2013). The China Exim Bank has issued “Guidelines for Environmental and Social Impact Assessments” and the China Banking Regulatory Commission (CBRC) has produced “Green Credit Guidelines” governing China’s financiers (CCCMC, 2016).

30 Turning to the EITI, the Initiative is aimed at improving corporate and governmental transparency. China is sometimes criticised for its failure to become a member, but it should be noted that a number of developed countries have taken their time in deciding on membership: for example, the UK only became a member of the EITI in 2013. Nonetheless, even though China does not implement the EITI, it has expressed its support in several international forums, for example in the 2008 UN General Assembly Resolution that stresses that transparency should be promoted by all Member States, and has also supported the 2009 G20 Pittsburgh declaration that encourages participation in the EITI. The main point is that, despite not becoming an implementation member of the EITI, Chinese companies operating in EITI-implementing countries are, like all extractives sector companies operating in EITI-implementing countries, required to disclose information to comply with the EITI Standard. This includes information about how much they pay to the governments that implement the Initiative. This may, in some cases, includes oil and mining production contracts, social payments and beneficial ownership. According to an EITI review of Chinese company activity in EITI countries, ‘To date, there does not appear to be any cases in which a company based in China has refused to collaborate with a host country implementing the EITI. On the contrary, [...] an increasing number of Chinese companies are disclosing information in EITI countries where they are required to report’. The review also provides findings: (a) Chinese companies disclose information on payments to governments to the same extent as companies from other countries; (b) at least 90 Chinese companies are involved in EITI reporting; (c) information disclosed by Chinese companies in EITI reports goes beyond financial disclosure; (d) Chinese companies now report in at least 23 of the 38 EITI-implementing countries with published reports; (e) Chinese companies are actively involved in six EITI multi-stakeholder groups (EITI, 2015).

5. Governance: The African Mining Vision

31 A further factor is the character and effectiveness of host governance in Africa as it relates to China and particularly to the extractive industries. Mohan and Lampert have highlighted the need to recognise African agency, concluding that, although uneven and politically contingent, ‘at various levels African actors have negotiated, shaped and even driven Chinese engagements in important ways’ (2013, 92).

32 Considering Africa, this role is recognised by Africa's political leaders and is embodied in the policies, strategies, charters and conventions of the African Union (AU) and sub-regional economic organisations (African Union Commission, undated). As a basis for this commitment, there is already a significant range of declarations and programmes in place. These include the seven aspirations of the AU 'Agenda 2063'; the AU Commission Strategic Plan 2014-2017; the New Partnership for Africa's Development (NEPAD); the June 2014 African Charter on the Values and Principles of Decentralisation, Local Governance and Local Development; the 2007 African Charter on Democracy, Elections and Governance; and the 2003 African Union Convention on Preventing and Combating Corruption.

33 Against this backdrop, a significant African example of the challenges involved in seeking to advance the cause of strengthening governance in the extractives sector is the 2011 African Mining Vision (AMV). This was adopted by heads of state at the February 2009 AU summit following the October 2008 meeting of African Ministers responsible for Mineral Resources Development. The Vision was formulated as an African response to the disparity of large mineral wealth alongside extreme poverty. Adopting a multi-tiered, 'holistic' framework, it advocates 'integrating mining much better into development policies at local, national and regional levels' and thereby 'opening out mining's enclave status so that Africa can move from its historic status as an exporter of cheap raw materials to manufacturer and supplier of knowledge-based services' (African Union, 2009). The African Union's mining ministers adopted an implementation 'Action Plan' in December 2011, setting out the key drivers for action (IGF, 2012). The African Mineral Development Centre (AMDC) has been established as the strategic focal point for the realisation of the Vision. A welter of meetings, networks and initiatives ensued under the auspices of the AMV during the course of the following years, with government, the mining industry and labour and civil society organisations such as the Pan-African Network's African Initiative on Mining, Environment and Society (AIMES) and Southern African Resource Watch (SARW) all involved (Kabemba, 2014).

34 However, AMV implementation has been criticised on a number of counts. The five-year review of the AMV, undertaken on behalf of SARW, identified a series of failings of the AMV from a civil societal perspective. The central theme is that, whilst there had been a great deal of subsequent activity to try and implement this 'pathway', governmental resolve in mining states has weakened and practical progress has been limited. The report identifies critical factors weakening the AMV. The review points out that, despite mining states including aspects of the agenda of the advocacy community of CSOs and unions in their policies, core elements are not being realised—'human rights violations of mining workers and communities by companies and the state; governments' accountability in respect of mineral revenues, "taming" of the power and influence exerted by mining TNCs over public policy, and a need for improvements in the overall governance of the mining sector'. The report identifies problems of political governance lying behind these various unrealised elements, arguing that government enthusiasm for limited reforms has 'tapered off' in the face of mining company opposition to changes in mining sector fiscal regimes. The report also argues that there has been 'an inadequate approach by governments seeking to revise mining contracts' by 'treating the political-economic contest with the TNCs as narrow bureaucratic-legal exchanges to be kept secret from society and its pressures'.

35 Further problems listed in the report's analysis include: falling mineral prices, increased government anxieties over mineral revenues and weakened governmental resolve; the relative weakness and influence of CSOs and advocacy organisations in the mining policy sector; the adverse impact of programmes of international organisations such as the European Union's Economic Partnership Agreements and also agreements for public–private partnerships that could limit the space to achieve the AMV agenda (Kabemba, 2014). In addition, The Resource Governance Index (RGI), published by the Natural Resource Governance Institute, measures the quality of governance in the oil, gas and mining industries in 81 countries that together produce 82 per cent of the world's oil, 78 per cent of its gas and a significant proportion of minerals, including 72 per cent of all copper. The 2013 RGI concluded that there was a serious gap in the quality of governance of natural resources worldwide and in Africa, whilst the 2017 RGI has sought to move beyond the composite rankings to underline the variability of sub-composite aspects of governance (NRGI, 2013; 2017).

6. Conclusions

36 Chinese 'state capitalism' is highly variegated (Gu et al., 2016). China's approaches to sustainable development and to governance are the product of its domestic economic history, defined national interests and strategic priorities and its increasing exposure to development dialogue and practices outside China. The Chinese government and Chinese firms are on a steep learning curve. African governments and firms are on an equally sharp learning trajectory as they accumulate experience of dealing with China. Africa has extensive regulatory and normative regimes that frame Chinese state and corporate relations with the region. Africa has travelled a hard road, but the commitment by African states and the AU to improving the quality and effectiveness of political, economic and sociocultural governance has strengthened significantly over the past decade with a substantial body of 'nested' regulatory and normative regimes being established at the regional, sub-regional, national and sub-national 'local' levels.

37 However, as the DRC case illustrates, the effectiveness of these regimes is highly variable, depending on political and economic implementation capacity within the particular host state and the institutional integrity of the governance architecture. The critical factor influencing such effectiveness is, however, the countervailing power that can be marshalled by a host government and this, crucially, is contingent upon the quality of governance.

38 To help strengthen host country governance, the Chinese government needs to move beyond voluntary guidelines on CSR and towards a firmer regulatory monitoring and reporting framework. In addition, China's standing would be enhanced in the extractives sector should it decide to become an implementing member of the EITI. More Chinese firms too need to take stock of their corporate profile and CSR commitments. Already we are seeing the seeds of change, with significant EITI reporting practices from a growing number of Chinese firms in EITI-implementing countries—with a notable number going beyond minimal requirements—and also an emerging body of enterprises engaged in CSR. The guidelines on corporate responsibility produced by the CCCMC are a further positive sign.

39 In addition, African states need to build upon the body of declaratory policy and programmes promoting better governance to drive these home *within* countries. It is the culture and quality of political, financial, commercial and social governance and responsiveness to principles of 'legitimacy, efficiency, democracy and accountability' (Kjær, 2004) that remains the most substantial challenge for African states seeking to maximise the benefits and minimise the risks in their relationships with China.

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NOTES

1. The Gini coefficient is a measure of wealth distribution on a scale of 0 (most equal) to 1 (most unequal).

ABSTRACTS

This paper examines China's role in the extractive industry sectors of sub-Saharan Africa and issues surrounding governance—particularly the maximisation of host country economic gains. China's involvement is controversial and the focus of international debate as to the extent to which Chinese–African relationships in this key sector are not 'win–win' but are damaging African partner economies and political cultures. The paper's motivation is a desire to explain more closely the growing involvement of China in sub-Saharan Africa's extractives sector in terms of how effectively African governance works to maximise the gains accruing to China's African partners. A central question is how far there is Chinese synchronisation with the rules, principles, norms and behavioural expectations of African partners. The study assesses the experience of the Democratic Republic of Congo (DRC). Key findings are that China's involvement takes many forms, but is heavily influenced by its own history as well as its emerging engagement with the international development assistance system. The DRC case demonstrates that the effectiveness of African regulatory regimes is highly variable and depends on the quality of governance. Africa has extensive regulatory and normative regimes that frame the Chinese relationship. However, to maximise gains to African partners, the Chinese state and Chinese firms must strengthen policy on corporate responsibilities and practice whilst African states must strengthen the quality of governance to turn political commitments into more robust practice.

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