IUCN | National Committee of The Netherlands

EXEMPLARY CASES OF GOOD CHINESE INVESTOR RESPONSIBILITY

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INTRODUCTION

China is increasingly investing overseas, meeting with environmental and social conflicts and challenges in the process. A detailed regulatory framework to guide Chinese overseas investment exists on paper. This series examines cases where environmental and social responsibility have been implemented in an exemplary fashion, effectively contributing to the avoidance of harm and a positive image of China as a responsible global player. The series aims to encourage local groups to constructively engage Chinese investors with these best practice references in mind. It also aims to help Chinese authorities in their efforts to effectively guide Chinese overseas investors towards routinely achieving an excellent environmental and social responsibility performance.

The five case studies are:

1. Carmichael Coal Mine, Australia - Transparency about no coal funding for Australian mega-mine
2. Oil Block 113, Peru - Respecting the lands of indigenous people in voluntary isolation
3. Agua Zarca Hydropower Project, Honduras - No dam imposed with violence against local opposition
4. Extractive Industries Transparency Initiative (EITI), Iraq - Fostering transparency in the oil sector with EITI
5. Belinga Iron Ore Mine, Gabon - Taking civil society input seriously

The criteria for choosing the cases were: size of investment, effort by the Chinese company, replicability, ecological/social impact, and policy relevance.

For whom

The case studies are intended to serve the following three groups of people as a positive reference:

1. Chinese policy makers trying to improve the performance of Chinese institutions overseas
2. Chinese company officials operating overseas
3. Local communities affected by Chinese investment projects and NGOs accompanying these communities

COLOPHON

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1 · CARMICHAEL COAL MINE, **AUSTRALIA**

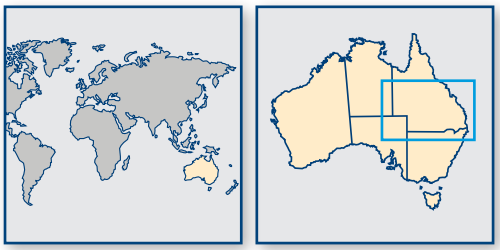
Transparency about no coal funding for Australian mega-mine

ABOUT THIS SERIES

China is increasingly investing overseas, meeting with environmental and social challenges in the process. A detailed regulatory framework to guide Chinese overseas investment exists on paper. This series examines cases where environmental and social responsibility have been implemented in an exemplary fashion, effectively contributing to the avoidance of harm and a positive image of China as a responsible global player. The series aims to encourage local groups to constructively engage Chinese investors with these best practice references in mind. It also aims to help Chinese authorities in their efforts to effectively guide Chinese overseas investors towards routinely achieving an excellent environmental and social responsibility performance.

OVERVIEW

In 2017, Indian company Adani was seeking financing for the Carmichael mega coal mine in Australia. The Australian government supported the mine and even lobbied Chinese institutions on behalf of Adani to support the project. In the context of a high profile campaign against the Adani project, the four banks issued statements that they do not intend to finance the Carmichael project, setting a precedent for high transparency as well as sending a highly significant signal about China's relation with coal-based development in the post-Paris Agreement world.



Map of the proposed Carmichael Coal Mine.
Source: Environmental Law Australia

Chinese institutions involved

Commercial Banks:

- China Construction Bank
- Industrial and Commercial Bank of China
- Bank of China
- China Merchants Bank

Engineering, Procurement and Construction Company:

- China Machinery Engineering Corporation

Authorities:

- National Development Reform Commission
- China Banking Regulatory Commission
- Chinese Embassy in Australia

Key actors in Australia

Authorities:

- Department of Foreign Affairs and Trade

NGOs:

- Stop Adani Alliance
- Market Forces
- The Australia Institute
- The Sunrise Project

THE PROJECT

The proposed Carmichael Coal Mine by Adani Mining Pty Ltd. would be the biggest coal mine in Australia. At full capacity it would produce up to 60 million tons of coal per year and 4.7 Gigatons of CO_2 emissions over its lifetime (Amos and Swann 2015). The project is estimated to cost 16.5 billion Australian dollars and includes a 189 km railway line to the export port at Abbot Point which Adani also has plans to expand (Queensland Government 2017).

There has been sustained opposition to the Adani Carmichael mine from environmentalists, indigenous people, parts of the Great Barrier Reef tourism industry and even other parts of the Australian coal industry. Criticism of the project has been brought forward on the following issues:

- **Indigenous land rights:** Local indigenous landowners oppose the project (Borschmann 2015).
- **Local ecological impacts:** Endangered and legally protected species live on the land.
- **Regional ecological impacts:** The project would significantly impact groundwater dynamics in the region. The Great Barrier Reef would be impacted by the export of the coal which would have to cross the reef.
- **Climate change:** The project represents a major new source of CO_2 emissions and goes fully against the trend of reducing these.
- **Subsidies:** Government support from both Queensland and the Australian Federal Government has been requested to make the project viable.
- **Financial viability:** The financial viability of the project has been called into question. The coal is of relatively low quality and the investment would only produce an acceptable return with high coal prices.
- **Economic impact:** The owners of the Newcastle coal port (the world's largest coal export port, part owned by Chinese interests) commissioned research that showed that the Adani mine would negatively impact on their business on the basis that adding new coal supply into a flat market will reduce production from existing mines.

Critics have gathered in the Stop Adani Alliance and organized protests against the mine around the country. The Australian government has been a strong supporter of the project, lobbying Chinese institutions on behalf of Adani to secure financing for the mine.

TIMELINE

2011

Adani Group leases the Abbot Point coal terminal for 99 years.

2013

NOVEMBER: Morgan Stanley values the mine at zero Australian dollars.

2014

JULY: Carmichael Coal Mine receives conditional government permit.

2015

DECEMBER: Paris Agreement is concluded.
DECEMBER: Temporary moratorium on new coal mines in China 2016-2019 is announced.

2016

DECEMBER: Australian Federal Resources Minister Matt Canavan indicates that Adani's rail line will be considered for a subsidised loan of up to 1 billion Australian dollars through the Northern Australia Infrastructure Facility (NAIF).

2017

JANUARY: CMEC President meets with Adani over plans for the railway construction for the project (CMEC 2017).
MARCH: Stop Adani Alliance is launched. 160 local Stop Adani groups form all over the country over the following weeks.
APRIL: Westpac, Australia's second largest bank rules out support for the project.
JUNE: The Australian Security Intelligence Organization flags Chinese influence in Australian politics, sparking a national discussion.
AUGUST: Commonwealth Bank, one of Australia's big four banks rules out support for the project.
SEPTEMBER: Australian Deputy Prime Minister Barnaby Joyce, prompted by Adani, writes a letter to the NDRC, "welcoming international investments".
OCTOBER: Stop Adani Action Day with 60 events and 20,000 participants in Australia.
NOVEMBER 3: With the Adani mine a major public issue in the Queensland election campaign, the Queensland Premier Anastacia Palaszczuk announces that she will veto the proposed NAIF loan from the federal government.
NOVEMBER: China Banking Regulatory Commission (CBRC) organizes a training for banks on transparency together with Chinese NGO Greenovation Hub, highlighting the need for transparency in communication with stakeholders.

NOVEMBER 22: Media reports Adani as saying Chinese institutions will finance its mine and rail project (Long 2017).
NOVEMBER 25: Anastacia Palaszczuk wins the Queensland State election and promises that her first act will be to follow through with the veto of the proposed 1 billion dollar NAIF loan to Adani.
NOVEMBER: Geoff Cousins, chair of Australia Conservation Foundation, and Bob Carr, ex foreign minister of Australia meet with Chinese Embassy to discuss reputational risks of the project.
DECEMBER 3: China Construction Bank Spokesperson discloses that the bank is not involved with, nor considering involvement with, the project to NGO Market Forces.
DECEMBER 3: ICBC issues public statement on its website that it does not consider the project.
DECEMBER 5: Announcement by Bank of China that it does not consider the project.
DECEMBER 12: China Merchants Bank issues a statement that it does not consider the project.
DECEMBER 15: Anti-Adani protests scheduled at Chinese bank branches in Australia do not take place.

Comparison of the size of the proposed mine and Paris disseminated during COP21. Source: The Australia Institute

POLICY RELEVANCE

China's reputation

This case illustrates that major reputational risks can be associated with such projects, even if strongly supported by the Australian government. The Carmichael project is unpopular in Australia, with surveys showing that 65% of Australians are opposed to the mine. In this context, taking into account information provided by non-governmental organizations can help provide a more complete picture of the reputational risks facing Chinese actors in other countries.

Coal

China is well known internationally for its coal pollution. Although China is slowing down its carbon emissons domestically, financing a very controversial and fiercely resisted coal project overseas that goes against the Paris Agreement would have reinforced that bad reputation. The Paris Agreement has set an ambitious target for limiting climate change (1.5°C at the lower end, well below 2° at the higher end) and a mechanism to achieve it, which consists of a first round of Nationally Determined Contributions and subsequent rounds of increasing mitigation ambition. Preliminary research recommends that no new coal, gas or oil infrastructure is admissible under the Paris Agreement (Muttitt 2016).
The post-Paris move away from coal and president Xi's agenda of fostering a green, sustainable lifestyle runs counter to worrying trends in Chinese overseas investments (Kaiman 2017, Zuvela 2017, Phakathi 2017), including in Belt-and-Road countries where the "Green Belt and Road" is turning brown with abundant coal projects (Ren et al. 2017).

Transparency & communication

The Green Credit Guidelines state that regarding "credit information involving major environmental and social risks, banks shall disclose information as required by laws and regulations and subject themselves to market and stakeholder supervision." The Key Performance Indicator 5.24.3 says "The banking institutions shall keep communication and interaction with stakeholders through various effective ways so that the banking institutions can improve its environmental and social risk management by accepting suggestions and opinions developed by the stakeholders." In the case of disclosing information about the process on this project to NGOs and publishing statements on their website, this is exemplary good performance.

Protestors against the Carmichael coal mine

The indigenous owners of the land, the Wangan and Jagalingou people reject the coal mine. The government is willing to force them to accept compensation

POLICY RECOMMENDATIONS

- Establish/strengthen dedicated mechanisms to receive civil society input to complement government information, as well as communicate relevant internal developments.
- The Embassy in each country should pay close attention to public sentiment around each project, as well as on China in general.
- CBRC should instruct banks to update project evaluation requirements for energy sector projects to include a Climate Test to establish compatibility with the Paris Agreement, as it is responsible for the surpervision and administration of banks' green credit operation and environmental social risk management.
- Chinese enterprises should learn from international risk assessment and management experiences and incorporate international good practice into their standard procedures.
- Regulators should develop specific risk assessment standards to guide (and against which to evaluate) environmental and social risk management practice of companies.

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2 • OIL BLOCK 113, **PERU**

Respecting the lands of indigenous people in voluntary isolation

ABOUT THIS SERIES

China is increasingly investing overseas, meeting with environmental and social challenges in the process. A detailed regulatory framework to guide Chinese overseas investment exists on paper. This series examines cases where environmental and social responsibility have been implemented in an exemplary fashion, effectively contributing to the avoidance of harm and a positive image of China as a responsible global player. The series aims to encourage local groups to constructively engage Chinese investors with these best practice references in mind. It also aims to help Chinese authorities in their efforts to effectively guide Chinese overseas investors towards routinely achieving an excellent environmental and social responsibility performance.

OVERVIEW

SAPET, the Peruvian subsidiary of CNPC has been one of the first Chinese overseas oil undertakings and is operating in Peru since the 1990s. In 2005 SAPET acquired exploration rights for Block 113, which overlapped with a Territorial Reserve for indigenous peoples in voluntary isolation, groups that are extremely vulnerable to contact with outsiders because of a lack of immunity to diseases which are common in the rest of the world. These groups enjoy special protection under Peruvian law and previous oil operations in the area had been halted due to their presence. After learning about the situation from civil society groups, SAPET held several meetings with NGO representatives and decided not to explore in this part of their concession, disregarding initial opposition from the Peruvian government and upholding the rights of the vulnerable local population. This is a very significant precedent for sticking to a high standard of social responsibility, even without the host government corresponding to the intention.

Chinese Institutions involved

Oil Company:

- Sino-American Petroleum Development Peru Inc. (SAPET, CNPC subsidiary in Peru)

Key actors in Peru

Authorities:

- PeruPetro

NGOs:

- FENAMAD (Federación Nativa del Río Madre de Dios y Afluentes)
- AIDESEP (Asociación Interétnica de Desarrollo de la Selva Peruana)

THE PROJECT

The concession of Block 113 is located in the Peruvian department of Madre de Dios and comprises 1.2 million ha mainly of rainforest. In 2005, SAPET signed a 7 year contract for this and adjacent Block 111 to undertake seismic exploration of the area. SAPET was to invest at least 34.5 million US dollar in the block during exploration (PeruPetro undated) and - together with adjacent block 111 - up to 1 billion US dollar during production (BNAmericas 2005). Of the total area of Blocks 111 and 113, only a tiny percentage (158 ha) were planned to be used and the project seems to have been of minor significance to CNPC from a global perspective, representing low economic stakes (Matisoff 2015).

Indigenous people in voluntary isolation on the border between Brazil and Peru. Source: Gleison Miranda, FUNAI

TIMELINE

1993

CNPC wins its first overseas concession by tender in Peru in the Talara field.

1997

A family of loggers is attacked by uncontacted people in the area of what will be later Block 113 (Huertas 2004).

1999

Mobil Oil stops hydrocarbon exploration in the same area of Madre de Dios (then Block 77) after several encounters between Mobil workers and isolated tribes, following a demand by NGO FENAMAD. Mobil Oil has contingency plan with protocols in the event that employees come into contact with isolated Indigenous peoples.

2001

APRIL: A camp of loggers is attacked by uncontacted people in the area of what will be later Block 113 (Huertas 2004).

2002

APRIL 22: The Territorial Reserve for the Protection of Uncontacted Indigenous Peoples Living in Voluntary Isolation is established in Madre de Dios.

2004

AUGUST: A logger is killed by uncontacted people in the reserve (Huertas 2004).

2005

2005: FENAMAD appeals to the IACHR on behalf of isolated indigenous tribes against the Peruvian government about its management of the Territorial Reserve of Madre de Dios.
NOVEMBER: Civil society groups send letters requesting the cancellation of the Block 113 project to SAPET and to the authorities before the signature of the contract.
DECEMBER: SAPET signs a 7-year exploration agreement with PeruPetro for Blocks 111 and 113.

2006

APRIL 12: The regional government of Madre de Dios, NGO FENAMAD & others send a letter pointing out that the concession of Block 113 is in violation of several laws.
2006: SAPET consults FENAMAD and other local organizations to learn more about the problems in several meetings.
JUNE 22: SAPET commits to avoiding oil exploration in areas of Block 113 that overlap the territorial reserve (and indigenous community lands in Block 111).
JUNE 28: SAPET writes a letter to PeruPetro and asks to modify the concession of Block 113.
SEPTEMBER 25: Peruvian government accepts the modification of the concession of Block 113.
2006: CNPC commissions environmental impact assessment for the seismic exploration phase of the projects.

2007

Seismic data acquisition commences.

2008 2009

Conflict between indigenous peoples and national government over extractive policies and lack of consultation which results in 33 deaths on June 5, 2009.

2009

Perupetro removes Block 113 from map of existing oil blocks, implying that the concession has been cancelled in the meantime.

2016

The UN Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, Mr. Juan Pablo Bohoslavsky mentions the SAPET case as good example of Chinese companies dealing well with human rights issues (OHCHR 2016).

Oil spill in the Peruvian Amazon in 2016

POLICY RELEVANCE

China's reputation

The cautious and responsible way of proceeding contributed to establishing a good name for the Chinese company and the country. This is, however not always the case, so less responsible ways of acting of other companies can undo this achievement. Even more important it is to watch over all Chinese investments and make sure that a high standard of social and ecological responsibility is maintained.

Complementing information provided by government

The Peruvian government did not inform SAPET of the presence of uncontacted indigenous people in the concession and even argued that it did not matter (Servindi 2006a). This underscores the need for a proper due diligence process which will complement information provided by government with other sources. In many countries, government officials have a personal interest in concreting commercial transactions with foreign investors, even at the expense of local communities and the environment. When the rule of law is not well established, this often leads to situations where existing rights and legal obligations – such as consultation of indigenous communities and their Free Prior and Informed Consent (FPIC) – are disregarded, resulting in social conflict. A proper and exhaustive due diligence process can inform these contradictions ahead of time.

Importance of local knowledge

Most staff of SAPET is Peruvian and the company at the time had been working in Peru for over a decade. According to observers familiar with the case, the rooting of SAPET in the national culture has been important in this case, providing for cultural sensitivity that allowed to proceed with caution and to good effect.

Sticking to the law

One of the key foundations of responsibility of overseas investors is complying with the laws of the host country. This may seem trivial, however situations abound where the applicability of different laws is highly contested. Investors can rely on stakeholders such as non-governmental organizations and local communities to point out potential inconsistencies. In countries where bending the law for investments is common place, the decision to stick with the law can be a hard one. It becomes even harder when the government actively insists on bending the law. Laws protecting communities and the environment are often an achievement that has been won through much sacrifice of social movements in long and difficult struggles. Respecting these achievements and actively pursuing their implementation even if it means not embarking on a contentious project, is important. In this case, it had already been pointed out by FENAMAD that the concession of Block 113 would contravene ILO Convention 169, Ministerial Resolution No 0427-2002-AG, and Supreme Decree No 024-2005-PCM (Servindi 2006b).

A sign left by indigenous people in voluntary isolation, signalling: do not enter. Source: AIDESEP

POLICY RECOMMENDATIONS

- Establish/strengthen dedicated mechanisms to receive civil society input to complement government information.
- Strengthen due diligence process ahead of authorizing an investment.
- Identify implementation challenges of existing laws that are relevant for the project.

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3 • AGUA ZARCA HYDROPOWER PROJECT, **HONDURAS**

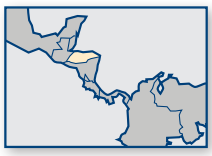
No dam imposed with violence against local opposition

ABOUT THIS SERIES

China is increasingly investing overseas, meeting with environmental and social challenges in the process. A detailed regulatory framework to guide Chinese overseas investment exists on paper. This series examines cases where environmental and social responsibility have been implemented in an exemplary fashion, effectively contributing to the avoidance of harm and a positive image of China as a responsible global player. The series aims to encourage local groups to constructively engage Chinese investors with these best practice references in mind. It also aims to help Chinese authorities in their efforts to effectively guide Chinese overseas investors towards routinely achieving an excellent environmental and social responsibility performance.

OVERVIEW

From 2012 to 2013, Sinohydro was planning to build the Agua Zarca Hydropower Project on the Gualcarque river in Honduras. The project is opposed by the local indigenous Lenca population who according to international right have to be consulted and give their consent. In 2013 Sinohydro pulled back from the project due to increasing violent conflict around the project, including deaths of local opponents. The local company continued to move forward with the project. In 2016, prominent opponent of the project and indigenous leader Berta Cáceres was murdered in her home, elevating the case to an international icon of violence against environmental defenders. By having left the project in time, Sinohydro avoided major reputational damage to its company and to China in consequence.



Localization of Agua Zarca in Honduras. Image: World Politics News

Chinese institutions involved

- Sinohydro

Key actors in Honduras

- Consejo Cívico de Organizaciones Populares e Indígenas de Honduras (COPINH)
- Desarrollos Energéticos, S.A. (DESA)
- Honduran military
- National Police
- Secretaría de Recursos Naturales y Ambiente (SERNA)
- Empresa Nacional de Energía Eléctrica (ENEE)
- Financiera Comercial Hondureña S.A. (FICOHSA)

International actors

- FMO (Netherlands Development Finance Institution)
- Finnfund (Finnish Fund for Industrial Cooperation)
- Central American Bank for Economic Integration (CABEI)
- COPRECA (Costa Rican contractor)

THE PROJECT

The proposed Agua Zarca hydropower project on the Gualcarque river in Honduras was a relatively small hydropower plant: 22MW, a 5 meter high dam, 3 kilometers of canals and tunnels and a reservoir the size of two football fields (Hidroeléctrica Agua Zarca website). It required an investment of 64 million US dollar. Since the sudden arrival of construction machinery at the site, local indigenous Lenca communities have been opposed to the project. They consider the Gualcarque river sacred.
Substantial social conflict and violence has surrounded the project. After a member of the local opposition was killed during a peaceful protest, Sinohydro withdrew from the project. The project received some international attention when local indigenous leader Berta Cáceres won the prestigious Goldman Environmental Prize for her leadership of the resistance against the dam in 2015. In March 2016, Berta Cáceres was murdered in her home by men with links to the local construction company (GAIPE 2017). An international outcry ensued ("Berta Cáceres + murder" gives 144.000 results on Google). Finally the Finnish and Dutch financers of the project as well as the company providing the turbines withdrew as well.

Río Blanco community members blocking the access road to the project site. Image: El Diario

Community members from Río Blanco with a document with their falsified signatures of their supposed consent to the project

TIMELINE

1993

Foundation of COPINH (indigenous peoples organization).

2006

2006: Planning of four dams on Gualcarque river starts.
2006: Construction machinery arrives on site.
2006: Local assembly votes against the project and files complaints with government authorities and later the Inter-American Human Rights Commission for not having been consulted.

2008

DESA is set up, only for the purpose of the project.

2009

2009: DESA bids for a concesssion to build a 6MW project on the Gualcarque river.
2009: Inter-American Commission on Human Rights orders the Honduran government to provide protective measures for Ms. Berta Cáceres.

2010

AUGUST: Concession for a 14.5MW project at Agua Zarca is granted to DESA.

2011

2011: Preliminary construction starts.
MAY 14: Contract between DESA and ENEE (now 21.7MW).

2012

NOVEMBER 16: Sinohydro signs contract with DESA.

2013

MARCH: DESA blocks access to the river.
APRIL 1: Communities start a road block to the construction site that will continue for several months.
APRIL/MAY: 4 violent evictions of community blocks.
MAY 24: Community leaders Berta Cáceres and Tomás Gómez are arrested on a trumped-up charge at a military checkpoint.
JUNE 23: Military intimidates community members, pointing fire arms at children and elderly people.
JUNE 29: Community member opposing the dam is attacked with a machete and gravely injured by dam proponents from the community.
JULY 2-4: International human rights observer delegation (La Voz de los de Abajo) visits the project area and sends a letter to Sinohydro sharing evidence of false accusations, intimidation and violence, led by the local company DESA and supported by police and military.

JULY 15: Río Blanco community leader Tomás García is killed by a soldier stationed inside the DESA logistics headquarters during peaceful protests, his son Allan García is wounded.
JULY 15: Sinohydro suspends site preparation activities.
AUGUST 24: Sinohydro terminates contract with DESA.
SEPTEMBER 12: Government signs fake agreement on the project with community "representatives" of Río Blanco who do not represent the community.
SEPTEMBER 20: A court follows DESA's request and orders removal of a road block, while condemning three community leaders.

TIMELINE

2014

JANUARY 8: IFC confirms it is no longer investing in DESA.
MARCH 5: Murder attempt against a local opposition leader and her family.
APRIL 6: An attack on dam opponents leads to two deaths in Río Blanco.

2015

APRIL 20: Berta Cáceres receives the renowned Goldman Environmental Prize for her work defending the river and pressuring Sinohydro to pull out of the project.
OCTOBER: Construction starts on the (opposite) West side of the river after the project was modified so that it will spare indigenous farmland. The impacts on the river remain.

2016

MARCH 2: COPINH leader Berta Cáceres is murdered in her house, causing an international outcry.
MARCH: Two weeks after the murder, development banks FMO and Finnfund suspend disbursements of their loans to the project.
MAY: Voith (turbine provider) announces they want to end involvement in the project.
DECEMBER: Construction is halted.

2017

JULY: FMO, Finnfund and Voith Hydro drop the project.
JULY 11: Construction is suspended.
JULY 14: Organization of American States' (OAS) Mission Against Corruption and Impunity in Honduras (MACCIH) announces investigation into the Project and DESA on abuse of authority, fraud, and possible money laundering.
OCTOBER 29: Report by independent lawyers on intellectual authors of the murder, accusing the financers of the project of supporting a strategy of elimination of any opposition to the project.

2018

MARCH: CEO of DESA company is arrested as intellectual author of Berta Cáceres' murder.

POLICY RELEVANCE

Responding to community opposition

When local communities oppose a project, investors should listen closely. As long as no dedicated mechanism exists to facilitate this communication, the impression of Chinese institutions to be 'black boxes' will persist. Communication should flow freely between the company and the local community. Local concerns should be taken seriously.

Corruption

Honduras is plagued by corruption. Operating in such a context requires proceeding in a very cautious fashion. In the case of the Agua Zarca project, staff of the implementing firm (DESA) have been investigated for a number of crimes, including corruption and murder. Local partners should be selected based on complete information and a track record of correct behaviour. This was clearly not the case with DESA.

Relying on government information

The Honduran government has clearly not been a reliable source of information in this case. Unfortunately the implementation of international conventions such as the one on the Rights of Indigenous Peoples (UNDRIP) is lagging behind in many countries. They are nevertheless binding. When a company, lured in with promises by the local government, breaks the law of the host country, it also violates Chinese law. This is a serious risk which should be mitigated by looking for additional sources of information (e.g. NGOs, academics), independent from the promoters of the project in the local government.

Cancelling a project as best choice

In a case like Agua Zarca, withdrawing from the project altogether is the best way forward – and the sooner the better. Sinohydro is a huge company with many projects in many countries. Just one small and controversial project can ruin the reputation, because there are many forces out there waiting to discredit Chinese efforts and using bad examples as if they were the norm.

Detention of the CEO of Honduran company DESA in charge of the project in March 2018

POLICY RECOMMENDATIONS

- Establish an independent grievance/complaints mechanism, independent from local/national government influence.
- Make respecting all relevant national and international legal obligations such as free, prior and informed consent part of due diligence before green light is given to an investment/ contract by the embassy.
- Require a background check of the track record of business partners which includes corruption and human rights violation allegations.

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International protests following the murder of Berta Cáceres

4 • EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE (EITI), **IRAQ**

Fostering transparency in the oil sector with EITI

ABOUT THIS SERIES

China is increasingly investing overseas, meeting with environmental and social challenges in the process. A detailed regulatory framework to guide Chinese overseas investment exists on paper. This series examines cases where environmental and social responsibility have been implemented in an exemplary fashion, effectively contributing to the avoidance of harm and a positive image of China as a responsible global player. The series aims to encourage local groups to constructively engage Chinese investors with these best practice references in mind. It also aims to help Chinese authorities in their efforts to effectively guide Chinese overseas investors towards routinely achieving an excellent environmental and social responsibility performance.

OVERVIEW

China National Petroleum Corporation (CNPC) is one of the international oil companies operating in Iraq after the war and in difficult circumstances. The company has contributed significantly to the country joining the Extractive Industries Transparency Initiative (EITI) by participating in the Multi-Stakeholder Groups (MSG) of EITI.

Chinese oil companies and oil fields in Iraq

Chinese Institutions involved

- China National Petroleum Corporation (CNPC)

Key actors in-country

- Oil Ministry Iraq

International actors

- Extractive Industries Transparency Initiative (EITI)

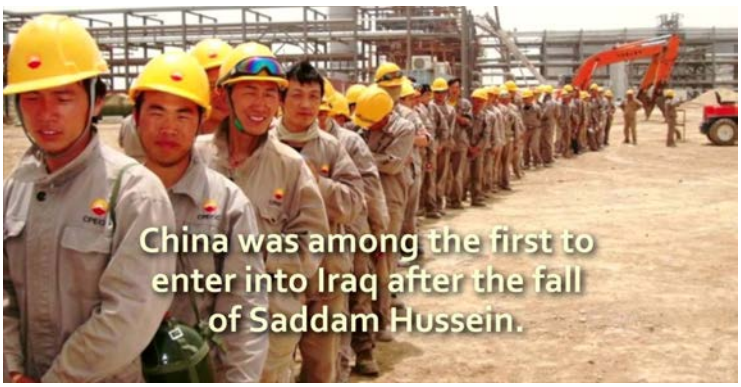
THE PROJECT

The Extractive Industries Transparency Initiative (EITI) is an important mechanism for fostering accountability of government agencies responsible for extractive industries and for erradicating corruption in a sector traditionally plagued by irregularities.

CNPC was one of the actors helping Iraq join EITI, making contributions to the reporting guidelines as well as publishing their own information in a timely and exemplary fashion, beyond standards required by law.

Today, CNPC operates the Halfaya and Al-Ahdab fields and is a partner in the consortium developing the Rumaila field, Iraq's largest field with a production of over a million barrels per day. CNOOC, another Chinese state-owned oil company operates the Missan oilfields. In 2017 it was reported that another Chinese company, Zhenhua Oil had reached a deal with the Iraqi government to exploit the East Baghdad oil field. About a quarter of Iraqi oil production is exported to China.

The Al-Ahdab oilfield construction project was the first new-built capacity project to be put into operation after the Iraq war and was jointly developed by PetroChina (owned by CNPC) and Iraq's Northern Petroleum Company, with PetroChina as operator. PetroChina developed a multi-stakeholder participation mechanism for the project and a Community Contribution Committee for projects to benefit local people. As of the end of 2016, several projects with an annual investment of 1 million US dollars were under construction in Iraq. CNPC participated actively in the improvement of reporting guidelines for the oil sector in the framework of Iraqs EITI and ensured the inclusion of detailed information about oil production from the Al-Ahdab oilfield, in which the company holds a 50% interest. This was despite the company being exempt from EITI reporting requirements as its activities were in early stages of production and the company was not yet making material payments to the government of Iraq.



Chinese oil workers in Iraq

Checkpoint near Rumaila oil field. Source: ATEF HASSAN/Reuters

TIMELINE

1997

JUNE: CNPC signs a production-sharing contract for the development of the Al-Ahdab oil field in Iraq.

1998

CNPC starts negotiations on Halfaya oil field.

2003

The United States and allies invade Iraq.

2006

NOVEMBER: New Iraqi government starts re-negotiations of Al-Ahdab contract with CNPC.

2007

JUNE: Iraqi President Jalal Talabani visits China, China agrees to cancel 8 billion US dollars in Iraqi debts, CNPC regains access to the project.

2008

NOVEMBER: CNPC signs an oilfield service contract with the Iraqi government for Al-Ahdab oil field.
2008: Rocket attacks against CNPC facilities at Al-Ahdab.

2009

MARCH: CNPC starts work at Al-Ahdab oil field.
2009: Chinese companies win bids to service contracts for Al-Ahdab oil field together with international and national partners.
NOVEMBER: CNPC signs a Technical Services Contract with BP, Iraq's State Oil Marketing Organisation (SOMO) and state-owned South Oil Company (SOC) for a stake of 46.4% in the Rumaila oilfield operations.

2010

JANUARY 27: CNPC signs a service contract to boost production in Halfaya oil field, leading a consortium with Total, Petronas and Iraq's South Oil Company.
2010: Iraq becomes EITI candidate country.
JUNE: CNPC is elected to the Iraq EITI Council and becomes the first Chinese company to be represented on an EITI Multi Stakeholder Group.

2011

MAY: Oil workers go on strike at Rumaila oil field.
JUNE: Production from Al-Ahdab begins, making it the first major new field to begin production in Iraq under the new oil and gas law.
OCTOBER AND DECEMBER: Bomb attacks temporarily shut down production at Rumaila South oil field.
2011-2016: EITI Iraq publishes annual EITI reports.

2012

JUNE: Halfaya oil field reaches a production of 100 thousand barrels per day.
JULY: Sinopec buys Addax Petroleum with operations in the Kurdistan Regional Government area.
DECEMBER: Iraq is designated an EITI compliant country.

2013

PetroChina buys 25% of ExxonMobil's share in Iraq's West Qurna 1 giant oilfield.
NOVEMBER 3: Gunmen attack Al-Ahdab oilfield.

2017

DECEMBER: Iraq is suspended from EITI due to inadequate progress.

POLICY RELEVANCE

Fostering transparency and good governance

EITI brings together government, companies and civil society in a joint effort towards more transparency. Bringing more transparency and government accountability to the most important economic sector of Iraq is a big contribution to good governance and broader economic development. As the importance of Chinese companies increases worldwide, a strong commitment to EITI and its values can make a difference for many countries.

War on corruption

The war on corruption should not be limited to China only. Every country can benefit from ending corruption and bringing transparency and accountability into government affairs, especially with regards to money. By actively supporting EITI, Chinese companies can make a contribution to reducing or ending corruption worldwide.

POLICY RECOMMENDATIONS

- Chinese companies should continue to participate actively in EITI in every EITI country.
- Chinese companies can help additional countries join EITI.
- Collaboration with EITI could become an evaluation criterion for performance evaluation of responsible SOE managers.

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5 · BELINGA IRON ORE MINE, GABON

Taking civil society input seriously

ABOUT THIS SERIES

China is increasingly investing overseas, meeting with environmental and social challenges in the process. A detailed regulatory framework to guide Chinese overseas investment exists on paper. This series examines cases where environmental and social responsibility have been implemented in an exemplary fashion, effectively contributing to the avoidance of harm and a positive image of China as a responsible global player. The series aims to encourage local groups to constructively engage Chinese investors with these best practice references in mind. It also aims to help Chinese authorities in their efforts to effectively guide Chinese overseas investors towards routinely achieving an excellent environmental and social responsibility performance.

OVERVIEW

The Belinga Iron Ore Mine was going to be located in a remote area of Northeast Gabon and to be powered by a new dam which was going to cover famous waterfalls inside a National Park, as well as connected to a new deepwater port through a new railway. The overall project required an investment of 3.5 billion USD, but did not have an environmental impact assessment and threatened forests, biodiversity and local livelihoods such as fishing, as well as thriving on corruption. After Gabonian civil society protested against the project and its manifold negative impacts, China Export-Import Bank which was planning to bankroll the project withdrew its support.

Map of Gabon with Belinga visible in the Northeast and Santa Clara in the Northwest

Chinese institutions involved
• China Export Import Bank
• China National Machinery and Equipment Import and Export Corporation (CMEC)
• Bank of China
• Sinohydro

Key actors in Gabon
• Ministry of Mines
• Ministry of Environment
• Compagnie Minière de Bélinga (COMIBEL)
• Société Equatoriale des Mines (SEM)
• Brainforest (NGO)
• Environment Gabon (Coalition of NGOs)

THE PROJECT

With an estimated production of 30 million tons of iron ore per year, the Belinga project required a significant investment in infrastructure: the ore is located several hundred kilometers inland in a country covered by rainforest and with no significant infrastructure usable for the project. A 560 km railroad from Belinga to Santa Clara and a sea port at the latter location would have to be built, and two dams to power the mine: one with 50 MW at the famous Kongou Falls in Ivindo National Park and the other with 160MW at Grand Poubara in the South of the country near Franceville. Total cost of the project would have been USD 3.5 billion. It was to be developed by the joint venture Compagnie Minière de Bélinga (COMIBEL) in which CMEC held 75% of the shares and the rest was shared between the Gabonese state and Panzhihua Iron & Steel Group. The mine was supposed to be operated by CMEC, the main contractor of the project. The Gabonese government expected that 30 000 direct and indirect jobs would be created by the project.

The Kongou Waterfalls. Source: CNN

Brainforest's Marc Ona received the Goldman Environmental Prize in 2009 for stopping the project

TIMELINE

1960s

Electricité de France conducts a feasibility study, recommending the Tsengué-Lélédi falls as location for a hydropower plant. (This proposal will later be taken up by Gabonese civil society as a – more expensive – alternative to the dams planned in Ivindo National Park).

2002

Bank of China provides a RMB 8 billion line of credit for the project.

2004

SEPTEMBER 8: Framework agreement is signed between Gabon and CMEC about Belinga iron extraction and construction of infrastructures.

2005

First year that Gabon reports under the Extractive Industries Transparency Initiative (EITI).

2006

2006: Chinese oil company SINOPEC is accused of deforestation inside Loango National Park.
SEPTEMBER: Gabonese National Park Service orders SINOPEC to stop exploration activities in Loango National Park, because the Environmental Impact Assessment had not been approved.
SEPTEMBER 7: Framework agreement is signed between Gabon, Exim Bank and CMEC about iron mining in Belinga, infrastructures and finance after a controversial bidding process with Brazilian Vale as another contender.

2007

2007 JULY: CMEC begins constructing a road directly through Ivindo National Park to the Kongou Waterfalls, violating Gabon's Environment Code.
2007: A copy of the Belinga mine project agreement between the government and CMEC is leaked and published by NGO Brainforest, revealing that Gabon would receive only 10 percent of the mining profits while CMEC would receive a 25-year tax break.
SEPTEMBER: Environment Minister Georgette Koko orders to stop work on the road leading to the Kongou falls.
OCTOBER: The contract is put on hold after civil society groups raise concerns.
DECEMBER: Compagnie Minière de Belinga (COMIBEL) is created, with 25% shares held by the Gabonian government and 75% by CMEC and an initial mining contract is signed.

TIMELINE

2008

JANUARY: The Minister of the Interior suspends the activities of the NGO coalition Environment Gabon that Marc Ona coordinates on the grounds that, "local NGOs were interfering in politics."
JANUARY: A USD 83 million concessional loan from the Chinese government through China Exim Bank for Grand Poubara Hydroelectric Dam is announced.
MARCH: A break-in at the office of Brainforest results in the loss of sensitive information relating to the Belinga mine project.
MAY 24: Gabon signs a new mining contract, establishing a joint venture between CMEC and the government of Gabon. The new contract includes a social and environmental technical monitoring committee (including two NGO representatives) and a concession size reduced from 7,700 to 600 square kilometers.
JULY: Mineral rights agreement is signed. The project cost (without associated infrastructure such as railroad, port and dams) is estimated at USD 790 million. China Exim Bank is publicly mentioned as financer of the project.
2008: Three times during 2008 the federal police refuses to let Marc Ona travel out of the country, without explanation.
OCTOBER 20: Brainforest sends a letter to China Exim Bank asking the bank to investigate allegations that its client, CMEC, is violating the bank's environmental policy.
2008: China Exim Bank puts its finance on hold for further studies on project impacts and compliance with its environmental policies.
NOVEMBER: Feasibility study for Grand Poubara Hydropower Plant is concluded and Sinohydro begins construction of the Grand Poubara dam, with President Omar Bongo laying the foundation stone.
DECEMBER: Marc Ona and four other civil society leaders are arrested and held without charge nor access to legal representation in a basement cell for five days. Ona is transferred to prison and charged with incitement to rebellion.

2009

JANUARY 12: Following an international campaign and international media reports about the unlawful arrest the government releases Marc Ona.
APRIL 20: Marc Ona receives the Goldman Environmental Prize for stopping the project.
JUNE: President Omar Bongo dies and his son, Ali Bongo assumes power. He initiates a review of the Belinga project agreement.

2011

2011: A Presidential Decree creates Société Equatoriale des Mines (SEM) which will have a minimum 10 % stake in the Belinga project.

2013

FEBRUARY 27: Gabon loses EITI candidate status.
AUGUST 5: Grand Poubara power station (160MW) is commissioned.
NOVEMBER: The dispute between Gabon government and COMIBEL is settled, Gabon paying COMIBEL's expenses.
DECEMBER: COMIBEL's license for the Bélinga iron ore mine is cancelled and the Gabonian government takes over COMIBEL through an agreement with the Chinese side.

2016

2016: The UN Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, Mr. Juan Pablo Bohoslavsky mentions the Belinga case as "an inspiring example of how the Expert-Import Bank of China reacted to concerns brought to its attention by civil society" (OHCHR 2016).

POLICY RELEVANCE

China's reputation

Starting environmentally destructive and socially disruptive projects without proper process is highly damaging to China's reputation and feeds the story that China cares about resources, but not about people and the environment. In this case, a deforestation scandal involving Chinese oil company Sinopec had happened shortly before the details of the Belinga deal were made public, further tarnishing the Chinese reputation.

Transparency & corruption

The project had been developed and even started implementation without any consultation with local communities, civil society or even other government departments. This kind of proceeding is characteristic of countries with weak governance and should not be supported or even further encouraged by Chinese actors. Rather, Chinese projects should help raise the standards of transparency (as can be seen in other case studies in this series) and make corruption increasingly difficult – both in China and in the host country.

Following due process

Construction of any project can only start after all required permissions have been acquired, including environmental permits. This is especially relevant in important biodiversity areas like a national park in this case. The Chinese Embassy should be monitoring the activities of Chinese companies in the country and if necessary remind them of their legal obligations.

POLICY RECOMMENDATIONS

- The Embassy in each country should pay close attention to public sentiment around each project, as well as on China in general.
- Due diligence should include relevant local laws and regulations as well as interviews with civil society and impacted local communities.

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CONCLUSIONS

Chinese investors have the potential to respect environment and local societies as the cases show. Engaging constructively and holding them to the measuring stick of these cases could help.

Lessons learnt for civil society from the cases:

1. **Relevant information about the environmental and social impacts of projects is often not getting through to the Chinese investor.** It sometimes already helps to keep repeating these points and sending them directly to Chinese institutions, ideally translated into Chinese (e.g. the Embassy, the company headquarters in China).
2. **Communication is difficult but not impossible.** Sometimes a simple phone call can help. Translating to Chinese helps and there are ways to get help with this (see Further resources section below).
3. **Government counterparts carry much more weight in China than non-government organizations.** Therefore Chinese investors tend to assume that whatever the government in the host countries says is the most reliable information. While this usually means that the investor tends to 'team up' with the government if there is a line of conflict between local populations and the government, it can also be used for resistance. For example in the Carmichael case it was a former foreign minister of Australia who met with Chinese Embassy staff. Such a personality carries much more weight in the eyes of the Chinese interlocutors. Almost immediately afterwards the decision was taken to publicly announce that Chinese banks would not engage in the project. In the Iraq EITI case it was the Iraqi authorities who wanted to see EITI happen and the Chinese companies complied in an exemplary fashion with that requirement. It is also important to keep that in mind when 'complementing' or outright contradicting the information presented to the Chinese investor by the host country government.
4. **Relationships are very important in China.** This means that if you would like to influence a company or another Chinese actor, it makes sense to try and develop a relationship, for example by meeting informally. If you can, establish communication through some common contact, which makes it easier to accept the invitation for the Chinese side. Important for a good relationship is to not openly criticize which makes the other party but rather be very diplomatic and allow the other party to correct their errors without openly admitting them.

Further resources:

- Friends of the Earth US is working on Chinese overseas investments and has helped groups in the past. They also periodically organize webinars to learn how to engage Chinese investors. Get in touch with Katharine Lu to learn more.
- The China-Latin America Sustainable Investment Initiative (CLASII) has tools and advice, including the Legal Manual on Chinese Environmental and Social Guidelines for Foreign Loans and Investments: A Guide for Local Communities. which is also available in Spanish and Portuguese.
- The China Global Infoshare mailing list is a place for exchange about related work, news and policy developments.
- Watch the presentation on this collection of case studies.