THE LONDON SCHOOL OF ECONOMICS AND POLITICAL SCIENCE

A Race to the Middle:

Governance in the Extractive Industries and the Rise of China

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DECLARATION

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ABSTRACT

The extraction of natural resources, most importantly petroleum, is associated with weak governance, economic underperformance and environmental degradation and companies from the oil and mining sectors are often able to exploit host countries' insufficient regulatory environments. Since the mid-1990s the corporate social responsibility agenda as well as increased regulation by companies' home governments has partly addressed the externalities of natural resource extraction.

On the face of it, the rise of China and the increased international presence of state-owned Chinese oil and mining companies challenges the effectiveness of these efforts. The companies' foreign ventures have been accompanied by increased activity of the Chinese government in diplomacy and development cooperation with resource-rich countries, mainly in Africa but also elsewhere. Criticism commonly levelled at China includes its diplomatic and financial support for human-rights abusing regimes, and the destabilisation of world raw materials supplies and markets, both in the form of diplomacy and development aid. Seemingly unconstrained by regulation and public opinion at home, Chinese oil and mining companies are able to leverage their home government's support and thus gain preferential access to natural resources.

This thesis challenges this view. It argues that the assumptions about China's role are misplaced and do not account for changes in Chinese behaviour. In an industry where corporate and state actors have a less-than-stellar record, China is quickly catching up with the emerging global standards. The reasons for this have to do with the way that governance gaps in the extractive industries are increasingly being filled by civil regulation. By now, numerous regulatory initiatives — in the form of industry voluntary codes of conduct and corporate social responsibility, multi-stakeholder initiatives as well as host and home-government as well as financial market regulation — seek to mitigate the negative impacts of natural resource extraction. Civil society pressure has helped create norms on governance in the extractive industries that have led to the establishment of a transnational web of regulation which large companies — regardless of their origin — cannot easily escape.

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LIST OF ACRONYMS

ATCA	Alien Tort Claims Act (US)
BBL	Barrel
BOE	Barrel of Oil Equivalent
CCP	Chinese Communist Party
CDB	Chinese Development Bank
CSR	Corporate Social Responsibility
EITI	Extractive Industries Transparency Initiative
FCPA	Foreign Corrupt Practices Act (US)
FDI	Foreign Direct Investment
GRI	Global Reporting Initiative
HSE	Health, Safety and Environment
ICMM	International Council on Mining & Metals
IFI	International Financial Institution
IFRS	International Financial Reporting Standard
INGO	International Non-Governmental Organisation
IOC	International Oil Company
IPIECA	International Petroleum Industry Environmental Conservation Association
MOFCOM	Ministry of Commerce (China)
NOC	National Oil Company
ODA	Official Development Assistance
PWYP	Publish What You Pay
RWI	Revenue Watch Institute
SASAC	State-owned Assets Supervision and Administration Commission of the State Council (China)
SEC	Securities and Exchange Commission (US)
SOE	State-owned Enterprise
UNGC	United Nations Global Compact
WTO	World Trade Organization

INTRODUCTION

OVERVIEW

The extraction of natural resources, most importantly petroleum, is associated with weak governance, slow economic growth and environmental degradation and companies from the oil and mining sectors are often able to exploit host countries' weak regulatory environments. Over the past 15 years, a vast body of literature has addressed the links and mechanisms between natural resource wealth, governance, conflict and economic development. Much of this literature reduces the study of natural resource wealth to somewhat deterministic relationships between types of natural resources, their physical properties, and institutional quality, often failing to take into account *who* extracts those resources. The fact that resource-rich countries often suffer from weak government allows companies to exploit this situation and the host countries' weak regulatory environments. The fact that natural resources are important not only for companies (to make profits) but also for home governments of these companies (to sustain economic growth) brings resource-rich countries into world politics and makes them subjects to foreign interests.

Of course, the problems associated with resource wealth are not solely caused by the private sector's activities or due to the origin of the company. But since the mid-1990s the CSR agenda as well as increased regulation has — partly — improved corporate behaviour. Now, numerous regulatory initiatives — in the form of industry voluntary codes of conduct and corporate social responsibility, multi-stakeholder initiatives as well as host and home-government regulation — seek to mitigate the negative impacts of natural resource extraction.

On the face of it, the rise of China and the increased international presence of state-owned Chinese oil and mining companies challenges the effectiveness of these efforts. The foreign investments have been accompanied by increased activity of the Chinese government in diplomacy and development cooperation with resource-rich countries, mainly in Africa but also elsewhere. Amongst other things, these "new" actors are considered to be actively supported by their home governments and are less constrained by more permissive home country regulation; they are thought to be prepared to take higher risks and can be expected to be less susceptible to public opinion at home. The links between their home country's foreign policy stance, the exchange of exploration and production licences for aid projects, preferential access to finance for companies and governments of resource-rich countries, and the lower level pressure to move towards sound governance practices leads to situation where new investors might gain competitive advantages over traditional investors and are actively courted by resource-rich governments.

Criticism commonly levelled at China often relates to the country's stated (though not always implemented) principles of non-interference but also includes its diplomatic and financial support of human-rights abusing regimes, the destabilisation of world raw materials supplies and markets, both in the form of diplomacy and development aid. Seemingly unconstrained by regulation and public opinion at home, Chinese oil and mining companies are able to leverage their home government's support and thus gain preferential access to natural resources. Western countries fear they will lose access to raw materials if Chinese competitors are able to do business in or with countries in a way that they — not least due to greater public awareness of the failings of the industry — can no longer do. Companies see that (certain forms of) regulation — if not applied globally — might put them at a competitive disadvantage against non-traditional investors. Some observers then conclude that actors from emerging economies are unwilling to cooperate and may thwart efforts to regulate the industries and that a "race to the bottom" might ensue. Much of the criticism levelled at non-traditional investors is based on the erroneous assumption that these investors behave in a way that is systematically different from established investors and that they are able to do so because they can count on the unwavering diplomatic and financial support of their home-government and need not be as concerned about their reputation like traditional investors would. As a result, companies operating in and out of contexts without many checks on their behaviour can reap economic benefits that traditional investors cannot.

This thesis challenges this view and makes two arguments: First, that the criticism of China's role is misplaced and does not account for changes in Chinese behaviour. In an industry where corporate and state actors have a less-than-stellar record, China is quickly catching up with emerging global standards. Second, that governance gaps in the extractive industries are increasingly being filled by home and host governments or in financial markets. By now, numerous regulatory initiatives — in the form of industry voluntary codes of conduct and corporate social responsibility, multi-stakeholder initiatives as well as host and home-government as well as financial market regulation — seek to mitigate the negative impacts of natural resource extraction. Civil society pressure has helped create norms on governance in the extractive industries that have led to the establishment of a transnational web of regulation which large companies — regardless of their origin — cannot easily escape. Broadly, China is being brought into the regulatory fold by two processes. First, the industry as a whole is increasingly subject to transnational forms of regulation, which themselves are rooted in activist pressure for better standards in the sector. Second — and related to the influence of civil society activists which brought about this new global regulatory space — there are shifts in the attitudes of the Chinese government (as owner and regulator of its state-owned raw materials companies) and the companies themselves, which increasingly comply with softer forms of regulation or even move "beyond compliance" with the adoption of voluntary standards and codes.

BACKGROUND

Since the 1970s, the role of multinational corporations in the extractive sector, the impact of natural resource extraction on development, governance or conflict all have been studied in great detail. So has the role of natural resources — especially petroleum — in international politics. More recently the rise of non-traditional investors, and especially China, has attracted growing attention. Resource extraction, regardless of the origin of the companies involved, has been linked to poor economic performance, the persistence of non-democratic political regimes and corruption as well as the occurrence of civil war. The mechanisms behind these phenomena — often dubbed the "resource curse" — have been studied extensively and a number of, sometimes conflicting, explanations of this phenomenon have been brought forward. Many of these explanations focus on the domestic political economy of resource-rich countries such as the persistence of patronage networks, the potential to finance repression and the relative independence from taxation and hence their citizens' demands as well as the weakness of bureaucratic structures. However, more recently, the pervasiveness of the phenomenon itself has been questioned as have the mechanisms by which resource wealth affects economic and institutional development of resource-rich countries.

Even though development in resource-rich countries is not determined only — or even predominantly — by the origin of those extracting the resources from the ground, the question of "who extracts" has been somewhat sidelined — though not completely absent — in resource-curse theorising. Although resource curse theorising largely ignores foreign involvement — besides the fact that the state's income originates from abroad — the way investors conduct business can have significant impacts on a resource-rich developing country. Foreign investors are not a homogeneous group and conceivably, differences exist according to a firm's origin. In VERNON's words: "[t]here is always the possibility that differences in national origin and industry structure may breed distinctive types of multinational enterprise, with different goals and patterns of operation."[1] When accounting for corporate actors, it is important to assess the confluence of weak environments with corporate actions. While investors are certainly not the only ones to blame for the failure of development in resource-rich countries, slow development has been linked to companies and their contribution to bad corporate governance and corruption.

Foreign investment — especially in the extractive sector — is not only a matter between companies and host governments. Literature on China's growing role in resource-rich developing countries has built up fast and has resulted in a "scramble for publishing".[2] For states that are dependent on raw materials imports, the extractive industries are a strategic sector, and the very rise of China's demand for finite natural resources has alarmed western policy-makers as the country often presents itself as a less demanding political ally, donor and trading partner. The debate regarding the involvement of China on the African continent and elsewhere is intensifying. It is however often reduced to the criticism that China uses foreign aid to gain preferential access to natural resources: "[...] representations tend to generalize from one or two exceptional (bad) cases, present 'China' as a single-mindend monolith, [and] treat aid as only ever about enabling resource extraction".[3] One of the rationales for this thesis is the growing concern voiced by — mostly western — policy-makers and commentators about the growing influence of China, especially in Africa. These external observers are quick to identify China's behaviour as neocolonialist and weak conditionality of Chinese aid to resource-rich developing countries as a threat to recent improvements of governance in these countries. Little systematic re-

[1] RAYMOND VERNON, *Sovereignty at Bay. The Multinational Spread of U.S. Enterprises*, Longman, London, 1971, p. 6.

[2] GILES MOHAN, "China in Africa: A Review Essay", *Review of African Political Economy*, (115):155–173, 2008, p. 156.

[3] MARCUS POWER, GILES MOHAN AND MAY TAN-MULLINS, *China's Resource Diplomacy in Africa. Powering Development?*, Palgrave Macmillan, Basingstoke, 2012, p. 7.

search on the subject has been undertaken and the impact of these non-traditional actors on development is largely subject to speculation.[4] The weak political conditions attached to Chinese aid, the modes of delivery[5], and the fact that the — often government-owned — companies face different constraints regarding risk and public pressure, and can benefit from considerable government support puts them at a competitive advantage. Conversely, China's emphasis on sovereign rights and the willingness not to interfere with other countries' domestic affairs makes her a preferred partner for many regimes.

Internationally, too, the rise of China has caused concern, mainly because of the country's support for authoritarian regimes and, more directly, in terms of a perceived insecurity in raw materials supplies that results from increased Chinese demand for resources. Increased competition for raw materials (or at least the perception of it) drives governments to adopt more strategic and utilitarian approaches to energy security. Home (or parent) governments do play a more active role as well, and elevate natural resource extraction to international affairs. While resource extraction affects the state domestically, international actors do so too. Under the banner of energy security, governments may pursue policies that are detrimental to governance in resource-producing countries or that stifle regulation.

It is important to keep in mind that extractive industries, by virtue of their impact on the economy and governance as well as corporate conduct tend to be rather detrimental. These "governance issues" also occur regarding western companies, e.g. the dumping of waste by Texaco in Ecuador, Shell's behaviour in Nigeria.[6] For instance, despite statements to the contrary, US policy towards Equatorial Guinea is not guided by human rights concerns, neither is France's vis-à-vis Gabon.[7] This relativism should be understood not as an exoneration of China but as a reminder that western actors remain involved in the resources sectors and corruption or lax environmental safeguards are commonplace in the entire industry, which makes the dichotomy Chinese vs western companies questionable. The standards, both in terms of politics of home governments and in terms of operational conduct of companies, which China is allegedly threatening are far from

[4] Mohan, *China in Africa, op. cit*.

[5] China often makes in-kind contributions in form of construction projects and the like. Also, this form of aid is often tied to the use of contractors from the county of origin.

[6] Reuters, *Ecuador court deals Chevron fresh blow in pollution case*, 16 October 2012, Nicholas Shaxson, *Poisoned Wells. The Dirty Politics of African Oil*, Palgrave Macmillan, 2007, Michael Peel, *A Swamp Full of Dollars. Pipelines and Paramilitaries at Nigeria's Oil Frontier*, I.B. Tauris, London, 2009.

[7] Andrea Goldstein, "New Multinationals from Emerging Asia: The Case of National Oil Companies", *Asian Development Review*, 26(2):26–56, 2009, p. 47.

being at the regulatory top. At the same time, China and Chinese companies are becoming more and more exposed to these standards and as their internationalisation matures, they become more exposed to the (changing) regulation in their countries of operation or financial markets, civil society pressure and practices of other companies in the sector. This exposure in turn has lead to a convergence of Chinese companies' practices.

Home government involvement is not a new phenomenon, and in the past importing governments have used both sticks and carrots to protect investment and ensure the stability of raw materials supplies, and while currently China is singled out for its "resource diplomacy"[8], other raw materials importers were and still are willing to let business interests drive their relationship with host countries. They have done so by supporting regimes in host countries diplomatically (or helping to install new ones), through financial or military aid. They have also aided companies, e.g. through government-backed loans, "aid for resources" deals with host governments or — when companies' operations or profitability were threatened by host-government policy — through the withdrawal of support (or the threat thereof).

The role of the multinational corporations has long been a subject of the study of international relations. Stopford and Strange have modelled this as a triangular relationship between home governments, host governments, and companies.[9] This triangle does reflect many issues and relationships relevant to the study of the extractive industries: the desire of parent governments to access raw materials, the impact of domestic business interests on foreign policy-making or the relationship between companies and home governments. Yet, the triangle is insufficient to capture the complex relationship of raw materials extraction as there are many more relationships. The relationship between the company and its home government, the relationship between the host government and the company, the relationship between host and home government, and possible competition between home governments. Other actors further complicate matters: domestic and international non-governmental organisations are actively lobbying home and host governments as well as companies on the adoption of regulation on issues ranging from environmental performance, human rights to transparency. International organisations — most prominently the World Bank and IMF, but also regional development banks and

[8] The term "resource diplomacy" is used to describe the notion that the main aim of China's foreign policy and economic, technical or cultural cooperation with resource-rich countries is to get access to natural resources.

[9] John Stopford and Susan Strange, *Rival States, Rival Firms. Competition for World Market Shares*, Cambridge University Press, Cambridge, 1991.

UNDP are stakeholders[10] and work with host governments (and increasingly, NGOs) on extractive industry-related issues including the legal and fiscal framework and environmental management.

The problem of the resource curse and corporate actors in resource-rich countries have made their way onto the policy agenda. Problems such as contribution to bad governance, human rights abuses, and environmental damage that might arise from a company's operations in a given country, are addressed in a series of guidelines, initiatives and agreements as well as legislative measures. Within these arrangements[11] a variety of corporate, state or NGO actors agree on common standards and the adoption of codes of conduct for governance, transparency or corporate social responsibility. While these standards as a whole leave a lot to be desired, the rise of China has raised concerns about whether progress would be undone by actors who do not face constraints of financial markets, the public and — by virtue of being state-owned — have the full support of their home government at their disposal.

Both home and host government regulation is often limited, either by pressures of economic globalisation and deregulation or simply because of the reluctance of both state and corporate actors to accept binding regulations. Increasingly, so-called multistakeholder initiatives provide a regulatory framework, in which NGOs and other civil society actors are included next to state and corporate actors. In some home countries, legislation seeks to limit the adverse effects of the resource industries' operations. This can include the regulation of financial markets in order to force companies to disclose information regarding its payments to host governments as well as sanctions or trade embargoes. These measures, however, are problematic: national legislation may entail a competitive disadvantage for companies that are subject to it; home governments are thus likely to be reluctant in adopting such legislation. To varying degrees, home states might be reluctant to adopt any kind of regulations — as Darryl REED notes, while "in the domestic arena few governments are ever capable of completely identifying national interests with business interests", this does not hold in an international environment, where — costly

[10] In the case of the World Bank Group, even *share*holders — the International Finance Corporation owns a 5% equity stake in Peru's Yanacocha mine.

[11] For example the *Extractive Industries Transparency Initiative*, the *Kimberley Process*, the United Nations *Global Compact*, the *United Nations Convention Against Corruption*, the *Voluntary Principles on Security and Human Rights* the OECD *Convention on Combating Bribery of Foreign Public Officials in International Business Transactions* and the OECD *Guidelines for Multinational Enterprises.*

— regulation of a company is likely to hurt the national firm's competitiveness abroad.[12] Even though it is governments that ultimately adopt and ideally enforce these regulatory initiatives, to a large extent these have been brought on their way and shaped by non-state actors.

Legislation in host countries, too, is often limited, either because leaving the markets unregulated is seen as conducive to foreign investment or simply because administrative capacities to enforce regulations are limited. The liberalisation of mining and oil regulatory regimes — driven by donors — paired with the administrative weaknesses in host countries, led to a "retreat of the state"[13] from the sector and companies are — informally — responsible for local regulation.[14]

Civil society often serves as a control mechanism for corporate behaviour in developing countries. Numerous NGOs or NGO coalitions such as Global Witness, Oxfam and Publish What You Pay (PWYP) target specifically the extractive industries. However, while these efforts have sometimes led to an adjustment of a company's practice, corporations from countries where civil society is weak, or where international civil society actors have no reach can be assumed to be less responsive to NGO pressure. Also, the responsiveness to public opinion pressure can be expected to depend on the size, and hence visibility of the company.[15] The latter is particularly true for large companies in the oil industry. However, naming and shaming may not always be effective with respect to state-owned corporations from countries where civil society is weak, or different norms govern corporate behaviour.

THE RISE OF CHINA

Why does China matter? Against the background of its economic growth, the associated increased demand for raw materials but also its different economic and political system

[12] Darryl Reed, "Resource Extraction Industries in Developing Countries", *Journal of Business Ethics*, 39:199–226, 2002, p. 202.

[13] Susan Strange, *The Retreat of the State. The Diffusion of Power in the World Economy*, Cambridge University Press, 1996.

[14] Bonnie Campbell, "Corporate Social Responsibility and development in Africa: Redefining the roles and responsibilities of public and private actors in the mining sector", *Resources Policy*, 37:138–143, 2012, p. 140.

[15] Virginia Haufler, *A Public Role for the Private Sector. Industry Self-Regulation in a Global Economy*, Carnegie Endowment for International Peace, Washington DC, 2001, p. 23.

China's forays abroad have fundamentally changed the group of actors engaged in resource extraction.

As Chinese companies are comparatively new to the markets, actors from emerging economies seek supplies in "pariah" states such as Myanmar and Sudan. The preparedness of these new actors to deal with such states changes the international community's options of exerting pressure on host governments to move towards sounder economic policies, respect of human rights or better governance. Increasingly, these non-traditional investors enter into direct competition with established firms. Traditional investors are thought to face constraints that are very different in kind or extent from those of actors originating in China and other emerging economies. Amongst other things, these "new" actors can be expected to be less susceptible to public opinion, they may be prepared to take higher risks, they are less constrained by legislation and may be actively supported by their home governments. For example government-controlled resource companies are in a position to judge differently the risks they face when investing. This is thanks to the possibility of a firm to draw from taxpayers' money allows a company to be more risk-loving than one that is accountable to a large number of shareholders.[16] Moreover, given the perceived relevance of the resource industries to a home country's security, investments, particularly in the petroleum sector, might be undertaken even if under normal market conditions it would not have been worthwhile. For instance, Chinese and other companies can take advantage of aid from their home governments in form of insurance or loans in order to set up operations.[17] The reach of the existing or emerging (self-)regulatory framework — advanced predominantly by civil society, traditional donors, and companies — is limited by the increasing role of actors that are often presumed to be non-cooperative. If efforts to include actors from emerging economies into these existing frameworks should fail, established companies will have a greater incentive to lower their standards of corporate practices. Some observers conclude that actors from newly industrialising countries may be unwilling to cooperate and may thwart efforts to regulate the

[16]In addition to seeking risks, these companies have a greater tolerance for risk simply because they emerge out of a riskier environment (see Chaper 1).

[17]Peter Buckley, Jeremy Clegg, Adam Cross, Hinrich Voss, Mark Rhodes and Ping Zheng, *Explaining China's Outward FDI: an Institutional Perspective*, in: Karl Sauvant, (ed.), *The Rise of Transnational Corporations from Emerging Markets. Threat or Opportunity?*, pp. 107–146. Edward Elgar, Cheltenham, 2008, p. 116. While this practice is subject to criticism from outside China, by and large, western companies have benefited and still benefit from home government support as well.

industries undertaken so far and that a "race to the bottom" might ensue, which would create obstacles for reform or outright erode what little standards are in existence.[18]

This section will outline the various arguments made (mostly by policy-makers and newspaper commentators). It serves to provide the background against which this thesis is set. The aim of this section is not so much to analyse the narrative per se but the common claims to generate a few testable hypotheses. Throughout this thesis, the claims presented here will be addressed and qualified. The shift of economic power towards emerging economies, above all China, and the concomitant increase in political power are often portrayed as a threat to the status quo.[19] Actors from emerging economies — most of all China — tend to be seen as a competitive threat, both in terms of commercial opportunities for western companies (which often frame their arguments against higher standards in that way) and, to some extent, governments, which are often worried that the emergence of new, resource-hungry players will limit their access to raw materials. Politically, western home governments or donors fear that China's rise will limit their leverage over resource producers.

Observers and commentators on the extractive industries disproportionately focus on China's role role in the sector and often ignore the fact that western actors are not necessarily role models either.[20] Here, it is also worth keeping in mind that the established actors in the extractive industries are not necessarily beacons of good conduct, and the increasing importance of non-traditional investors may simply serve as an excuse to lower everyone's standards. Limited sustainability of operations — i.e. the failure to create linkages with the local economy and accumulation that, if anything, merely favours existing elites in resource-rich developing countries — is a problem of Chinese and traditional investors alike, though the critique of the Chinese is that they are backed by a state rather than private capital, which POWER ET AL. point out is "nothing really new" either.[21] The West's regard for the principles of good governance and human rights, especially on the African continent is still a fairly recent phenomenon. The foreign operations of Chinese companies in the extractive industries is a comparatively recent phenomenon, and their

[18] ALEXANDRA GILLIES, "Reputational Concerns and the Emergence of Oil Sector Transparency as an International Norm", *International Studies Quarterly*, 54:103–126, 2010, p. 107.

[19] EMMA MAWDSLEY, "Fu Manchu versus Dr Livingstone in the Dark Continent? Representing China, Africa and the West in British broadsheet newspapers", *Political Geography*, 27:509–529, 2008.

[20] CHING KWAN LEE, *Raw Encounters: Chinese Managers, African Workers, and the Politics of Casualization in Africa's Chinese Enclaves*, in: *Zambia, Mining, and Neoliberalism*. Palgrave Macmillan, 2010, p. 149; DEBORAH BRÄUTIGAM, *The Dragon's Gift. The Real Story of China in Africa*, Oxford University Press, Oxford, 2009, p. 298.

[21] POWER ET AL., *China's Resource Diplomacy in Africa, op. cit.*, p. 15.

activities are by far not as large as they are often made out to be, and nor is Chinese investment exclusively dedicated to the extractive industries.[22] Resource-seeking investment is by no means the only aspect of China's growing role in the world economy.[23] China's economic relations with resource-rich developing countries are becoming more broad: China's links with resource-rich developing countries do go beyond extraction, and agriculture, textiles and light manufacturing take increasingly important roles, as does cultural and scientific exchange, and bring about distinct problems.[24]

Blaming China

An anti-Chinese sentiment has taken hold in the reporting on natural resource production in developing countries. The negative portrayal of the role of non-traditional investors is pervasive in policy reports, the media, and to some extent academic publications, most of which concentrate on China's role in Africa. The criticism relates to the neglect of human rights, low environmental or labour standards, their links with their home government and the effects on western actors to influence resource-rich countries. These allegations are embedded in a context of criticism of China's increasing aid and foreign policy muscle, which shrinks the established actors' leverage in foreign policy and decreases their security of energy supplies. Few observers appear to note that Chinese companies themselves have developed. In the following I will present some of the commonly-held assumptions — which in China are often referred to as the "China threat theory" — and address those that are not closely related specifically to corporate behaviour, but serve to contextualise the rise of China and the internationalisation of its oil and mining companies. Many of these are rooted in the idea that there is a single, well-coordinated strategy devised by the Chinese government to gain access to natural resources abroad, and to do so at all costs.

[22] see Karl Sauvant, Wolfgang Maschek and Geraldine McAllister, *Foreign Direct Investment by Emerging Market Multinational Enterprises, the Impact of the Financial Crisis and Recession, and Challenges Ahead*, in: Karl Sauvant, Wolfgang Maschek and Geraldine McAllister, (eds.), *Foreign Direct Investments from Emerging Markets. The Challenges Ahead*, chapter 1, pp. 3–29. Palgrave Macmillan, New York, 2010 and Chapter 6.

[23] Jian-Ye Wang, "What Drives China's Growing Role in Africa?", IMF *Working Paper* WP/07/211, 2007, Alan Rugman, *How Global are TNCs from Emerging Markets?*, in: Karl Sauvant, (ed.), *The Rise of Transnational Corporations from Emerging Markets. Threat or Opportunity?*, pp. 86–106. Edward Elgar, Cheltenham, 2008.

[24] Chris Alden and Christopher Hughes, "Harmony and Discord in China's Africa Strategy: Some Implications for Foreign Policy", *The China Quarterly*, 199:563–584, 2009, Harry Broadman, "China and India go to Africa", *Foreign Affairs*, March/April:95–109, 2008, Power et al., *China's Resource Diplomacy in Africa, op. cit.*, ch. 3.

China provides support — indirectly — for human rights abusers, as it does not attach any strings to development, financial aid or investments. China is seen as a unitary actor — which to some extent may be the result of the way Beijing portrays its strategy.[25]

The common claims stated above also (mis-) inform policy. Statements from diplomatic cables released by *Wikileaks*, paint China as a ruthless power on the rise, that will stop at nothing to gain access to natural resources.[26] As opposed to established investors, China "does not have Africa's best interests at heart"[27] and ultimately, its rise is but a repetition of western mistakes and amounts to fresh colonialism: "[...] it is easy to come in, take out natural resources, pay off leaders, and leave. And when you leave, you don't leave much behind for the people who are there. You don't improve the standard of living. [...] We don't want to see a new colonialism in Africa."[28] The "myths" about China are more prevalent in policy-making and newspapers, but less so in academic literature that focuses on the internationalisation of Chinese enterprises. A few tropes are worth considering individually. In brief, the claims are that China's rise lowers raw materials security[29]; in its drive to gain access to natural resources, Chinese government directs its companies and provides companies with financial support[30] and behave anti-competitively, as they operate to much lower standards than others[31]; that in its efforts to gain access to natural resources, China attempts to woo foreign potentates with generous, but harmful, aid packages and diplomatic support for unsavoury regimes, all of which decreases western leverage over these actors.[32]

Mohan points out that commentators "tend to take one example of China's less positive engagement with Africa and project this onto the entire 'China–Africa' relation-

[25] Alden et al., *Harmony and Discord in China's Africa Strategy, op. cit.*, p. 564.

[26] Brautigam points out that authors of these cables are not necessarily experts. Deborah Bräutigam and Ryan Briggs, "Wikileaks — China, the US And Africa", *African Arguments*, 11 January 2011.

[27] Simon Tisdall, "Beijing's race for Africa", *The Guardian*, November 1 November 2006.

[28] Hillary Clinton, "Interview on Africa 360", June, 11 2011.

[29] David Winning, "In Third Deal in a Week, Beijing Moves to Lock Up Natural Resources at Bargain Prices to Fuel Its Growth", *Wall Street Journal*, 18 February 2009.

[30] "There is little doubt that majors from the PRC use political clout to get supportive high-level state visits, access to subsidised capital or development assistance money" Goldstein, *New Multinationals from Emerging Asia, op. cit.*, p. 45.

[31] "[...] Chinese companies do not follow international standards." BBC News, *China's 'peaceful rise' running into criticism*, 1 February 2007. China "turn[s] a blind eye to corruption and poor governance." Joshua Eisenman, Eric Heginbotham and Derek Mitchell, *China's Post-Cold War Strategy in Africa. Examining Beijing's Methods and Objectives*, in: Joshua Eisenman, Eric Heginbotham and Derek Mitchell, (eds.), *China and the Developing World: Beijing's Strategy for the twenty-first century*, pp. 29–59. M.E. Sharpe, Armonk, New York, 2007, p. 51.

[32] Chad Rambo, *China's Resource Quest: Securing Access to Natural Resources at Home and Abroad*, United States Army Command and General Staff College, School of Advanced Military Studies, Fort Leavenworth, Kansas, 2011.

ship."[33] He notes that demonising China's presence helps painting western actors in a more positive light, a finding echoed by Emma MAWDSLEY who reviews the portrayal in British newspapers of China's activities in Africa.[34] GONZÁLEZ criticises that much of writing today on Chinese investment in the extractive industries is "all too often, in an orientalising fashion, present[ed] ... as a fatal combination of three factors, cursed resources, host developing countries' poor governance, and Chinese companies' lack of market, social, and environmental accountability."[35] The aim of this thesis is to assess these claims, and explain the behaviour of Chinese investors.

The "rise of China" tends to be seen as a zero-sum game, internationally and as unequivocally detrimental to development. In its drive to lock up natural resources, the Chinese government implements a coordinated strategy to woo elites (often in undemocratic countries) with generous aid packages, concessional finance and diplomatic or military support, so the story goes. In this reading, rather than providing a meaningful alternative to traditional, western investment, China's commercial expansion amounts to little more than fresh colonialism.

China tends to be portrayed as a mercantilist power that advances its economic interests by political means. It is not purely mercantilist, in the sense that it does not, or does not have the power to, direct its SOEs to expand.[36] This is both because it does not fully control them and because they invest and operate increasingly based on commercial rather than political considerations (see Chapter 6). Rather than directing or driving its companies it facilitates their forays abroad and it supports companies once they take a major investment decision. Chinas approach is "business as a form of applied politics."[37] Even though the extractive industries may be strategic, they do not exclusively define the Chinese government's foreign policy.

Erica DOWNS notes that the conventional wisdom on China's oil companies is that their going abroad strategy is part of a government-controlled plan to enhance energy security and that this somehow undermines other countries' prospects for investment (and hence their energy security) as well as their options to pressure regimes in resource-rich African

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[33] MOHAN, *China in Africa, op. cit.*, p. 155.

[34] MAWDSLEY, *Fu Manchu versus Dr Livingstone in the Dark Continent?, op. cit.*

[35] RUBÉN GONZÁLEZ-VICENTE, "Development Dynamics of Chinese Resource-Based Investment in Peru and Ecuador", *Latin American Politics and Society*, 55(1):46–72, 2013, p. 47.

[36] JONATHAN HOLSLAG, "China and the Coups: Coping with Political Instability in Africa", *African Affairs*, 2011, pp. 3, 11.

[37] DANIEL LARGE, "China & the Contradictions of 'Non-interference' in Sudan", *Review of African Political Economy*, 35(115):93–105, 2008, p. 98.

countries to promote good governance.[38] It is often assumed that, on the part of China there is a

> "[...] highly coordinated quest for oil and natural gas assets in which the companies are merely puppets of the state, executing directives of their political masters in Beijing. This perception stems from a combination of the authoritarian nature of the Chinese government, the state ownership of China's oil companies, and the country's growing demand for oil."[39]

The reasons for this are not subject to this thesis, but the purpose of this section is to explain the existing conventional wisdom of the role and consequence of the operations of Chinese companies in the extractive industries. Most of the criticism of Chinese companies is made in reference to a number of high-profile cases where Chinese (and other companies from emerging economies) appeared to behave in a markedly different manner from the established actors. For example, one of China's first major projects abroad, CNPC's operations in Sudan, appear to have set the tone for the discussion of emerging actors in the extractive industries.

MAWDSLEY studies the portrayal of China's role in Africa. She finds that in addition to being very critical of China, newspapers tend to "sanitise" western activities on the continent. Mainly, journalists tend to "homogenise" China and Chinese actors (and contrast them with others) and focus on the (potentially) negative effects the rise of China has on the continent. In contrast to the "amoral, greedy and coldly indifferent Chinese"[40], western actors, are viewed as reformed, benign players who are subject to standards, voluntary codes and subject to pressure from NGOs, whereas none of these constraints would apply to Chinese state-owned firms.[41] In terms of foreign policy, most (often American) commentators and policy-makers pit China's rise against US interests — China as the self-interested power scrambling to get access to resources and the West as altruistic developmental partners.[42]

> "[...] China is a very aggressive and pernicious economic competitor with no morals. China is not in Africa for altruistic reasons. China is in Africa for

[38]ERICA DOWNS, "The Fact and Fiction of Sino-African Energy Relations", *China Security*, 3(2):42–68, Summer 2007, p. 42.

[39]*ibid.*, p. 48: At the same time, she notes, Chinese commentators complain about the lack of coordination between companies and the central government.

[40]MAWDSLEY, *Fu Manchu versus Dr Livingstone in the Dark Continent?, op. cit.*, p. 523.

[41]*ibid.*, p. 519.

[42]MOHAN, *China in Africa, op. cit.*, p. 156.

> China primarily. [...] The United States will continue to push democracy and capitalism while Chinese authoritarian capitalism is politically challenging. The Chinese are dealing with the Mugabe's and Bashir's of the world, which is a contrarian political model, A/S Carson stated."[43]

ARGUMENT

Against the background of the views presented in the previous section I am going to make the following argument: resource wealth itself — if paired with relatively weak pre-existing institutions[44] — creates the context in which companies operate and to which they adjust. Though not all aspects of resource-extraction are directly related to corporate activities, resource wealth potentially weakens institutions and creates an enabling environment for corporate misconduct. Further, China's rise and the increasing — but by no means dominant — role its companies play translates to international competition for raw materials. In the context of this competition for access to raw materials, China is often accused of supporting authoritarian regimes and granting generous but unconditional and thus harmful aid packages to countries in which it seeks to invest. The emergence of China as an actor in resource extraction and its different background, the putative absence at home of checks on corporate behaviour or the outright support of companies by their home government would also suggest that the origin of a company matters, not only in terms of corporate behaviour but also with regards to regulation. China's emergence is said to limit existing efforts to improve governance in these countries because this competition would induce a "race to the bottom" in terms of regulatory standards.

By contrast, I argue that the role of China and other emerging countries in resource-rich countries is overblown, both in terms of absolute relevance regarding raw materials security as well as regarding the companies' and government's negative impacts. This relates to the way in which companies operate as well as the effect of emerging donors' aid or political support for governments in resource-rich countries. Chinese businesses started investing abroad only about 20 years ago and essentially have had to content themselves with the leftovers, and operate in countries which had become (or used to be) nearly off

[43] US Consulate Lagos, "Assistant Secretary Carson meets Oil Companies in Lagos", 22 February 2010.

[44] Naazneen Barma, *Petroleum, Governance, and Fragility: The Micro-Politics of Petroleum in Post-conflict States*, in: Brenda Shaffer and Taleh Ziyadov, (eds.), *Beyond the Resource Curse*, pp. 330–351. University of Pennsylvania Press, Philadephia, 2012, p. 350.

limits to western investors. While in the past there was some truth to these claims outlined in the previous section, Chinese (and other) companies as well as their home governments have changed over time and by now there is a great deal of convergence between non-traditional investors and IOCs. The Chinese oil and mineral industries are developing — from being confined to pariah states and leftovers, they have broadened their operations, are are increasingly in cooperating with established firms and come into contact with regulation, both in financial markets and in host countries. Chinese companies have, over time, become strikingly similar to their western counterparts and play by the same rules or have adopted similar standards. Rather than a race to the bottom, it is a race to the middle — standards are not necessarily strong to begin with, but the Chinese are catching up.

There are two aspects to the argument. The first relates to the effects of China's (and Chinese companies') rise and the degree to which it has been (construed) as detrimental. This thesis argues that many of the assumptions of how Chinese behave are inaccurate. Many commentators have over-generalised from a few cases. While well-publicised cases of China in Angola and it earlier activities in Sudan would support these concerns, the rise of non-traditional investors is part of a larger phenomenon of China's rise and "go abroad" strategy. Here, I argue that China's rise is a comparatively small phenomenon, that there is no effective concerted strategy of the Chinese government and its companies, and that Chinese companies behave increasingly like their (privately owned) western counterparts. I observe that, as a result, there is no substantively significant difference anymore between China and Chinese companies on one hand and established firms (and their home governments) on the other. The second, more important, part of the argument relates to the explanation of this observation. Chinese investment in natural resources should not be equated with investment by China. Chinese investors — even those companies that are state-owned — should not be simply identified as agents of their government (or vice versa). Companies may be formally state-owned, but they are rather independent from their government in terms of their decision-making. Rather, these enterprises, despite being largely state-owned, behave increasingly like privately owned and run companies that respond to the same incentives and constraints as western companies do. This has important implications for the way these companies are regulated: new forms of regulation go beyond command-and-control regulation, and generally work via those markets in which large companies operate. As companies that finance themselves on western financial markets and that need to pay attention to their reputation, Chinese enterprises become responsive to civil regulation, not only because they operate in these regulated spaces but also because their exposure to norm and expectation of actors in countries of their operation. Thus, non-traditional investors are not un-regulated. First, there are forms of self-regulation within Chinese firms. Second, they too are subject to home-government regulation. Third, they are subject to third country and host country regulations. There are a number of regulatory initiatives that attempt to mitigate the impact of companies. This "civil regulation" comes both in the form of CSR and more formal regulation (e.g. in financial markets) and standards and much of these efforts go back to civil society activism. Although Chinese companies still do not formally cooperate (proactively) in these forms of regulation, they are subject to them, and more recently are beginning to become more actively involved in their implementation.

In parallel to China's going out strategy, governance in the extractive industries has become a focal point for CSR, and NGO activities and formal home- and host government regulation and Chinese companies are increasingly part of this new global regulatory space. Where governments are unable or unwilling to regulate, civil society can play a role in governance, i.e. by creating or supporting "regulatory mechanisms [...] which function effectively even though they are not endowed with formal authority."[45] Activist pressure has resulted in a change of norms which created an enabling environment for new regulatory approaches in the extractive industries. The increasing awareness amongst (established) companies of the need to conduct business in a sustainable manner is also the result of civil society campaigns addressed at specific companies or the industry as a whole. For established companies, the adoption of CSR strategies was a result of direct pressure, but whereas it can be seen as ultimately rooted in business considerations, by now arguably social responsibility as norm has been internalised. With respect to China the mechanism was slightly different, though with similar results: Chinese companies entered a market which was already undergoing change. The large state-owned oil companies adapted to the exigencies of operating in a global market. With respect to others, their home government essentially translated the emerging norms and the need to maintain good reputations into law. Unlike their western counterparts, their behavioural shift is not driven as much by activism, at least not directly: rather than adjusting behaviour

[45] James Rosenau, *Governance, Order, and Change in World Politics*, in: James Rosenau and Ernst-Otto Czempiel, (eds.), *Governance without Government: Order and Change in World Politics*, pp. 1–29. Cambridge University Press, Cambridge, 1992, p. 5; Ronnie Lipschutz and Cathleen Fogel, *"Regulation for the Rest of Us?" Global Civil Society and the Privatization of Transnational Regulation*, in: Thomas Biersteker and Rodney Hall, (eds.), *The Emergence of Private Authority in Global Governance*, pp. 115–140. Cambridge University Press, Cambridge, 2002, p. 123.

because of direct CSO pressure, the change in behaviour of Chinese companies is a result of adaptation to a expectations about behaviour in the market they enter and those expectations have been changed by activists. Moreover, their parent government has enacted regulation and guidelines that emulate those enacted elsewhere. To some degree, change also comes from within and is indicative of internalisation of norms on the part of Chinese companies — some companies have recently start cooperating in civil regulatory frameworks and go beyond mere formal compliance with legislation.

RESEARCH DESIGN

The Research Question

The thesis seeks an understanding of impact of non-traditional investors in the natural resource industries in developing countries and will be centered around the following research question:

> What is the role of Chinese investors in the extractive industries and do they behave differently from established investors?

Given the wide scope of the issue area, it is necessary to break down the research question. In what ways might the behaviour of actors from China be different? In what ways do they conduct their business, in particular, what are the links between the state-owned companies and governments and to what extent are companies agents of their parents? Do they have lower standards? To what kinds of regulation are they exposed?

The first hypothesis is that the rise of China and the impact of Chinese companies is not considerably different from that of established actors. China is not a monolithic actor that is able to successfully implement a foreign policy strategy, in concert with state-owned enterprises, that rests on the fact that Chinese companies can operate according to lower standards and can go unchecked abroad, thanks to their home government's economic or diplomatic intervention.

This thesis is the result of an iterative process, and many avenues I initially sought to explore proved unviable. The first step involved identifying the "effects of causes"[46], i.e.

[46] JAMES MAHONEY AND GARY GOERTZ, "A Tale of Two Cultures: Contrasting Quantitative and Qualitative Research", *Political Analysis*, 14:227–249, 2006.

the existence and extent of the impact of increasing activities of actors from emerging economies, and generating hypotheses. Originally my hypothesis was about the reasons why Chinese (and other non-traditional investors) were in fact very different from established players and I sought to assess the context out of which these actors operate as explanatory variables.

The original research question was based on the assumptions outlined above, i.e. that government run and supported companies with little regulatory pressure behave systematically worse than their traditional counterparts, and sought to explore in detail the reasons for this behaviour and the implications for efforts to regulate the extractive industries. Initial knowledge of the well-publicised cases of Angola and Sudan and a growing academic attention to the subject of "China in Africa" seemed to support this hypothesis. The initial assessment of literatures in the relevant fields, i.e. natural resources and development, corporate actors in the extractive industries and regulation showed (somewhat expectedly) that resource extraction and the industries as such (regardless of origin) are problematic. Background reading of the history of the oil industry revealed that some of the practices for which the newcomers are criticised have only recently (if at all) been abandoned by traditional investors.

Cursory assessment of a number of cases (which are cited throughout the thesis as anecdotal evidence) and the egregious human rights abuses and environmental damage or the operations of oil companies revealed that these practices were part and parcel of the extractive industries until recently. In many ways the above mentioned assumptions would have held for traditional investors until fairly recently. The "CSR revolution" in the case of the extractive industries did not happen until the mid-1990s. The largest of the extractive companies have now positioned themselves as "leaders in social responsibility" though hardly of their own volition. The pre-China world was incidentally just as bad as the Chinese are depicted initially. Chinese companies underwent a transition similar to that of the established players, albeit in a much shorter time and in some cases for different reasons or by different mechanisms. Since the outcomes of the "China threat theory" outlined above would predict largely fail to materialise, it appears that the premises of the theory are wrong: it soon became evident that many of the assumptions were — or had become — unsustainable and that this was due to more encompassing regulation and a maturing and commercial orientation of Chinese oil companies and a Chinese government that was becoming less narrowly focused on energy security and does not fully control its state-owned enterprises. To borrow from Bayesian analysis I updated the (strong) priors of my hypothesis.[47] The theory and views on why Chinese behaviour is likely to be different did not stand up to scrutiny, especially when adding a temporal perspective. There has been considerable change over time both from within China — i.e. the professionalisation and increasing commercial orientation of Chinese oil and mining companies and externally, in terms of efforts to regulate the industries.

This, then leads to the second hypothesis, according to which Chinese actors behave like their western counterparts. As commercially-oriented enterprises (rather than tools of foreign and economic policy), they respond to similar incentives as their counterparts and increasingly operate in or rely on the same markets. This in turn means that they too are exposed to formal and civil regulation which they must abide by in order to maintain teir reputation, and social licence to operate.

Methods

This thesis is about the effect on governance in the extractive industries of the larger phenomenon of China's rise. It is about natural resources (and the study of it) and ways resource extraction is regulated, of which the rise of actors from China and other emerging economies serves as a single case. I am assessing different aspects of one phenomenon, and use different methods and theories to piece together the bigger picture. While empirical evidence is taken from a wide range of sources — existing academic literature, company and NGO reports, interviews, legal and policy documents in addition to the datasets described below — each of these have a different purpose and are employed to answer different sub-questions.

For the purposes of this thesis mixing methods is also practical, not only because it does away with a straitjacket of using only one method,[48] it allows to address the different aspects of China's rise by the most appropriate method and, where available, to increase the validity of findings. Combining both approaches is not without problems, though Tarrow notes that looking for qualitative interpretations or supplementing of quantitiative data is more problematic, because it invites arbitrariness.[49] There is a false dichotomy

[47] Jack Goldstone, *Comparative Historical Analysis and Knowledge Accumulation in the Study of Revolutions*, in: James Mahoney and Dietrich Rueschemeyer, (eds.), *Comparative Historical Analysis in the Social Sciences*, pp. 41–90. Cambridge University Press, 2003, p. 45.

[48] John Creswell and Vicky Plano Clark, *Designing and Conducting Mixed Methods Research*, Sage, Thousand Oaks, 2007, p. 15.

[49] Sidney Tarrow, *Bridging the Quantitative–Qualitative Divide*, in: Henry Brady and David Collier, (eds.), *Rethinking Social Inquiry. Diverse Tools, Shared Standards*, pp. 171–179. Rowman and Littlefield,

between qualitative and quantitative research as either will, to varying degrees, make use of the other.[50]

While some hold ontological and epistemological positions as inalienable[51], their links to certain methods are not set in stone: just because two approaches are used in paradigms that are incompatible, does not make the methods incompatible. The method used is not necessarily automatically a result of one's epistemological or ontological position.[52] While inferential statistics are often associated with a positivist epistemology, there is a great degree of uncertainty inherent in quantitative approaches, which is merely masked by the fact that central tendencies, model fits, regression coefficients and the like are often presented as point estimates.[53] This should be borne in mind, especially in a research topic such as this one, where available quantitative data may be of poor quality (see below) or subject to a great degree of variation over time. The data presented should be understood as indicative of trends, rather than objective truths. Both qualitative and quantitative methods can be reconciled with similar epistemologies.[54] The putative incompatibility between methods has been challenged as an "invention" and incompatibility has given way to more pragmatic approaches.[55] Mixing methods is nothing out of the ordinary, and TASHAKKORI AND TEDDLIE note that even before the "paradigm wars" that polarised qualitative and often interpretivist/constructivist scholars on one hand and quantitative, (post-) positivist researchers on the other, data and methodological triangulation were already common.[56]

Lanham, 2004, p. 173. Though the choice of inadequate proxies to supplement a qualitative finding is no less problematic.

[50] *ibid.*, p. 172. MELVYN READ AND DAVID MARSH, *Combining Quantitative and Qualitative Methods*, in: GERRY STOKER AND DAVID MARSH, (eds.), *Theory and Methods in Political Science*, pp. 231–248. Palgrave Macmillan, second edition, 2002, p. 232.

[51] DAVID MARSH AND PAUL FURLONG, *A Skin, not a Sweater: Ontology and Epistemology in Political Science*, in: GERRY STOKER AND DAVID MARSH, (eds.), *Theory and Methods in Political Science*, pp. 17–41. Palgrave Macmillan, second edition, 2002.

[52] READ ET AL., *Combining Quantitative and Qualitative Methods, op. cit.*, p. 234.

[53] This applies to both frequentist and bayesian approaches to statistics, although the latter tends to make the probabilistic nature of statistical inference more explicit, as probability is seen as subjective. SIMON JACKMAN, *Bayesian Analysis for the Social Sciences*, Wiley, Chichester, 2009, ANDREW GELMAN, JOHN CARLIN, HAL STERN AND DONALD RUBIN, *Bayesian Data Analysis*, Chapman & Hall/CRC, Boca Raton, second edition, 2004.

[54] HENRY BRADY, DAVID COLLIER AND JASON SEAWRIGHT, *Refocusing the Discussion of Methodology*, in: HENRY BRADY AND DAVID COLLIER, (eds.), *Rethinking Social Inquiry. Diverse Tools, Shared Standards*, pp. 3–20. Rowman and Littlefield, Lanham, 2004, p. 7.

[55] KENNETH HOWE, "Against the Quantitative–Qualitative Incompatibility Thesis or Dogmas Die Hard", *Educational Researcher*, 17(8):10–16, 1988, p. 10.

[56] ABBAS TASHAKKORI AND CHARLES TEDDLIE, *Major Issues and Controversies in the Use of Mixed Methods in the Social and Behavioral Sciences*, in: ABBAS TASHAKKORI AND CHARLES TEDDLIE, (eds.), *Handbook of Mixed MEthods in Social and Behavioral Research*, pp. 3–50. Sage, Thousand Oaks, 2003, p. 7.

While most studies will present qualitative and quantitative data, CRESWELL emphasises the mixing of the data as what makes a mixed method (rather than a muti-method) approach.[57] Combining multiple methods does have two main advantages: first, it permits to look at all aspects of the research question.[58] Large-N analysis allows to make general statements about China's internationalisation and the drivers and consequences of its investment. Some aspects of China's rise are more readily quantifiable and even lend themselves to statistical analysis, such as whether access to natural resources is a driver for investment and aid or whether there is an association between authoritarianism and human rights abuses on one hand, and China's investment on the other. Such an approach would not have been appropriate for company-level impacts: both because large-N data on social and environmental impacts are not available and because of the fact that the foreign ventures of Chinese oil and mining companies are a comparatively small and recent phenomenon.[59] Given their rather recent move abroad, any positive or negative effects they might have on (broad) governance or environmental indicators as dependent variables would likely not be captured by the data yet, save for a few cases. However, even without making recourse to inferential statistics, the data can be used to describe the general trends and the structure of regulatory initiatives which all companies are increasingly subject to.

Testing hypotheses about the overall impact (and extent of) China's rise would not be feasible with an in-depth case-study approach. These are, essentially, measures of central tendencies and trends of Chinese investment. Here, I use both descriptive and inferential statistics to show trends in Chinese investment abroad, the internationalisation and co-operation of Chinese companies, their exposure to regulation as well as the associations between Chinese investment and variables such as governance and human rights records in those countries that have attracted Chinese investment. Given the limited availability of data, the analysis is focused on few variables — rather than presenting models that explain as much as possible, the focus is on the relationships between investment, aid and human rights. This masks the considerable variation within China's investment and across countries. The second advantage of using both quantitative and qualitative data is related to the validity of findings. Rather than using different methods for different

[57] CRESWELL ET AL., *Designing and Conducting Mixed Methods Research, op. cit.*

[58] READ ET AL., *Combining Quantitative and Qualitative Methods, op. cit.*, p. 237.

[59] ROB VAN TULDER, *Toward a Renewed Stages Theory for* BRIC *Multinatioal Enterprises? A Home Country Bargaining Approach*, in: KARL SAUVANT, WOLFGANG MASCHEK AND GERALDINE MCALLISTER, (eds.), *Foreign Direct Investments from Emerging Markets. The Challenges Ahead*, chapter 4, pp. 61–74. Palgrave Macmillan, New York, 2010, p. 61.

aspects of the research question, where possible, the same aspects are viewed through different lenses — i.e. "one method serves as a check on another."[60] Triangulation, the use of quantitative and qualitative data (or the use of different data sources) enhances the validity of results.[61] In this thesis triangulation is used both within and across methods: inference about Chinese aid, investment, governance and human rights uses different measures of similar concepts to increase validity (see Chaper 5). More importantly, qualitative data, e.g. on the adoption of legislation and cooperation between companies are supplemented by (descriptive) statistics in an effort to corroborate qualitative findings and give an indication of the scale and scope of those findings. Triangulation appears to be particularly well-suited to the topic of this thesis, as quantitative data are incomplete (or the number of observations too small, given the recentness of the phenomenon) and qualitative information might be withheld in an industry (and country) often shrouded in secrecy.[62] Thus, combining multiple methods allows to make use of whatever data are available.

Here, and against the background of the two stages outlined above, quantitative and qualitative are used for different purposes and iterations of the research. Quantitative data is mainly used for the testing of theories and hypotheses that this thesis challenges. The qualitative data on the other hand relate mainly to the description and explanation of this and provide texture. The rise of Chinese companies is traced using mostly qualitative data to show the rationales and policies behind the internationalisation of Chinese enterprises. Likewise, the study of the relationship between companies and their parent or home government, companies' CSR policies or government regulation is based on qualitative information, and follows a somwhat historical approach. Qualitative data in the form of interviews are mainly used to test the validity of the argument, and while they serve more confirmatory than exploratory purposes interviews brought to light additional pieces of evidence in favour of the arguments made in this thesis. To a limited extent, qualitative data are also employed to generate interpretation of the meaning of behaviour: this relates to the interpretation of texts (e.g. academic literature, statements from companies and governments).

This thesis also makes use of basic social network analysis which falls between qualitative and quantitative approaches. Social network analysis can help identify broad trends

[60] READ ET AL., *Combining Quantitative and Qualitative Methods, op. cit.*, p. 237.

[61] TODD JICK, "Mixing Qualitative and Quantitative Methods: Triangulation in Action", *Administrative Science Quarterly*, 24(4):602–611, 1979.

[62] TARROW, *Bridging the Quantitative–Qualitative Divide, op. cit.*, p. 178.

in contact between Chinese and non-Chinese companies or firms and NGOs. I limit the use of social network analysis as an aid to visually convey information and report only basic descriptives, i.e. links between different actors — NGOs or companies — are coded as either present or absent in a matrix. Social network analysis is usually employed to assess the importance of individual actors in relation to a network and various measures of *centrality* exist. Given the fact that no information is readily available on the quality or intensity of interaction or even the totality of actors involved, and because the aim is to show the existence of links (as opposed to the influence or relevance of an individual actor), I rely on the simple measure of degree centrality.[63] That is, rather than the position of nodes, the networks' structure and density or clustering as a whole is the variable of interest and used to show the growing contacts of Chinese and non-Chinese actors or the growth of civil society coalitions and the resulting (potential) exposure to activist pressure and norms. In sum, while there different methods are employed for different aspects of this research, there is considerable overlap. At the same time, while both approaches complement each other, the focus in on qualitative information.

Data and Sources

Much of data is only available in an unstructured or non-machine readable format. To gauge the global spread of Chinese enterprises and the level of integration and cooperation with other firms, I constructed a dataset from the US Geological Survey's Minerals Yearbook, which contains data on owner- and operatorship of mining and oil production sites in developing countries. The data were collated from 528 tables, which cover 73 resource-rich developing countries for 10 years, though reports are not available for all countries and all years. The data were supplemented by own research for those countries, where data were missing but otherwise available.[64] The resulting dataset contains 22,040 records of 5,796 projects with sites, year as well as owner or operatorship and shareholding as variables. The latter variables were not coded consistently in the raw data, and

[63] Degree centrality simply measures the number of connections of a given node in a network. Linton Freeman, "Centrality in Social Networks. Conceptual Clarification", *Social Networks*, 1:215–239, 1979, Salvatore Catanese, Emilio Ferrara and Giacomo Fiumara, "Forensic analysis of phone call networks", *Social Network Analysis and Mining*, 3(1):15–22, 2013, Michael Ward, Katherine Stovel and Audrey Sacks, "Network Analysis and Political Science", *Annual Review of Political Science*, 14:245–264, March 2011.

[64] For instance, the data for Nigeria's petroleum sector were not comprehensive.

6,121 company names were matched, resulting in 3,790 unique companies.[65] Based on the resulting company names the origin of investor was (where not immediately apparent) checked manually using web-based business information data from Bloomberg and ThompsonReuters. The data were used to show the spread of Chinese companies, as well as their increased interaction (by way of co-owning or co-operating in raw materials ventures) with other firms, which exposed companies to current practices and can be seen as a vector for the diffusion of norms.

To assess the level of participation (rather than mere exposure) the engagement of Chinese companies in the Extractive Industries Transparency Initiative (EITI) was used as proxy. Global data on membership of individuals, companies or NGOs in EITI are not available.[66] I collected data from EITI-implementing countries, e.g. EITI validation reports, membership applications, EITI websites and published minutes of meetings. The collected data were subsequently made available to PWYP. A further measure of China's growing inclusion in civil regulation are its companies' membership in the UN Global Compact and its take-up of social reporting. For the former, 7,285 individual datasets for as many companies were downloaded from the UNGC website[67], collated and manually filtered according to origin and sector. For the latter, the Global Reporting Initiative (GRI) provides data on 12,581 reports issued over the past 15 years, which were supplemented with data on social reporting from Chinese SOEs' websites.[68]

The panel dataset on Chinese investment, aid and human rights was constructed from multiple sources and is used to show that China's aid and investment is not primarily driven by resource wealth and that there is no general tendency of Chinese aid and investment to deteriorate governance in resource-rich developing countries. Trade and investment data are rather unreliable, data availablilty is not consistent across countries, sectors or years, resulting in an unbalanced panel (for the regression analysis the data were eventually pooled). This, together with the fact that reporting accuracy differs across countries — e.g. a country's resource exports to China or Chinese FDI stock might not match China's resource imports from or Chinas overseas FDI in that country — made data trian-

[65] For company names of 9 characters or longer, matching was done automatically, based on their Levenshtein distance, i.e. the number of permutations needed for two strings to match. From that, a similarity score was calculated and company names with more than 90% overlap were considered identical. Shorter company names were matched manually.

[66] *Interviews*, Francisco PARIS, EITI and Marinke VAN RIET, PWYP.

[67] http://www.unglobalcompact.org/participants/search

[68] https://www.globalreporting.org/reporting/report-services/sustainability-disclosure-database/Pages/default.aspx

gulation necessary, i.e. the analysis makes use of multiple measures of the same variable (or similar concepts) to ensure the validity of results. Data on investment were taken from the *China Statistical Yearbook* and the Ministy of Commerce's Statistical Bulletin 2010, and supplemented with data from the United Nations Conference on Trade and Development UNCTAD and the Heritage Foundation's *China Investment Tracker*. Trade data on mineral exports was sourced from the UNCOMTRADE database.[69] Governance and human rights data are potentially even less objective, and a number of assessents or indices were used to account for different measurements. These are the *The Cingranelli-Richards (CIRI) Human Rights Dataset*, Freedom House's *Freedom in the World* data, the World Bank's Governance Indicators, and the *Political Terror Scale*.[70] Data on Chinese development assistance are not published in a systematic manner, and given China's different approach to aid, what exactly consitutes aid rather than commercial activity is uncertain. Figures on Chinese ODA are taken from the *Aiddata* project, which maintains a database of Chinese funded projects in Africa that is based on media research.[71] For the regression analysis and the comparison of China with OECD-DAC donors, only aid flows that are comparable to ODA are used. The dataset also provides information on various other forms of assistance that would not qualify as aid as per the DAC criteria such as FDI with Government Involvement, flows without grant element, loans that are only sligtly below market rates, or corporate aid. While the latter contains too few observations for statistical inference, they do give an insight into oil an mining companies' social spending in Africa.

[69] People's Republic of China, *2010 Statistical Bulletin of China's Outward Foreign Direct Investments*, Ministry of Commerce of the People's Republic of China, 2011, People's Republic of China, *China Statistical Yearbook*, National Bureau of Statistics of China, Beijing, [various], United Nations Conference on Trade and Development, *World Investment Report [Various]*, UNCTAD, Geneva, 2002–2013, United Nations, UN *Commodity Trade Statistics Database*, New York, 2013, Derrek Scissors, *China Investment Tracker*, Heritage Foundation, 2013. The commodities used to construct Chinese resource imports are HS-codes 26 (Ores, Slag and Ash) subgroups 01–17; 27 (Mineral fuels, oils, distillation products, etc) subgroups 01, 09, 10, and 11. Given that some raw materials are pre-processed before export the dataset also includes commodities with codes 72 (Iron and Steel), 74 (Copper and articles thereof) and 76 (Aluminium and articles thereof).

[70] David Cingranelli and David Richards, *The Cingranelli-Richards (CIRI) Human Rights Dataset*, http://www.humanrightsdata.org, 2011, Freedom House, *Freedom in the World*, http://www.freedomhouse.org/report/freedom-world, Washington, D.C., 2013, Daniel Kaufmann, Aart Kraay and Massimo Mastruzzi, "Governance Matters VIII: Aggregate and Individual Governance Indicators, 1996-2008", *World Bank Policy Research Working Paper No. 4978*, 2009, Mark Gibney, Linda Cornett and Reed Wood, *Political Terror Scale 1976–2011*, http://www.politicalterrorscale.org/, 2012.

[71] Austin Strange, Brian O'Donnell, Daniel Gamboa and Bradley Parks, *Aid Data's Media-Based Data Collection Methodology*, Aiddata.org, 2013.

While the quantitative data are not particularly fine-grained and serve mainly to identify trends and to provide a (new) context, other sources of information are used to provide the theoretical background and to give examples of individual companies' (from either background) operations, episodes of corporate misconduct, government or companies policies and the emerging norms and regulatory framework in the sector. For instance, the passage of laws and guidelines by the Chinese government or by Chinese stock exchanges provides evidence of a norm shift within China, that in turn lead to the stringent regulation. Simply by virtue of operating abroad, companies come in contact with more formal regulation but are also increasingly exposed to other companies and NGOs and thus reputational pressures, which, given the theories on corporate compliance outlined in Chapter 1 can be expected to rub off on Chinese companies and motivate them to go beyond compliance. While some of the evidence presented througout this thesis is anecdotal, it does effectively serve to increase the number of observations.[72] After all, the plural of anecdote *is* data, even if it is not necessarily structured. Observation accumulation can thus help to add more texture to the narrative and lend credence to the argument, though in itself it is insufficient to provide a causal narrative.[73] This relates especially to the assessment of claim that Chinese companies (and China's rise in general) are consistently and significantly worse than others. There are no company-level, longitudinal data available that could show a change in, say, environmental safety or human rights violations at Chinese operations. A single case of Chinese actors not behaving according to what conventional analyses or the "China threat theory" would predict may help falsify the theory, but the accumulation of cases and different aspects of Chinese behaviour makes not only a stronger case, it also helps to show that there is a great deal of variation even within the presumably different groups of actors.

This thesis stops short of process tracing, though it aims to provide the contextual reasons for a path taken by Chinese companies — i.e. in context of companies' and their home goverment's stated and revealed strategies exposure to civil regulation was inevitable, but the embyonic embrace of CSR self- or home-government regulation that can be observed, mean that Chinese actors are in the process of going one step further. Given the theories on corporate behaviour this would be an indication of a successful norm diffusion into China. It would be infeasible — though very relevant — to look at

[72] Gary King, Robert Keohane and Sidney Verba, *Designing Social Inquiry*, Princeton University Press, Princeton, 1994.

[73] Tarrow, *Bridging the Quantitative–Qualitative Divide, op. cit.*, Alexander George and Andrew Bennett, *Case Studies and Theory Development in the Social Sciences*, MIT Press, Cambridge, Massachusetts, 2005.

individual decisions, e.g. those of Chinese policy makers drafting guidelines, or Chinese companies' managers adopting CSR strategies. These are treated as latent variables and this thesis concerns itself with making inferences about these decisions.

A number of "sub-literatures" and fields are be relevant for the project, including management sciences and stakeholder theory, transnational relations, business conflict and political economy approaches to the study of resource wealth. These works inform the theoretical debate but as secondary literature also serve as sources of data on China's rise. Beyond academic literature, there are numerous documents that reveal China's changing exposure to regulation and its (limited) take up of norms. These documents include statements from ministries, company reports and press statements, mining and petroleum agreements, filings with regulatory authorities, newspapers or data published in the context of the EITI. While companies are rather selective on what they publish beyond mandatory disclosures, investments in the extractive industries are normally put under scrutiny by numerous NGOs such as Human Rights Watch or Global Witness, although these — as well as company statements — should be used cautiously as their authors might follow their own agenda: the example of Chinese investment in Zambia in Chapter 9 presents one such instance. The very fact that a great deal of quantitative and qualitative data on corporate activities is published by NGOs supports my argument that civil society increasingly acts as an effective check on corporate activities. As Philip Davies notes, triangulation, i.e. the combination of various research methods to more exactly measure a variable could be achieved by complementing the analysis of written source material by interviews.[74] Therefore, in addition to existing literature, a number of interviews were conducted with representatives from NGOs and professionals in the extractive sector. As David Richards points out, the use of elite interviews is most useful in later stages of the research project[75] and have been included to add texture, and serve to assess the plausibility of the argument and the links between norm entrepreneurs and China as well as efforts to include them in the emergent governance framework.

The two examples in Chapter 9 serve to illustrate and test the claims made throughout the thesis. I illustrate my claims using China's investments in Sudan and Zambia as examples. These illustrations are not meant as comparative case studies as it is the thesis in its entirety that presents a case, i.e. regulation of the extractive industries as an instance

[74] Philip Davies, "Spies as Informants: Triangulation and the Interpretation of Elite Interview Data in the Study of the Intelligence and Security Services", *Politics*, 21(1):73–80, 2001.

[75] David Richards, "Elite Interviewing: Approaches and Pitfalls", *Politics*, 16(3):199–204, 1996, p. 201, 204.

of the phenomenon of China's rise.[76] I do not aim to generalise from these cases, but rather to confirm the arguments advanced in this thesis.

Even though some of the evidence in support of my argument is drawn from these countries — and ideally cases for generating hypotheses should be different from those that are used to test the hypotheses[77] — it is possible to test the validity of my argument. First, because evidence cited throughout the thesis comes from a varieties of other sources and second because the examples contain a longitudinal perspective, allowing me to provide a causal narrative.[78] As I argue in this thesis, much of the dominant narrative on China's rise is due to overgeneralisation from a few cases. The scale and scope of Chinese involvement in resource-rich countries is too varied to allow for much generalisation. To avoid this pitfall, the country examples presented in Chapter 9 examples should therefore not be understood as theory-building, but rather as a test of the theory and arguments advanced here.

Sudan presents somewhat of a crucial case — the example of China's involvement in Sudan is a first port of call for most authors when talking about China's "thirst for oil" and its detrimental role in Africa. If the "China threat theory" were to hold anywhere, it is in Sudan — simply because most of the "theory" is derived from it. It focuses on the Chinese government rather than CNPC and shows the evolution of China's position. Sudan is "pivotal" case in showing that China's role in international affairs is changing.[79] The example of Sudan will serve to show that China's role in this "most likely" case for China's detrimental role has developed and thus help to disconfirm theory.[80] Zambia on the other hand provides an example of mining (rather than oil) interests. Zambia was chosen for a number of reasons: First, because it allows to observe both Chinese and non-Chinese players in the same country context (at the same time), which makes it possible to assign variation in corporate behaviour to the origin of the investor. The comparison of impacts of traditional versus non-traditional actors, can only give any insights as many variables as possible are held constant. Also, the number of potentially changing variables

[76] JOHN ODELL, "Case Study Methods in International Political Economy", *International Studies Perspectives*, 2:161–176, 2001.

[77] BARBARA GEDDES, *Paradigms and Sand Castles. Theory Building and Research Design in Comparative Politics*, University of Michigan Press, Ann Arbor, 2003, p. 132, GEORGE ET AL., *Case Studies and Theory Development in the Social Sciences, op. cit.*, p. 111 and KING ET AL., *Designing Social Inquiry, op. cit.*, p. 46.

[78] JAMES MAHONEY, *Strategies of Causal Assessment in Comparative Historical Analysis*, in: JAMES MAHONEY AND DIETRICH RUESCHEMEYER, (eds.), *Comparative Historical Analysis in the Social Sciences*, pp. 337–372. Cambridge University Press, 2003, p. 370.

[79] POWER ET AL., *China's Resource Diplomacy in Africa, op. cit.*, p. 159.

[80] JOHN GERRING, "Is there a (Viable) Crucial-Case Method?", *Comparative Political Studies*, 40(3):231–253, 2007, p. 232.

is rather high over time. However, a longitudinal "before and after" comparison does, in principle, allow for the control of many variables, the sheer number of variables that could help explain political and economic outcomes such as authoritarianism, human rights violations or economic growth, and the complex interaction of these variables, as well as the political and economic instability of many developing countries in question, may offset this advantage. Second, as is the case with Sudan, China's involvement in the country has been going on since they early stages of its going abroad policy, which makes it more likely for China to have had an impact in the first place. Third, and linked to the duration of China's involvement, it is substantively relevant and has thus attracted the interest of NGOs and scholars, which facilitates research and the contextualisation of China's role in the country.

Scope of this Thesis

This thesis focuses on the large Chinese state-owned companies in the resource sectors, mostly oil companies. Originally this project was about new investors from emerging economies, but soon it became evident that making generalisations from a comparatively small set of companies was impossible. The focus on China is due to first, the fact that China is the most criticised of the new players, and second because in terms of volume of foreign operations it is the largest (though by far not as large as is often claimed).[81] China's National Oil Companies (NOCs) differ from others — especially those in Central Asia and to some extent the Middle East, which usually have ownership but little management expertise, technological skills and often finance compared to IOCs. In contrast to Chinese NOCs these companies have a focus on facilitating the sale of natural resources rather than on exploration and production abroad.[82] Smaller, privately owned companies are subject to very different constraints, and most of the claims made throughout this thesis would not apply.

Studying multinational corporations, especially against the background of their origin is problematic. Due to their size and geographic spread it is not always trivial to determine one single "nationality" of a given corporation, as they may operate in differ-

[81] Harry Broadman, *Africa's Silk Road. China and India's New Economic Frontier*, The World Bank, Washington, D.C., 2007, Sauvant et al., *Foreign Direct Investment by Emerging Market Multinational Enterprises, the Impact of the Financial Crisis and Recession, and Challenges Ahead, op. cit.*, Chapter 6.

[82] Bo Kong, *China's International Petroleum Policy*, Greenwood, 2010, p. 96, who distinguishes between "resource providers" and "resource seekers".

ent jurisdictions, and be formally registered elsewhere.[83] Many projects are co-owned, which can have two implications. First, Chinese companies might learn from partners — i.e. cooperation facilitates the diffusion of norms — or, given that there is usually only one operator for a given project, what might appear as Chinese involvement in a project (and potential misconduct) might amount to little more than a silent partnership.[84] These joint ventures or production sharing agreements between a number of international oil or mining companies tend to be incorporated locally or in tax havens and secrecy jurisdictions. Moreover, operations (or parts) of it such as drilling or exploration are often subcontracted to service companies. Chinese companies pose a similar problem, which is related to their structure, as state-owned companies have privately listed subsidiaries which are legally — but not necessarily managerially or operationally — different from their parent enterprises. However, given the overlap in financing, management, corporate identity as well as the fact that the private subsidiaries tend to hold the companies' foreign assets, they are treated as single companies.

While other companies from emerging economies are becoming increasingly global in their operations, the phenomenon is not nearly as large as with Chinese companies — who themselves as a group are far from large. Although resource companies from India (ONGC Videsh, Tata), Malaysia (Petronas), Brazil (Vale, Petrobras) are internationalising, the number of companies is too small and the scope of their operations is too narrow to allow meaningful generalisations. China's role in resource extraction is near-synonymous with China in Africa, though Chinese investment in mining and oil projects in Latin America and Asia is increasing. Thus, while frequent references will be made to African countries, this is not a thesis about Africa or China in Africa, but one that assesses Chinese investment in the sector to show that transnational regulation can capture even those who are not formally subscribing to it.

[83] Companies in the extractive industries are essentially conglomerates. In 2011, BP and Royal Dutch Shell — those resource companies with the most subsidiaries — controlled 1,491 and 1,273 companies, respectively. Even the less metastatic companies Chevron and Glencore controlled 77 and 46 companies. The figures for Chinese companies are similar: Sinopec has 109 subsidiaries and CNMC, a mining company operating in Zambia controls 33 companies. The number of subsidiaries is a problem in its own rights as it allows companies to evade or avoid taxes. PWYP NORWAY, *Piping profits: the secret world of oil, gas and mining giants*, Publish What You Pay Norway, Oslo, 2011, p. 16f.

[84] In co-owned projects, minority shareholders often only send representatives to the board of the joint venture and have few managerial or technical staff on site: *Interview*, Mining company representative.

This thesis focus on resource-rich developing countries,[85] i.e. I largely ignore the few Chinese operations elsewhere, e.g. in Canada or Australia, as in those countries regulatory oversight is more effective and because variables such as foreign aid cannot be observed. Still, some reference to Chinese operations elsewhere are made to support the argument that context conditions corporate conduct.

This research makes frequent reference to regulatory efforts — especially in the field of transparency, as this is the issue of many extractive industries-specific initiatives, unlike environmental or labour regulations, which are often wider in scope. I do not assess their effectiveness — i.e. whether they improve governance — but only whether they apply and whether companies comply with them. Given the fairly recent emergence of a civil-regulatory framework in the extractive industries an assessment of the effectiveness of regulatory initiatives would be rather premature. The aim is to show that changes in norms have led to changes in corporate behaviour even when companies do not fully embrace these norms, as regulation is anchored in the markets in which these actors participate. Increasing internationalisation, professionalisation and commercial orientation of mining and oil companies from emerging economies implies that they enter a space in which NGOs operate, which in turn means they must subject themselves to a certain scrutiny.

STRUCTURE OF THIS THESIS

CHAPTER 1 An important question for this thesis is whether the drivers of and strategies behind investment from these countries are fundamentally different from the established multinationals. Chapter 1 will outline the determinants of corporate behaviour, distinguishing between two aspects of corporate behaviour: the drivers of foreign investment and corporate conduct and firms' compliance with regulation. It argues that corporate behaviour in general and compliance in particular are determined by multiple factors and different aspects of corporate behaviour — i.e. strategic ones such as investment decisions and operational ones such as compliance — have different explanations. In the case of China, strategic corporate behaviour is largely, though not exclusively, conditioned by

[85] The INTERNATIONAL MONETARY FUND identifies 18 mineral-rich and 38 (potentially) hydrocarbon-rich countries of which about 20 meet the criteria regarding the presence of external actors and relevance to the economy and can conceivably be included in this study. The IMF defines resource abundance as the share of resource sector's contributions to fiscal revenue or total exports in excess of 25 per cent. INTERNATIONAL MONETARY FUND, *Guide on Resource Revenue Transparency*, IMF, Washington, D.C., 2007, p. 54ff.

the government and operational conduct by different motivations to comply with regulation or to self-regulate. These intertwined motivations are rooted in markets, concern for a company's reputation and norms, though the lines are not clear cut. While China's exposure to the changed regulatory environment in resource-rich developing countries or international markets accounts for — externally imposed — change, change is not only structural: companies do take part in voluntary initiatives too, and go beyond compliance. In this context social and to some extent normative motivations are the drivers for change of Chinese companies.

CHAPTER 2 This chapter outlines the various effects of natural resources on development. Regardless of the actors who extract natural resources, resource wealth is associated with a number of "governance failures" although some can, at least partly, be ascribed to corporate actors. The chapter will address the corrosive effect of natural resource extraction on institutions, because it is the weak institutional context in which companies then operate. To understand the effects of resource exploitation on development it is necessary to move beyond the resources and address the interrelationship between the agents exploiting these resources or benefitting from their exploitation.

CHAPTER 3 This Chapter presents the problems of resource extraction that are specifically attributable to the behaviour of the private sector. Mineral extraction is accompanied by a series of social, environmental and governance impacts, and regulatory regimes in host countries are often insufficient to put adequate checks corporate behaviour in resource-rich developing countries. Companies ultimately provide the link between resources and revenues, as the extractive industries provide the revenue base for governments in resource-rich countries. Bargaining between companies and governments is particularly telling, because it determines not only the basic frameworks according to which companies operate in a country, it also shows that much of corporate conduct in resource rich countries is conditioned by the institutional environment. I use bargaining between companies and governments to show that companies have structural impacts as well, as there might be an alignment between companies and host country ruling elites.

CHAPTERS 4 AND 5 For states that are dependent on raw materials imports, the extractive industries are a strategic sector, and the very rise of China's demand for finite natural resources has alarmed western policy-makers as the country often presents itself as a less demanding political ally, donor and trading partner. China's rise and its growing demand for natural resources are seen as a zero-sum game in which China's increasing "thirst" for oil is to the detriment of other countries or companies — even though China's increasing demand for raw materials and the internationalisation of China's companies have not led to shortages of supplies. Given the (at least perceived) importance of security of raw materials supplies for parent governments and the high economic stakes involved, home governments of extractive companies often become involved in host countries: both directly in investment disputes and, more generally, in attempts to provide incentives — economic or military — to host government in exchange for access to natural resources. Against the background of the "scramble for resources", home governments' policies towards resource rich-states also play an important role and mostly affect host counties in the spheres of military as well as development cooperation. Chapter 4 will address China's foreign and aid policy in greater detail and argue that the country's policy is not determined by access to natural resources, nor that its emergence as a donor and investor are detrimental to the political and human rights situation in the countries in which it invests.

CHAPTER 6 Will present the context out of which Chinese state-owned oil and mining companies operate and address the extent to which the rise of these companies is supported or complemented by their home-governments' policies. Large SOEs from emerging economies are increasingly behaving like traditional investors — both commercially, technologically and in terms of their adherence to recently established norms about corporate conduct. The commercial focus and the aspiration to become more like IOCs, also means that NOCs are subject to similar constraints as established players. Looking at the way Chinese state-owned companies are structured and operate, helps understanding why this is the case. Many observers see the rise of Chinese enterprises abroad as a direct result of government policy and often equate corporate decisions with government policy. Although Chinese companies do get support from the central government in the form of aid or project finance, corporate decisions appear to be largely based on commercial, rather than policy considerations. Similarly, traditional investors have received diplomatic and financial support for their acquisitions in resource-rich countries. The fact that NOCs are state-owned is therefore not a sufficient characteristic distinguishing traditional and non-traditional investors. The main points of this chapter are: Chinese enterprises are not as internationally active, or even dominant as they are made out to be, though they surely are on their way. More importantly, they are not monolithic actors controlled by their government (though they are certainly influenced by it and do receive support, if necessary — especially for high-profile projects). The limits of governmental control and the fact that despite being state-owned enterprises, they increasingly behave like their privately-held counterparts elsewhere, also means that they are regulated like them.

CHAPTER 7 While the extractive industries as a whole certainly have a questionable track-record, the past 20 years have seen the introduction of self-imposed standards and mitigation of corporate impacts under the banner of corporate social responsibility. The chapter will show that in their drive to emulate western companies and as part of the Chinese government's wish to appear as a responsible power, Chinese companies have adopted practices similar to those of established investors. Numerous private sector initiatives address the problems associated with natural resource extraction, some of which, however, merely serve the purpose of mitigating reputational risks or to forestall more formal regulation. CSR is not the exclusive domain of established investors, and large companies in emerging economies have adopted social reporting, albeit with different characteristics.

CHAPTER 8 Chapter 8 will show that the awareness of corporate wrong-doing, especially in the extractive industries, has led to increased efforts to regulate the industry. This has created a regulatory space to which companies regardless of their provenance are subjected. It presents the growing regulatory framework in the extractive industries, and notes the increasing importance of civil society actors in shaping and implementing regulations. Companies are increasingly being caught in a web of regulation — regardless of their origin. Multiple ways of regulating the extractive industries exist. While ultimately the regulatory authority rests with home and host governments, other approaches have been sought. This civil regulation goes back to — and includes — a third group of actors, namely non-governmental organisations. Despite the fact that the lack of standards is often cited as a reason for China's competitive advantages, regulation reaches beyond the host and home governments.

CHAPTER 9 Chapter 9 provides some examples that help illustrate the various dimensions of China's rise in relation to Sudan and Zambia. It will show that the political context matters more than the company, let alone its home government, even though these factors do play a role at times. In the cases of Sudan and Zambia, Chinese operations have been going on long enough to attract considerable local and international attention. This also allows to add a temporal dimension which captures change in the behaviour of Chinese companies and their convergence with established practices.

1

CORPORATE BEHAVIOUR: AN OVERVIEW

INTRODUCTION

This thesis argues that in the implementation of their "going abroad" strategy, Chinese oil and mining companies are not behaving significantly different from their western counterparts. There are two main reasons for this: First, the industry as a whole is increasingly subject to transnational forms of regulation. Second — and related to the influence of civil society activists which brought about this new global regulatory space — there are shifts in the attitudes of the Chinese government (as owner and regulator of its state-owned raw materials companies) and the companies themselves, which increasingly comply with softer forms of regulation or even move "beyond compliance" with the adoption of voluntary standards and codes.

The task of this chapter is to outline the determinants of corporate behaviour. This chapter distinguishes between two aspects of corporate behaviour. The first relates to the drivers of foreign investment and the second to corporate conduct of these ventures. Companies make investment decisions, which are in turn influenced by the context out of which they operate. Once the investment is underway, its implementation is — to varying degrees — determined by regulation, which can stem from regulatory agencies or third party actors. The behaviour of corporations is determined by a multitude of factors and varies according to the size, industry and type of company (i.e. whether a company is state-owned/controlled or privately held). Other factors, though less easily observed, include corporate culture, motivations and norms of companies and its managers or employees and the firm's responsiveness to its stakeholders.

With respect to Chinese companies (but also vis-à-vis traditional investors), some of these factors have changed. While companies have gained considerable independence from their home government, compared to the early stages of their "going abroad", their expansion has coincided with different and heightened expectations about what constitutes appropriate corporate conduct. This is not to say that Chinese and established companies' practices have fully converged. Corporate behaviour is influenced not only by the institutional context in the markets in which they operate, but also critically determined by the institutional legacies of their country of origin. Thus, despite the fact that Chinese companies are now subject to the same kinds of regulation as their counterparts and have to meet the same expectations, and despite being organised and behaving like privately-owned companies, inertia and path dependence account for lags in convergence.

The fact that Chinese companies ventured abroad is not particularly surprising. Given the risks involved in the raw materials sector and the need for constant, long-term supplies, the reason for foreign direct investment in the extractive industries is simple: access to resources. Once access to resources became an economic necessity for Chinese companies in the natural resource sector (and a priority for the Chinese government), the question was more regarding the degree to which the home government provided an enabling environment for FDI to occur, e.g. in the form of financial or diplomatic support or changes regarding how Chinese SOEs are run. The second aspect of corporate behaviour is more related to companies' conduct, which can be conditioned by individuals, norms and most formally, regulation, both at home and abroad.

First I will briefly address the literature on corporate behaviour and change from a general perspective, which mainly relates to the drivers of foreign direct investment, and especially the role of home governments in shaping a company's behaviour. The emergence of "non-traditional" investors in the raw materials sector (and elsewhere) has led to a renewed interest in the role of state-owned companies. Conceivably, these companies are governed in a different fashion and subject to a different set of constraints, which would lead the casual observer to conclude that there is significant difference in corporate behaviour between these groups. Chapter 6 will show that in the case of China this conclusion would be unwarranted. While different origins and the associated economic and competitive goals and constraints of companies do give rise to different corporate strategies[1], in terms of operational conduct or implementation of social responsibility strategies origin appears to play a less salient role as they are predominantly conditioned by the host environment. This is not to say that social responsibility is substantively unimportant, but they are more a reaction to demand than an embodiment of a company's core strategy.

[1] See below and: Louis Pauly and Simon Reich, "National Structures and Multinational Corporate Behaviour: Enduring Differences in the Age of Globalization", *International Organization*, 51(1):1–30, Winter 1997.

But corporate behaviour is not merely reflected in a company's investment decision. For the argument made in this thesis, corporate behaviour is understood to encompass decisions about where to invest, but also more strategic and operational behaviour, such as the adoption of corporate codes and compliance with existing or emerging regulation in the sector. For of this thesis, social control and the ability of CSOs and activists to mobilise the public and policy makers[2] is of particular interest. There are social motivations for compliance and civil society actors are able to leverage these. This chapter also complements Chapter 8, which focuses on the emergence of new forms of regulation in the extractive industries and CSOs as sources of regulation. While Chapter 8 focuses on the role of these third party actors, this chapter addresses the other side, i.e. the regulatees, and why they are responsive to regulation.

DETERMINANTS OF CORPORATE BEHAVIOUR

Research on regulation and compliance straddles the boundaries between economics, political science, sociology and law, which emphasise different aspects of corporate behaviour — e.g. decisions to invest abroad or compliance with regulation. In the political economy and international business literature, the degree to which firms successfully venture abroad is often seen as a consequence of the states they come from and of the (US) capitalist system as such[3], whereas management scholars and organisational theorists focus on intra-firm decision-making.[4]

A theory of the determinants of the behaviour of multinationals must take into account both the location of a company's activities and its ownership and organisational structure.[5] Success in home markets provides firms with the managerial, administrative and

[2] John Braithwaite and Peter Drahos, *Global Business Regulation*, Cambridge University Press, Cambridge, 2000, p. 500.

[3] Stephen Hymer, *The International Operations of National Firms: A Study of Direct Foreign Investment*, MIT Press, Cambridge, Mass., 1976, Robert Gilpin, *U.S. Power and the Multinational Corporation: the Political Economy of Foreign Direct Investment*, Basic Books, New York, 1975, Robert Gilpin, *The Political Economy of International Relations*, Princeton University Press, Princeton, 1987, pp. 231–262. Robert Gilpin, *The Politics of Transnational Economic Relations*, in: Robert Keohane and Joseph Nye, (eds.), *Transnational Relations and World Politics*, pp. 48–69. Harvard University Press, Cambridge, Mass., 1971, p. 52f.

[4] John Dunning and Sarianna Lundan, *Multinational Enterprises and the Global Economy*, Edward Elgar, Cheltenham, second edition, 2008, p. 80.

[5] *ibid.*, p. 79.

financial capacities to internationalise.[6] In the extractive industries, maintaining operations abroad is less a reflection of successful growth than an operational necessity.[7] Market power at home translates into "firm specific advantages", i.e. technological, managerial or strategic expertise, and economies of scale which can then be applied successfuly abroad.[8] The focus on the extractive industries in resource-rich developing countries allows the researcher to be somewhat more parsimonious — as decisions about whether to make an investment or not and to some extent even choice of location are given. This is because the overriding motivation for resource extractive FDI is the securing of access to natural resources (others are discussed below). Much FDI theory addresses aspects that are mainly relevant to non-primary sectors, such as the advantages of foreign firms over domestic ones.[9] For the purposes of this thesis, investment decisions and economic variables that influence these (e.g. financing or comparative advantage) are of secondary importance (though these country-specific advantages will be addressed in Chapter 6 which outlines the internationalisation of Chinese enterprises). What is more important here, is the operational reality once an investment decision has been made. That is, the *why* of investment is more easily inferred than the *how* is observed.

Apart from seeking access to technology or resources, the behaviour of firms is influenced by regulation and reputation as well as conviction. Here, regulation is not necessarily understood a constraining only, but relates to the constraints *and* incentives that regulation in home or host countries provide. These may relate to the imposition of environmental, anti-corruption, or corporate governance standards, but also to the creation of an enabling environment for firms to invest: lax regulation could conceivably increase the attractiveness of a given country for investors (barring no other, i.e. reputational, concerns) and home governments can facilitate the foreign direct investment of "their" companies by providing incentives in the form of export credit assurance or outright loans. Firms of course react to fiscal incentives such as preferential tax treatment or tax holidays as well as financial incentives such as subsidised loans (the latter is arguably one of the

[6]Stephen Hymer, *The Multinational Corporation and the Law of Uneven Development*, in: Jagdish Bhagwati, (ed.), *Economics and the World Order. From the 1970's to the 1990's*, pp. 113–140. The Free Press/Macmillan, New York, 1972, p. 121. Hymer points out that the feat of US corporations to conquer the continent-wide domestic markets alone enabled them to move abroad.

[7]This applies mostly to non-US based oil companies, whose main operations tended to be outside their country of incorporation from the beginning.

[8]Alan Rugman, *Inside the Multinationals: the Economics of Internal Markets*, Croom Helm, London, 1981.

[9]Hymer, *The International Operations of National Firms, op. cit.*

drivers of China's earlier foreign ventures).[10] Unsurprisingy for state-owned enterprises, China's foreign direct investment is conditioned by government policy to a greater extend than that of western firms, though the central government does by no means exert total control over its enterprises. The advantages of Chinese companies in venturing abroad stem mostly from country-specific advantages such better access to financial resources — as opposed to firm-specific ones such as technological and managerial superiority or better cost structures, which would also facilitate internationalisation.[11]

Globalisation, Civil Regulation and the Changing Regulatory Environment

Globalisation and the concomitant increase in capital mobility has been blamed for an erosion of regulatory standards — a race to the bottom — but there are mechanisms which operate in the opposite direction. While heightened competition (amongst states and firms) might create downward pressures on regulatory practices, regulation can also become more stringent.[12]

The race to the bottom, whereby regulatory standards are eroded as states compete for direct investment is not a certainty. It has been argued that capital mobility and trade liberalisation will lower standards in industrialised countries to those of developing ones and that competition amongst developing countries will preclude the strengthening of standards there.[13] At any rate, lax regulation is not the sole determinant of investment decision — though it is likely to influence corporate conduct — and conceivably much less so in the extractive industries, where location is largely a function of available de-

[10] Dunning et al., *Multinational Enterprises and the Global Economy, op. cit.*, p. 681. This will be addressed in more detail in Chapter 6.

[11] Hinrich Voss, *The Determinants of Chinese Outward Direct Investment*, Edward Elgar, Cheltenham, 2011, p. 5 and Alan Rugman, *The Theory and Regulation of Emerging Market Multinational Enterprises*, in: Karl Sauvant, Wolfgang Maschek and Geraldine McAllister, (eds.), *Foreign Direct Investments from Emerging Markets. The Challenges Ahead*, chapter 5, pp. 75–87. Palgrave Macmillan, New York, 2010.

[12] David Vogel, *Trading Up: Consumer and Environmental Regulation in a Global Economy*, Harvard University Press, Cambridge, 1995, Layna Mosley and Saika Uno, "Racing to thte Bottom or Climbing to the Top? Economic Globalization and Collective Labor Rights", *Comparative Political Studies*, 40(8):923–948, 2007.

[13] Herman Daly and John Cobb, *For the common good. Redirecting the economy toward community, the environment, and a sustainable future*, Beacon Press, Boston, second edition, 1994, p. 221. Anita Chan and Robert Ross, "Racing to the bottom: international trade without a social cause", *Third World Quarterly*, 24(6):1011–1028, 2003.

posits and their quality. In other fields, there is considerable evidence on the trading up of standards.[14]

According to VOGEL and VOGEL AND KAGAN, standards rise because even firms in low-regulation countries need to abide by stringent rules if they want to export to large, well-regulated markets. This, in turn, might prompt them to seek stricter regulation at home, either to exploit scale economies or to gain an advantage over domestic producers.[15] This argument also extends to states, which, if they see a domestic industry under threat might be prompted to either exclude foreign products from their markets or push for international regulation.[16] Second, institutional isomorphism leads to a horizontal diffusion of standards, where standards that are adopted by one country or firm are adopted elsewhere.[17] Third, a new transnational structure has created "new arenas and platforms" for regulation. Non-state actors such as activists or standard-setting organisations play an increasingly important role, and states are embedded in "higher-order rulemaking projects."[18] In this "civil regulation", states are but one actor in regulation amongst many and NGOs, business associations, epistemic communities and standards organisations have created collaborative regulatory frameworks. LEVY AND PRAKASH argue that by no means are national and global regulatory structures simply determined to cater to companies' needs.[19] The previously dyadic relationship between firms and states has become a multiparty system that includes NGOs, firms, states and international organisations such as the IFIS (see Chapters 3 and 8).[20] Thus states and firms are less able to control bargaining.

Companies respond to regulations, but the regulatory environment, i.e. the structure in which they work is changing — and so are corporations. This also applies to Chi-

[14] VOGEL, *Trading Up, op. cit.*

[15] *ibid.*; DAVID VOGEL AND ROBERT KAGAN, *Introduction*, in: DAVID VOGEL AND ROBERT KAGAN, (eds.), *Dynamics of Regulatory Change. How Globalization Affects National Regulatory Policies*, pp. 1–41. University of California Press, Berkeley, 2004.

[16] MARC SCHNEIBERG AND TIM BARTLEY, "Organizations, Regulation, and Economic Behaviour: Regulatory Dynamics and Forms from the Nineteenth to Twenty-First Century", *Annual Review of Law and Social Science*, 4:31–61, 2008, p. 38.

[17] *ibid.*, p. 32; PAUL DIMAGGIO AND WALTER POWELL, "The Iron Cage Revisited: Institutional Isomorphism and Collective Rationality in Organizational Fields", *American Sociological Review*, 48:147–160, April 1983.

[18] SCHNEIBERG ET AL., *Organizations, Regulation, and Economic Behaviour, op. cit.*, p. 32, 40. MARGARET KECK AND KATHRYN SIKKINK, *Activists Beyond Borders*, Cornell University Press, Ithaca, 1998, ASEEM PRAKASH AND MATTHEW POTOSKI, *The Voluntary Environmentalists. Green Clubs,* ISO *14001, and Voluntary Environmental Regulations*, Cambridge University Press, Cambridge, 2006.

[19] DAVID LEVY AND ASEEM PRAKASH, "Bargains Old and New: Multinational Corporations in Global Governance", *Business and Politics*, 5(2):131–150, 2003, p. 142.

[20] *ibid.*, p. 141ff.

nese companies, whose entry into the international economy largely coincides with these changes. In this regard, this thesis observes two somewhat distinct changes in the regulatory environment: the adoption of regulation in host countries and financial markets to which Chinese firms become subject on one hand and changes from within China, i.e. home government regulation and the adoption and implementation of voluntary codes of conduct and CSR initiatives on the other.

Ultimately regulation works through states — they provide the environment in which transnational actors, here firms and civil society, work.[21] Still, there has been a diversification of regulatory control, next to states' regulatory agencies, self-regulation and third party regulators CSOs have assumed a greater role in regulation.[22] Global forms of regulation in the extractive industries (and other sectors) have emerged and firms do — to varying degrees — shape this regulation, which ultimately facilitates or constrains their behaviour.[23]

Firms are not only responsive to the institutional environments from which they come or in which they operate, they also shape them.[24] Companies reshape business culture in host states: they bring with them norms and practices as well as personnel and thus disseminate their home (business) culture.[25] Conversely, "mimetic pressures cause firms to adopt similar practices as those that prevail in the human or physical environment in which they operate" which is also the result of wanting to gain legitimacy in host countries.[26]

Schneiberg and Bartley observe five changes to regulation: First, regulatory efforts use markets to implement regulations, i.e. markets become tools of regulatory efforts. Second, it has become transnationally anchored rather than reliant on individual states for implementation. Third, it encompasses new actors. Whereas previously regulation was the domain of state agencies, private actors are increasingly important regulators, both in their own right and as groups that push those vested with traditional author-

[21] Stephen Krasner, *Power politics, institutions, and transnational relations*, in: Thomas Risse-Kappen, (ed.), *Bringing Transnational Relations Back in. Non-State Actors, Domestic Structures and International Institutions*, pp. 257–279. Cambridge University Press, 1995, p. 279.

[22] Steve Charnovitz, "Two Centuries of Participation: NGOs and International Governance", *Michigan Journal of International Law*, 18(2):183–286, 1997, p. 284.

[23] Levy et al., *Bargains Old and New, op. cit.*, p. 132.

[24] Dunning et al., *Multinational Enterprises and the Global Economy, op. cit.*, p. 660.

[25] *ibid.*, p. 647.

[26] *ibid.*, p. 648. Although arguably, legitimacy here relates to regulators and potential consumers, though the latter are more important in the context of market-seeking investment and negligible in the extractive industries.

ity to adopt and implement regulation. Fourth, standard-setting is moving away from "command-and-control schemes", and is becoming a deliberative process that includes regulators, regulatees and third parties.[27] Fifth, regulation is not only making use of formal, legal sanctions and relies on social pressure and learning to achieve its aims.[28] All these aspects can be observed in the extractive industries, and the broader regulatory landscape explains why Chinese companies are effectively captured in this regulatory net.

Surely, the "private actors prospering in the interstices of political authority are not leading the charge for supra-national entities designed to regulate their behavior more effectively"[29], but companies are not necessarily opposed to regulation by default. Haufler notes that self-regulation is likely to emerge to pre-empt threats of government regulation or activist pressure.[30] The goals of multinationals in the formation of these regulatory regimes vary across sectors and issues, and while it is often assumed that globalisation leads to a lowering of regulation and the erosion of domestic regulatory power, Levy and Prakash find that at times multinational firms do advocate stringent regulation.[31] From an industry perspective, firms take into account their costs of regulation relative to other market players — where individual firms are to gain (relatively) from regulation, firms will not be able to act collectively against regulatory proposals.[32] Moreover, one international standard rather than a plethora of national ones facilitates operations and, to some extent, might even "pre-empt" the development of stricter local standards.[33]

Chinese companies are not only passive regulatees in this changing regulatory framework. Besides the Chinese government's adoption of home country regulations that are similar to those in place in advanced industrialised countries, the adoption of initiatives and codes of conduct that go beyond compliance are evidence of a change in views on what constitutes legitimate corporate behaviour. That is, what is believed to be acceptable in regulation (i.e. complied with) and who are believed to be acceptable regulators is result of and sheds light not only on the relationship between states, firms, and civil

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[27] Kenneth Abbott and Duncan Snidal, "Hard and Soft Law in International Governance", *International Organization*, 54(3):421–456, 2000.

[28] Schneiberg et al., *Organizations, Regulation, and Economic Behaviour, op. cit.*, p. 42.

[29] David Lake, *Global Governance. A relational contracting approach*, in: Aseem Prakash and Jeffrey Hart, (eds.), *Globalization and Governance*, pp. 31–51. Routledge, London, 1999, p. 46.

[30] Haufler, *A Public Role for the Private Sector, op. cit.*

[31] Levy et al., *Bargains Old and New, op. cit.*, p. 132 While Levy and Prakash distinguish between market-enabling (e.g. the wto) and regulatory regimes (e.g. the Montreal Protocol on Ozone Depleting Gases), the focus here is on regulatory regimes.

[32] *ibid.*, p. 136. see Chapter 8, fn. 25.

[33] *ibid.*, p. 138.

society actors in general but also bears witness to the inclusion of China in this regulatory framework.

THEORY OF FDI

What drives FDI? What makes firms venture abroad? What determines where they invest? There is a large body of literature on the determinants of overseas foreign direct investment. This literature relates to the economic and managerial properties of individual companies as well as the institutional contexts out of which these companies operate. There are a number of reasons why companies decide to invest abroad.

John DUNNING addresses the motivations for firms to venture abroad and distinguishes between four types of reasons for FDI: natural resource seekers, market seekers, efficiency seekers and strategic asset or capability seekers.[34] Natural resource-seeking investment is not only undertaken to gain access to mineral deposits, but also includes foreign ventures that are undertaken to make use of cheap labour or to gain technological expertise.[35] While most companies' FDI is motivated by a combination of these factors[36], much of China's investment and of course all of the investment studies in the context of this thesis is natural resource seeking, both in the obvious sense of gaining access to geological resources and to acquire technological capability (see also Chapter 6).[37] Thus, even in the extactive industries, mere access to raw materials may not be the sole driver of foreign investment, even though it is by the very nature of the indutry the dominant one. Firms seek expertise and networks, and while the leading IOCs and western mining companies are at the top of technological and managerial expertise, newcomers lag behind, and have something to gain from cooperation and exchange. In teir ventures abroad, Chinese firms do cooperate with established firms (see Chapter 6) and regardless of the motivations behind such cooperation, it can be expected to facilitate the diffusion of norms and capacities to implement socially responsible strategies held by partner companies to the newcomers. However, the need to gain access to supplies of find markets for their product

[34]DUNNING ET AL., *Multinational Enterprises and the Global Economy, op. cit.*, p. 67.

[35]*ibid.*, p. 69.

[36]This also applies in the oil industry — in China, western IOCs have entered joint ventures with domestic oil companies, in order gain access to the Chinese market. At the same, this inward internationalisation has allowed Chinese companies to learn from their foreign counterparts.

[37]WELLS cites access to technology by cooperation with foreign firms as a motivator for the Argentine YPF's initial foreign investments. LOUIS WELLS, *Third World Multinationals: the Rise of Foreign Investment from Developing Countries*, MIT Press, Cambridge, 1983, p. 131.

as a main motivator for the vertical integration of raw materials companies, rather than access to technology.[38] Market seekers, on the other hand, use foreign affiliates to gain access to new markets. Efficiency seekers aim to benefit from differentials in factor costs across countries and undertake FDI in order to diversify risks. Strategic asset seekers acquire foreign companies to consolidate their long-term strategy, gain assets to and human capital.[39] Over time, even raw materials companies change: the western oil companies had initially ventured abroad to supply their home markets in Europe and the US, and diversification of supplies led to an oversupply of petroleum, for which companies then sought new markets, further driving their expansion. Thus, even for the extractive industries, foreign investment has market-seeking objectives besides the more obvious access to resources.[40]

According to DUNNING's eclectic (or OLI) theory of FDI firms that have an advantage over others abroad may want to invest there. Further, target country-specific aspects such as labour costs and demand (or lax regulations) may serve as a further pull factor, and ownership of a foreign company can reduce transaction costs.[41] Firms internationalise if they can gain ownership, location or internalisation (OLI) advantages.[42] In natural resource-seeking investment, firms venture abroad in order to gain privileged access to resources (compared to their competitors), ownership and location advantages derive from favoured access to inputs while internalisation advantages provide stability of a firm's supply chain.[43]

Besides motivations for FDI, successful foreign ventures require an enabling environment. YOFFIE argues that it is governments and firms that determine the success of foreign investment rather than the local economic factors. YOFFIE proposes five interacting determinants of foreign investment: 1) country-specific advantages (e.g. comparative advantages and relative factor endowments), 2) the structure of the industry, 3) the characteristics of multinational firms, 4) government policy and 5) inertia.[44]

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[38] *ibid.*, p. 131, 133.

[39] E.g., Sinopec's acquisition of Addax Petroleum.

[40] Note that the market-seeking aspects are not of concern to this thesis, as it is not concerned with the downstream aspects of operations.

[41] DUNNING ET AL., *Multinational Enterprises and the Global Economy, op. cit.*

[42] JOHN DUNNING, *International Production and the Multinational Enterprise*, Allen & Unwin, London, 1981, DUNNING ET AL., *Multinational Enterprises and the Global Economy, op. cit.*, p. 95ff.

[43] *ibid.*, p. 104.

[44] DAVID YOFFIE, *Introduction: From Comparative Advantage to Regulated Competition*, in: DAVID YOFFIE, (ed.), *Beyond Free Trade. Firms, Governments, and Global Competition.* Harvard Business School Press, Boston, Mass., 1993, p. 3, 11ff.

Not all of what has been written about FDI is particularly relevant with respect to the extractive industries. Locations are largely exogenously determined (though companies still aim for the deposits with the lowest expected cost of exploitation).[45] Where one company goes, others follow as the first movers signal the viability of investment.[46] For companies from emerging economies, the extractive industries account for a large share of foreign direct investment and have done so for some time.[47] WELLS notes that many firms (regardless of the sector) invest abroad where there are few suppliers or goods are difficult to specify and describe. In the raw materials sector, goods are traded on the open market and standardised, which on the face of it, would obviate the need for foreign investment. However, in the extractive industries downstream operations are specialised and may require certain inputs and interruption of these supplies may incur high costs.[48] For instance, China's oil imports were focused on light crude, as there was limited refining capacity for heavier types of petroleum.

Investment does not necessarily follow exclusively economic rationales, especially when state-owned enterprises are concerned. If security of supply is a concern, SOEs may undertake investments that would otherwise be unprofitable, simply for political reasons.[49] The goals of SOEs are set by states, and may be for the public good — society at large or private interests, e.g. as vehicles for patronage.[50] In developing countries, state-owned oil companies (and to a much lesser extent mining companies) were initially founded to (re-) gain control over their natural resource deposits.[51] During the 1960s and 1970s ever more national oil companies were created, this time in the major oil producing countries Algeria, Saudi Arabia, Norway, Venezuela, Kuwait, Angola, Malaysia and Nigeria. VICTOR ET AL. note that most NOCs in producing states were created out of nationalisations

[45] WELLS, *Third World Multinationals, op. cit.*, p. 372.

[46] LOUIS WELLS, *Minerals: Eroding Oligopolies*, in: DAVID YOFFIE, (ed.), *Beyond Free Trade. Firms, Governments, and Global Competition*, pp. 335–384. Harvard Business School Press, Boston, Mass., 1993, p. 372.

[47] WELLS, *Third World Multinationals, op. cit.*, p. 130.

[48] *ibid.*, p. 131.

[49] *ibid.*, p. 131.

[50] DAVID VICTOR, DAVID HULTS AND MARK THURBER, *Introduction and overview*, in: DAVID VICTOR, DAVID HULTS AND MARK THURBER, (eds.), *Oil and Governance. State-Owned Enterprises and the World Energy Supply*, chapter 1, pp. 3–32. Cambridge University Press, 2012, p. 18.

[51] *ibid.*, p. 5: The first of these companies were Petróleos Mexicanos (Pemex), which was created in 1938 after nationalising foreign assets, Iranian NIOC (1948), Brazilian Petrobrás (1953) and Indian ONGC (1956). An earlier wave of NOC creation took place in the first part of the twentieth century, when Austria, Argentina, France and Italy created national oil companies.

of the operations of international oil companies (IOCs), and compared to other sectors nationalisation in oil was (and to some extent still is) relatively more common.[52]

The reasons for creating NOCs are manifold. There are political/ideological motivations according to which those who are in control of certain sectors should be accountable to society as a whole rather than shareholders only. In addition, some governments felt that state ownership of important sectors of the economy allows for state-driven development. Moreover, the creation of state-owned companies might be socially motivated: state-owned companies provide employment (or in case of many SOEs, patronage) and improved relations between companies and labour. Economic considerations also play a role, either because a sector is likely to be a natural monopoly, if there are (other) market failures or if they seek to promote long-term growth.[53] In the case of the petroleum industry, nationalism also plays a role, either because governments are reluctant to leave a resource as important as oil under foreign control, or simply because the relative lack of capacity in administrations put them at a disadvantage vis-à-vis IOCs, which had vastly superior knowledge about the sector (see also Chapter 3).[54]

Conceivably, the behaviour of state-owned companies differs from that of privately-run enterprises. State-owned companies fulfil tasks that are different from private enterprises. The NOCs of interest here use the same control tools as private western companies, autonomous boards, private minority shares, and vertical integration. Chinese companies have transformed in the past 20 years. Until the 1990s, China's SOEs were rather inefficient. They were subject to political meddling by members of the CCP, at the local level of their operation and at the national level. This influence has gradually eroded[55] but has not completely disappeared. At least on paper, corporate governance of Chinese SOEs is comparable to those of western market economies, in terms of shareholder rights, disclosure or independence of companies' boards.[56] For the purposes of this chapter, this distinction is negligible: as will be shown in Chapter 6 Chinese SOEs and established private enterprises are largely similar. Even though the core strategic behaviour in terms of FDI may be different across companies from different origins, what is of interest here is

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[52] *ibid.*

[53] Pier Angelo Toninielli, *The Rise and Fall of Public Enterprise: The Framework*, in: *The rise and fall of state-owend enterprises in the western world*, pp. 3–24. Cambridge University Press, Cambridge, 2000, p. 5f; Pierangelo Toninielli, "From private to public to private again: a long-term perspective on nationalization", *Análise Social*, 43(4):675–692, 2008.

[54] Victor et al., *Introduction and overview, op. cit.*, p. 9.

[55] Christine Mallin, *Corporate Governance*, Oxford University Press, Oxford, fourth edition, 2013, p. 318f.

[56] *ibid.*, p. 318.

corporate conduct and compliance, which are arguably much more superficial aspects of corporate behaviour. There is one important caveat, however, governments (and China is no exception) mandate non-commercial roles for their oil companies, such as public works or cheap supply. They also often serve as regulators of the industry at home.[57] Given that the focus here is on the overseas operations of these companies, these aspects are not central to the analysis.

ORIGIN OF A FIRM

Besides the largely economic considerations for foreign direct investment, a firm's strategic behaviour is influenced by its nationality. There is considerable debate about the degree to which the national structures out of which multinationals emerge, drive the companies' strategies. KRASNER notes that "the basic institutional structure of transnationals will be influenced or even determined by the institutional characteristics of states".[58] PAULY AND REICH maintain that despite globalisation of the world's political economy, companies actually diverge regarding the way they are run, in their approaches to accessing finance and in their overseas investment strategies.[59] They argue that "... the underlying nationality of the firm remains the vitally important determinant of its adaptation [... The nationality] is given by historical experience and the institutional and ideological legacies of that experience, both of which constitute the essential structures of states."[60] DOREMUS ET AL. maintain that convergence in corporate behaviour is at best superficial and find that the specific contexts from which companies come to determine the companies' strategies. They find that the "distinct national histories have left legacies that continue to affect the behaviour of MNCs [...] history and culture continue to shape both internal structures of MNCs and the core strategies articulated through them."[61] Firms from different countries vary in their strategic behaviour — even if they belong to the same sectors or operate in the same host environment.[62] Much of this literature, however, focuses on aspects such as R&D which are barely relevant to this thesis, but other aspect

[57] VICTOR ET AL., *Introduction and overview, op. cit.*, p. 16.

[58] KRASNER, *Power politics, institutions, and transnational relations, op. cit.*, p. 279.

[59] PAULY ET AL., *National Structures and Multinational Corporate Behaviour, op. cit.*, p. 1.

[60] *ibid.*, p. 4.

[61] PAUL DOREMUS, WILLIAM KELLER, LOUIS PAULY AND SIMON REICH, *The Myth of the Global Corporation*, Princeton University Press, Princeton, 1998, p. 9. See also ROBERT GILPIN, *Global Political Economy. Undestanding the International Economic Order*, Princeton University Press, Princeton, 2001, p. 288ff.

[62] DOREMUS ET AL., *The Myth of the Global Corporation, op. cit.*, p. 9..

such as the nature of funding and choice of location are (choice of location is addressed in Chapter 6). Other core characteristics include the relationship between managers and owners of capital — i.e. whether stock-ownership is dispersed or not — which in turn influences aspects of corporate behaviour such as access to finance or labour relations.[63] In the case of state-owned enterprises, this would mean that the firms' behaviour is ultimately determined by its home government, though, as Chapter 6 will show, the corporate governance of Chinese companies mimics that of their western counterparts.[64] Similarly, PAULY AND REICH argue that while multinational corporations do adjust their behaviour to changing markets, their nationality (i.e. "the historical experience and the institutional and ideological legacies" of the states they come from) shape this adaptation.[65] Thus, the outcome (for instance level of compliance, adoption of CSR strategies) might be the same for companies of different origins, but the way they arrive at these outcomes is different. In sum, what may hold for business and management strategies does not necessarily hold for compliance, and the implementation of CSR programmes, where there is convergence across actors from different origins. This is not to say that the convergence is total and there does remain a degree of variation across companies, but the origin of a company does not appear to be a major determinant — as opposed to, for example, sector or size (and hence capacity) of the company (see Chapter 7).

These are ususally paired with government support. Rob VAN TULDER as well as RUGMAN argue that the expansion of these firms can be explained by existing theories (such as DUNNING'S OLI approach outlined above), though the differences within the group of multinationals from emerging markets means that there is no single explanation for their rise. VAN TULDER distinguishes between different stages of foreign ventures by firms from emerging markets — starting from resource-based investment abroad, later stages of internationalisation are investment-driven by exploiting economies of scale and finally become a vehicle for innovation. While extractive industries investments are naturally focused on access to resources, other Chinese companies have progressed through these stages — indicating that China's economic activities abroad are becoming more broad-based, which in turn has important implications for corporate (and home government) behaviour overall: actors that have longer investment horizons have an interest in maintaining good relationships with their hosts.

[63] MARK ROE, *Political determinants of corporate governance*, Oxford University Press, Oxford, 2003, p. 5. ROE notes a correlation between a country's political orientation and the structure of corporate ownership (p. 6).

[64] MALLIN, *Corporate Governance, op. cit.*, p. 42.

[65] PAULY ET AL., *National Structures and Multinational Corporate Behaviour, op. cit.*, p. 4.

In relation to this thesis, the emphasis on country and firm specific advantages is of relevance. Firms from emerging markets possess advantages stemming from the availability of cheap labour and access to finance.[66] Most analyses cited here include services and manufacturing alongside resource extraction. With respect to the latter — as was hinted at above — there are conceivably fewer factors that drive their forays abroad.[67] While in the oil and mining industries cheap labour at home would not necessarily be an advantage[68], cheap finance and diplomatic support certainly helped (and continue to help) foreign acquisitions or greenfield investments in resource rich countries.[69] While with respect to Chinese companies the access to such support has been criticised as uncompetitive, it should be noted that this these advantages are by no means unique to China or emerging market enterprises in general.[70]

The group of emerging market companies is diverse and LUO AND TUNG distinguish emerging market enterprises between private and state-owned companies as well as the global aspirations of these companies (broad or narrow focus on a few countries). Large SOES with a global outlook — the "transnational agents" — or those who merely fulfil specific government policies, e.g. in terms of acces to natural resources — the "commissioned specialists" — both receive a considerable amount of home government support.[71] While existing FDI theory can be applied to companies from emerging markets, including China, their internationalisation is not only aided by the political and financial support they receive at home; it may also be a part of a strategy to avoid or offset the disadvantages that originating from an emerging economy might entail. LUO AND TUNG argue that the emerging market companies use internationalisation as a "springboard": by internationalising, companies can mitgate the institutional constraints they face at home.[72] In doing so, companies take high risks, given their limited international experience and

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[66] SAUVANT ET AL., *Foreign Direct Investment by Emerging Market Multinational Enterprises, the Impact of the Financial Crisis and Recession, and Challenges Ahead, op. cit.*, p. 8.

[67] There are considerable differences across these sectors. Many emerging market manufacturing firms have large home markets and do not necessarily need to expand abroad at this early stage of their existence. VAN TULDER, *Toward a Renewed Stages Theory for BRIC Multinatioal Enterprises? A Home Country Bargaining Approach, op. cit.*, p. 68.

[68] Other than lower average costs across all units of a firm.

[69] SAUVANT ET AL. note that companies from emerging markets prefer mergers and acquisitions over greenfield investments. SAUVANT ET AL., *Foreign Direct Investment by Emerging Market Multinational Enterprises, the Impact of the Financial Crisis and Recession, and Challenges Ahead, op. cit.*, p. 11.

[70] For instance, the Japanese ministry of trade, MITI assists companies such as JX and Sumitomo in their foreign ventures, *Interview*, Mining company representative.

[71] YADONG LUO AND ROSALIE TUNG, "International expansion of emerging market enterprises: A springboard perspective", *Journal of International Business Studies*, 38:481–498, 2007, p. 483.

[72] *ibid.*, p. 482.

managerial capabilities.[73] Crucial to the springboard strategy is the fact that companies receive government support — not only in terms of a more liberal foreign investment framework, i.e. facilitating their firms investment abroad in the first place, but also in terms of institutional and direct financial support.[74] This is particularly evident in the case of Chinese resource investments overseas (see Chapter 6).[75] They also note that for many emerging market firms, technology transfer happens at home. Inward internationalisation allowed established western players to enter the merging markets and brought with it the transfer of technological and organisational skills. Even though this is relevant mostly for (electronics) manufacturers, Chinese oil companies have benefited from cooperating domestically with IOCs.[76]

Rob VAN TULDER emphasises the role of the home government, including its economic clout (and hence power) at home in explaining FDI from emerging markets. While the strategies followed by emerging market companies can be explained by economic considerations, only the fact that home governments provided (and continue to provide) an enabling environment made their going abroad possible in the first place.[77] While SOEs may increasingly base their decision making on economic rationales rather than a political dictate[78], the opposite is happening with respect to host country policies, where inward FDI policies have become more restrictive towards firms from emerging markets, especially China.[79] Reputation is a key resource for growth for large companies and VAN TULDER notes that reputation is particularly important for state-owned enterprises. Those companies that do venture abroad are the domestic leaders and transport the image of their home country. The fact that they are state-owned (and often enough state-backed) puts them under scrutiny in countries of operation and a good reputation — based on CSR strategies or good corporate governance — can help offset the "liability of foreignness".[80] Reputation has business advantages also because dealing with trustworthy companies

[73] *ibid.*, p. 482.

[74] *ibid.*, p. 484.

[75] *ibid.*, p. 487.

[76] Foreign oil companies in China's oil sector are mandated to cooperate with one of the NOCs, see Chapter 6.

[77] VAN TULDER, *Toward a Renewed Stages Theory for* BRIC *Multinatioal Enterprises? A Home Country Bargaining Approach, op. cit.*, p. 63.

[78] SAUVANT ET AL., *Foreign Direct Investment by Emerging Market Multinational Enterprises, the Impact of the Financial Crisis and Recession, and Challenges Ahead, op. cit.*, p. 20.

[79] *ibid.*, p. 21.

[80] ZAHEER cited in VAN TULDER, *Toward a Renewed Stages Theory for* BRIC *Multinatioal Enterprises? A Home Country Bargaining Approach, op. cit.*, p. 69.

implies lower transaction costs and can lead to competitive advantages.[81] Adherence to these strategies not only counters suspicions that the entry into strategic sectors of foreign, state-owned enterprises may raise. Internationalisation thus not only fosters CSR and good corporate governance but also enables companies to break free of an inadequate institutional straightjacket at home: corporate governance is weakly developed because of underdeveloped stock markets at home, which in turn has implications for the companies' reputations in markets and ultimately creditworthiness. LUO AND TUNG argue that internationalisation can help overcome these disadvantages: one aspect of internationalisation is the adoption of western principles of corporate governance. Listing in foreign markets and responsiveness to global stakeholders as a result of internationalisation can help mitigate these disadvantages.[82] It should therefore not be unexpected that Chinese companies gradually become more similar to their established counterparts and that, to some extent, their entry into international markets leads to a "trading up" of standards. From this argument it follows that internationalisation should go hand-in-hand with improved governance of those companies that venture abroad (see Chapter 7).

Incomplete Convergence

Companies are slow to change. YOFFIE notes corporate inertia as a factor: once decisions are taken they have a lasting impact. Similarly, investments will continue to exists, even if the once favourable conditions for it are long gone.[83] Path dependency would also help explain some lags in take-up of CSR by the Chinese, not only because they might be "set in their ways" but also because institutions (both internationally and in host countries) have not yet shaped their behaviour. To some extent, this is due to path dependency and constant causes, i.e. Chinese companies behave in a "Chinese way" even though the original cause for the differences (that is, China's different economic model) has been moderated if not disappeared altogether.[84]

Despite the enduring differences, there is convergence at the operational level. In pursuing global interests, companies come in contact with each other and interact and become more alike. Transnational actors, including firms, adjust to the formal and informal in-

[81] JAY BARNEY AND MARK HANSEN, "Trustworthiness as a source of competitive advantage", *Strategic Management Journal*, 15:175–190, Winter 1994.

[82] LUO ET AL., *International expansion of emerging market enterprises, op. cit.*, p. 494.

[83] YOFFIE, *Introduction, op. cit.*, p. 13.

[84] PAULY ET AL., *National Structures and Multinational Corporate Behaviour, op. cit.*, p. 5.

stitutional structures where they operate.[85] It should be expected that there is remains a certain "Chineseness" about the corporate behaviour of Chinese companies, and, as Chapter 7 will show, even where there is convergence — such as in the adoption of CSR strategies — these do have a distinct Chinese character. In host countries, operations are also subject to a form of coercive isomorphism — i.e. formal and informal pressures in host countries to which companies need to adjust.[86] A company's strategic behaviour would thus be influenced by its home context and practices and expectations of those with which it interacts abroad "rub off" on its operational conduct. Greater internationalisation exposes companies to different isntitutional contexts; it is also accompanied by broader cooperation with other companies, from which companies learn (see Chapter 6).

This thesis is concerned less with the strategy of companies but with the determinants of corporate behaviour, which in turn condition the behaviour or Chinese companies in the extractive industries is different from that of other investors (i.e. more detrimental to host countries), and why or why not this is the case. And while different state structures mean different approaches to financing, foreign investment, research, corporate governance or ownership do give rise to differences in corporate behaviour across countries, in terms of operational practice or compliance — which is arguably more superficial[87] — there are few differences. Different origins and the resultant different strategic choices on the part of companies may account for different targets for investment or facilitate acquisitions, but ultimately the companies' operations are subject to numerous forms or regulation by which companies abide. The same holds true for self-regulation and CSR.

CORPORATE CULTURE AND COMPLIANCE

So far, this chapter has addressed the environments which determines to behaviour of corporations in terms of their structure and broad strategies. Companies' actions, are, of course also determined by individuals. Chapter 7 notes the disconnect that can occur

[85]KRASNER, *Power politics, institutions, and transnational relations, op. cit.*, p. 260ff.

[86]DIMAGGIO ET AL., *The Iron Cage Revisited, op. cit.*, p. 150. RAZEEN SALLY, "Multinational enterprises, political economy, and institutional theory: domestic embeddedness in the context of internationalization", *Review of International Political Economy*, 1(1):161–192, 1994. KRASNER notes that there is less pressure to adjust to weaker states. KRASNER, *Power politics, institutions, and transnational relations, op. cit.*, p. 265.

[87]For instance, the adoption of CSR strategies is often criticised as being superficial, and merely a "mask" that corporations put on. IDEMUDIA argues that that CSR does not change the core of business operations. UWAFIOKUN IDEMUDIA, "Oil Extraction and Poverty Reduction in the Niger Delta: A Critical Examination of Partnership Initiatives", *Journal of Business Ethics*, 90(1):91–116, 2009.

between convictions of managers at headquarter levels of a company and the lack of willingness to implement CSR strategies at the operational level, simply because strategies do not necessarily travel well.[88] Regulation itself is addressed in Chapter 8 and 7. This section addresses the other side of regulation: compliance. Corporate culture is more difficult to assess empirically, though it is useful to briefly outline the implications of corporate culture on compliance of firms (or individuals in firms).

Compliance usually relates to the fulfilment of legal obligations, but seeing that the extractive industries are governed also by standards which are not designed or enforced by states, it is here also understood as compliance with norms and expectations. There are a number of determinants of corporate social reporting, most prominently firm size, industry, level of profitablity and origin that influence the propensity of a company to engage in social reporting.[89] From a firm's point of view, compliance is determined by the individuals in a company (i.e. their motivations for compliance), the firm's organisational structure and the resources available to translate decisions into practice. Compliance is also affected by the quality of regulatory institutions[90] and of course of the design of the regulation itself. The conduct of firms is (co-)determined by their corporate culture and ethics. KOTTER AND HESKETT distinguish between two levels of corporate culture that might have and impact on operations. At the invisible level, corporate culture is determined by the shared values prevalent in an organisation. Corporate culture at the visible level relates to practices that can be observed and mimicked by individuals in the organisation such as inclusiveness of decision-making processes or regard for customers.[91] Similarly, ethical climate refers to the "shared perceptions employees hold a concerning ethical procedures and policies existing in their organizations."[92] Individuals' notions of what is acceptable stem from a variety of sources: the individual itself and his or her beliefs; the local, i.e. from the organisation of which the individual is part; or the cosmopolitan, i.e. a reference group that is outside the individual's immediate sphere.[93]

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[88] *Interview*, mining company representative.

[89] REGGY HOOGHIEMSTRA, "Corporate Communication and Impression Management – New Perspectives Why Companies Engage in Corporate Social Reporting", *Journal of Business Ethics*, 27:55–68, 2000, p. 55.

[90] DUNNING ET AL., *Multinational Enterprises and the Global Economy, op. cit.*, p. 653.

[91] JOHN KOTTER AND JAMES HESKETT, *Corporate Culture and Performance*, The Free Press, New York, 1992, p. 4.

[92] JAMES WIMBUSH AND JON SHEPARD, "Toward An Understanding of Ethical Climate: Its Relationship to Ethical Behaviour and Supervisory Influence", *Journal of Business Ethics*, 13:637–647, 1994, p. 638.

[93] BART VICTOR AND JOHN CULLEN, "A theory and measure of ethical climate in organization", *Research in Corporate Social Performance and Policy*, 9:51–71, 1987, ALVIN GOULDNER, "Cosmopolitans and Locals: Toward an Analysis of Latent Social Roles — I", *Administrative Science Quarterly*, 2(3):281–306, 1957, WIMBUSH ET AL., *Toward An Understanding of Ethical Climate, op. cit.*

Companies have compliance systems in place, but even more it is the extent to which managers and superiors have internalised a commitment to compliance that makes a company compliant.[94] Corporate culture and ethical climates are not necessarily uniform throughout a company and while top-level management may adhere to certain ethical standards, these are not necessarily adopted at lower levels.[95] Rather than adhering to company-wide business principles that emanate from top-management, employees orient themselves on their immediate supervisors (i.e. the ones that assess their performance).[96] Codes and practices are handed down from management through the hierarchy and are Chinese whispers-like, "reinterpreted", leading to different interpretations of the same policy. This phenomenon would also account for the differences in corporate communication and corporate practices, i.e. situations where corporate conduct in countries of operations is in violation of the business principles formulated at headquarter level.[97]

What Determines Compliance?

Corporate culture and ethics affect how companies respond to regulation. Parker and Nielsen distinguish between social regulation — aimed at the prevention of environmental disasters, labour accidents, food safety but also social inclusion and equality — and economic regulation, which aims to promote competition and standard-setting, though the boundaries between the two are often blurry.[98] Regulation is not necessarily state-based, and a number of actors, such as industry associations and NGOs develop standards, certification schemes or codes of conduct (see above and Chapter 8).

There are three broad motivations for compliance — economic, social and normative reasons — and the different motivations for compliance coexist in the same organisation.[99] Winter and May distinguish between "calculative", social and normative

[94] Linda Treviño, Gary Weaver and Scott Reynolds, "Behavioural Ethics in Organizations: A Review", *Journal of Management*, 32(6):951–990, December 2006.

[95] Wimbush et al., *Toward An Understanding of Ethical Climate, op. cit.*

[96] *ibid.*, p. 642.

[97] It also allows companies to shift the blame for failures. Virginia Maurer, "Corporate Social Responsibility and the 'Divided Corporate Self': The case of Chiquita in Colombia", *Journal of Business Ethics*, 88:595–603, 2009. (see also Chapter 7).

[98] Christine Parker and Vibeke Lehman Nielsen, *Introduction*, in: Christine Parker and Vibeke Lehman Nielsen, (eds.), *Explaining Compliance. Business Responses to Regulation.* Edward Elgar, Cheltenham, 2011, p. 1.

[99] Ian Ayres and John Braithwaite, *Responsive Regulation: Transcending the Deregulation Debate*, Oxford University Press, New York, 1992, pp. 19–35.

motivations.[100] Calculative or economic motivations reflect the expected cost of non-compliance, social motivations relate to the approval of "significant others"[101] and normative motivations relate to the duty to comply with a law because it is seen as just. While these motivations are difficult to observe, the importance of reputation and significant others is revealed in the Chinese government's CSR policies and the companies' statements regarding their operations which acknowledge the need to create and maintain a reputation of responsibility.[102]

These motivations resonate with KOTTER AND HESKETT's notion of corporate culture. To them, unadaptive cultures are characterised by the self-interest of managers (or their interest in only their immediate work group), and have a more bureaucratic style. In adaptive cultures on the other hand, managers take into account variuous constituencies (customers, stakeholders, employees).[103] The latter allows firms to take into account the environments in which they operate and make adjustments to meet the needs of a their stakeholders.

Motivations are ultimately held by individuals in the firm. Different motivations, norms and cultures can coexist in the same organisation. It should then come as no surprise that motivations and priorities of businesses differ across cultures. It is at least conceivable that Chinese businesses behave differently, because their motivations might be fundamentally different from those of western firms. For instance different "significant others" (e.g. lower levels of domestic NGO or consumer pressure) may cause companies to attach a lesser degree of importance to their reputation. Likewise, as incomplete internalisation or a different interpretation of the notion of human rights may reduce normative motivations. However, the goals of Chinese companies would suggest that social and normative motivations do drive compliance Chinese firms, too. In HOFSTEDE ET AL.'s study on the goals of business leaders, China forms an individual cluster, i.e. is quite apart from other cultures. The authors rank the archetypal business leaders' goals and find that compared to Western business, short- and long term profits or personal wealth are less of a motiva-

[100] SØREN WINTER AND PETER MAY, "Motivation for Compliance with Environmental Regulations", *Journal of Policy Analysis and Management*, 20(4):675–698, 2001.

[101] HAROLD GRASMICK AND ROBERT BURSICK, "Conscience, significant others, and rational choice: Extending the deterrence model", *Law & Society Review*, 24(3):837–861, 1990, BRAITHWAITE ET AL., *Global Business Regulation, op. cit.*

[102] see Chapters 7 and 8 as well as SINOPEC SHANGHAI PETROCHEMICAL COMPANY LIMITED, "Form 20-F Annual Report Pursuant To Section 13 Or 15(d) Of The Securities Exchange Act Of 1934", 2011 and PEOPLE'S REPUBLIC OF CHINA, *Guidelines to the State-owned Enterprises Directly under the Central Government on Fulfilling Corporate Social Responsibilities*, State-owned Assets Supervision and Administration Commission of the State Council, 12 June 2011.

[103] KOTTER ET AL., *Corporate Culture and Performance, op. cit.*, p. 143.

tor than growth and continuity of business or power. Unsurprisingly — and somewhat stereotypically — honour, face and reputation featured higher as in other countries, as did patriotism and responsibility towards society.[104] Given these preferences and the relative Chinese emphasis on reputation and reponsibility, it can be argued that Chinese companies respond to the same incentives as their western counterparts.

Economic/Calculative Motivations

These motivations include the economic cost of non-compliance, but also refer to rational choice considerations that may be non-material (e.g. imprisonment). Deterrence theory sees compliance as the result of a cost-benefit analysis: the more likely it is to get caught and the higher the costs (i.e. sanctions for non-compliance) are, the more likely it is for a given firm to comply.[105] Thus, proponents of deterrence theory argue that compliance occurs when the benefits of compliance surpass its costs. While for purely economic aspects of compliance this may work, there are other motivations for compliance and consequences of non-compliance, that are intrinsically more difficult to quantify.[106]

Makkai and Braithwaite challenge the notion that cost considerations dominate compliance decisions, as next to the probability of being caught, compliance is also conditioned by the management's views on the regulation or capacities to implement regulation. In any case, cost considerations would be not about the cost of compliance but the expected costs of compliance, which might differ starkly from actual costs.[107] Cost of compliance and compliance is not monotonic — once compliance cost become high, overall levels of compliance might diminish as cheating becomes the preferable option.[108] In that case companies disengage from regulation; while they are subject to it they do not implement it and do not try to do so .

[104] Geert Hofstede, Cheryl Van Deusen, Carolyn Mueller, Thomas Charles and The Business Goals Network, "What Goals do Business Leaders Pursue? A Study in Fifteen Countries", *Journal of International Business Studies*, 33(4):785–803, 2002, p. 798.

[105] George Stigler, "The Optimum Enforcement of Laws", *Journal of Political Economy*, 78(3):526–536, 1970.

[106] Isaac Ehrlich, "The Deterrent Effect of Criminal Law Enforcement", *The Journal of Legal Studies*, 1(2):259–276, 1972 and Stigler, *The Optimum Enforcement of Laws, op. cit.*

[107] Toni Makkai and John Braithwaite, "The Limits of Economic Analysis of Regulation: An Empirical Case and a Case for Empiricism", *Law & Policy*, 15(4):271–291, October 1993, p. 272.

[108] *ibid.*, p. 285.

Social Motivations

Companies aim for the approval and respect of other businesses, employees customers and the community. For continues operations, companies must maintain their "social license to operate" — essentially the approval of significant others in the country of their operation.[109] Ultimately, however, these social considerations boil down to economic considerations as well — threats of exclusion or shame do affect the utility from non-compliance with the law.[110] Still, the distinction is important, not least for the design of effective regulation: NIELSEN AND PARKER point out that whether economic or social motives are at play makes a difference, as primarily economically motivated individuals or firms would be deterred by large fines whereas socially motivated ones would tend to fear social sanctions.[111] Social dynamics and soft law in international governance also create peer pressure and norms lead to a sense of obligation. Literature on this form of social control (often based on criminology and the study of compliance with laws) is often applied to corporate crimes. For some of those authors, the existence of social pressure and shaming or exclusion is a more powerful determinant of corporate behaviour than traditional legal deterrence.[112] GRASMICK AND BURSIK add socially-imposed and self-imposed (normative) motivations as deterrent factors. They emphasise the social costs of non-compliance, i.e. the embarrassment or loss of respect that behaviour that is in violation of rules might incur. Next to tangible, state-imposed costs such as fines or imprisonment, as well as self-imposed, normative cost rooted in the shame associated with rule-violations, higher social costs lower the expected utility from non-compliance.[113] While traditional deterrence theory emphasises the role of state-imposed sanctions — the higher the likelihood of detection and/or the greater the sanction, the lower is the expected utility from non-compliance. A rational individual will calculate the probabilities and the associated costs. Although rational choice assumptions do not necessarily hold everywhere[114] these "soft" considerations do enter rational individuals' considerations. GRASMICK AND BURSIK find that self-imposed punishment (i.e. shame) has a great effect on compliance. PATERNOSTER ET AL. find that classical deterrence is insufficient as

[109] see also Chapter 8 WINTER ET AL., *Motivation for Compliance with Environmental Regulations, op. cit.*

[110] GRASMICK ET AL., *Conscience, significant others, and rational choice, op. cit.*

[111] PARKER ET AL., *Introduction, op. cit.*, p. 11.

[112] BRAITHWAITE ET AL., *Global Business Regulation, op. cit.*, p. 252. SCHNEIBERG ET AL., *Organizations, Regulation, and Economic Behaviour, op. cit.*, p. 47.

[113] GRASMICK ET AL., *Conscience, significant others, and rational choice, op. cit.*, p. 841.

[114] E.g. very tough sanctions do not always work as an effective deterrent.

explanatory variable for crime, instead, they argue extra-legal aspects such as beliefs and informal social sanctions play a greater role in compliance that the pure threat of legal sanctions.[115] With respect to this thesis, this would mean norm-emergence really drives the process of compliance.

Normative/Deontological Motivations

Behaviour of individuals within a firm can be motivated by self-interest, utilitarianism or deontology.[116] In normative motives of compliance, actors adhere to regulation out of a moral conviction, either because they deem that compliance is a moral duty or because laws and regulations are considered as just and legitimate.[117] There is considerable overlap between social and normative motivations for compliance, though the latter tend to be internalised into corporate culture and might therefore be a more effective motivation for regulators to address. Both relate to the desirability of compliance, but social motivations are rooted in the opinions of others whereas normative motivations relate to what is acceptable to those that are regulated.[118] Still, the higher the social control or demand for regulation, the more likely it is that the desirability of regulation becomes internalised.[119] By virtue of the *logic of appropriateness*, once regulation is largely accepted, end everyone expects compliance, compliance becomes a normatively desirable strategy in its own right.[120] If social and economic motivations are strong enough, they increase normative motivation in the process.[121]

Winter and May find that normative and social motivations are as important as calculations based on economic costs and benefits of compliance.[122] They emphasise the "non-deterrent" aspects of regulation, such as awareness, social expectations (of compliance) and normative commitment to the regulations themselves. They further make the point that the calculative motivations for compliance (what others call economic motiva-

[115] Raymond Paternoster, Linda Saltzman, Gordon Waldo and Theodore Chiricos, "Perceived Risk and Social Control: Do Sanctions Really Deter?", *Law & Society Review*, 17(3):457–480, 1983, p. 478.
[116] Wimbush et al., *Toward An Understanding of Ethical Climate, op. cit.*, p. 638.
[117] Parker et al., *Introduction, op. cit.*, p. 11f.
[118] Vibeke Lehmann Nielsen and Christine Parker, "Mixed Motives: Economic, Social, and Normative Motivations in Business Compliance", *Law & Policy*, 34(4):428–462, 2012, p. 433.
[119] *ibid.*, p. 433.
[120] James March and Johan Olsen, "The New Institutionalism: Organizational Factors in Political Life", *American Political Science Review*, 78(3):734–749, 1984, DiMaggio et al., *The Iron Cage Revisited, op. cit.*, p. 147.
[121] Vibeke Lehmann Nielsen and Christine Parker, "To What Extent Do Third Parties Influence Business Compliance?", *Journal of Law and Society*, 35(3):309–40, 2008, p. 316.
[122] Winter et al., *Motivation for Compliance with Environmental Regulations, op. cit.*

tions), are not in competition with others — i.e. the confluence of motivations determines compliance. Winter and May argue that social and normative considerations outweigh calculative ones in determining whether to comply with regulations.[123] They hypothesise that in adversarial regulatory settings, social and normative considerations are likely to weigh less. While western and especially US companies might be characterised by "adversarial legalism"[124], Chinese companies appear to be less focused on litigation. Emerging market firms are yet to carve out their place in markets and have not yet built solid relationships with host countries and therefore have no interest in offending their partners.[125]

From the literature discussed above, Nielsen and May develop a theory according to which the inclusion of third parties — for the purposes of this thesis, civil society actors and industry associations — improves the effectiveness of regulation.[126] Third parties have enforcement capacity even if they are not endowed with formal authority. In situations where businesses are linked with or exposed to economic and social stakeholders who demand compliance, and where these stakeholders control a firms' access to the resources it needs in order to conduct its business, businesses will be motivated to comply with formal regulation.[127] They find that this is only significant when firms perceive their compliance to be under great scrutiny — which is certainly the case for large companies in the oil and mining industry.[128] Compliance is also expected to be higher if a firm has been exposed to complaints and criticism in the past; the past experience of the consequences of non-compliance and the possible costs associated with it lower a company's utility from non-compliance.[129]

Social and normative motivations for compliance are what links the change in the regulatory practice in the extractive industries to the changes in companies' behaviour. For the purposes of this thesis what constitutes compliance must be relaxed and re-mapped

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[123] *ibid.*, p. 692. Though it should be noted that they studied farmers, who have more of a "face" in their community than large multinational companies.

[124] Robert Kagan, *Adversarial Legalism: the American Way of Law*, Harvard University Press, Cambridge, Mass., 2001.

[125] Joseé Alvarez, *The Rise of Emerging Market Multinationals: Legal Challenges Ahead*, in: Karl Sauvant, Wolfgang Maschek and Geraldine McAllister, (eds.), *Foreign Direct Investments from Emerging Markets. The Challenges Ahead*, chapter 22, pp. 425–444. Palgrave Macmillan, New York, 2010, p. 437. The reluctance to engage in legal battles might also account for the fact that it was US, rather than China-based, companies challenged the disclosure requirements contained in section 1504 of the *Dodd–Frank* act (see Chapter 8).

[126] Lehmann Nielsen et al., *To What Extent Do Third Parties Influence Business Compliance?, op. cit.*, p. 315.

[127] *ibid.*, p. 315.

[128] *ibid.*, p. 339.

[129] *ibid.*, p. 315, Grasmick et al., *Conscience, significant others, and rational choice, op. cit.*, p. 855f.

onto what makes companies go beyond compliance. The social aspects of compliance are dominant, monetary fines are low in practice (regulators do not seek to put companies out of business). Some crimes might be more acceptable than others — a tax avoiding company (or person) might be highly regarded, whereas a polluter may not be.

Even if there are sufficient motivations for compliance, firms also need the capacities to comply, which includes not only the knowledge of the rules but also the financial means to comply.[130] Larger companies are more likely to have the capacities for compliance.[131] Dunning also addresses corporate social responsibility, noting that the business case for CSR is different across industries. While CSR will be addressed in detail in Chapter 7, Dunning's OLI framework can be applied to the adoption of CSR strategies. A firm's ownership advantages can be broken down into assets (which also relate to knowledge and managerial capacities), governance (i.e. making use of the firm's capacities across units) and institutions, which govern the intra-firm relationships and the interaction of the firm with its stakeholders and include codes of conduct and corporate culture.[132] In the context of CSR — and, by extension, compliance — governance and assets determine the capacities to implement regulation (i.e. the knowledge about the regulation and the financial or technological means to do so) and institutions reflect a firm's motivations to do so.[133] Thus, in order to become a socially responsible player, a firm must have resources and means as well as the motivation to do so. Capabilities and motivation of Chinese companies (unlike their resources) in that field have lagged behind their internationalisation, which is not unexpected given that internationalisation itself is a driver of normative motivations.

External Pressures for Compliance and Effectiveness

Companies face various pressures that motivate their compliance, which may come from the company's stakeholders or from within. The pressures are economic, social and legal and companies must maintain their social, economic and regulatory licence to operate. Regulatory or legal license refers to the obligations enshrined in law such as having the

[130] Winter et al., *Motivation for Compliance with Environmental Regulations, op. cit.*, p. 680.

[131] Susmita Dasgupta, Hemamala Hettige and David Wheeler, "What Improves Environmental Compliance? Evidence from Mexican Industry", *Journal of Environmental Economics and Management*, 39(1):39–66, 2000.

[132] John Dunning, *The globalization of business. The challenge of the 1990s*, Routledge, London, 1993, p. 98f.

[133] Dunning et al., *Multinational Enterprises and the Global Economy, op. cit.*, p. 652.

required permits, and adhering to performance standards, e.g. in terms of environmental or work-place safety. Beyond that, companies must of course also retain their economic licence, i.e. giving a return to investors or meeting debt obligations. Here, the targets are somewhat more vague and the amount of acceptable returns on investment are variable and ultimately determined by market forces. GUNNINGHAM ET AL. point out that the economic license is important insofar as its maintenance can somewhat impinge upon a company's record in terms of social or environmental activities that go beyond compliance — the aim of adhering to costly standards may at times conflict with the goal of profit-maximisation for shareholders.[134] The social license refers to the company's behaviour in the communities in which it operates and whose expectations about corporate conduct it should meet (see Chapter 7). If expectations in terms of environmental or social impacts are not met, communities can seek redress in the legal and economic sphere (e.g. by damaging a company's reputation or political advocacy for more stringent regulation). Even though the terms of the social license are not precisely spelled out, they may be more stringent than those codified in formal regulation.[135]

Thus companies essentially respond three stakeholder groups, all of which use different means to ensure their demands are met and address different possible motivations for compliance. Social stakeholders, i.e. the public can resort to reputational pressures and withdraw cooperation, economic stakeholders can stall investments or refuse financing and regulatory stakeholders can tighten monitoring or threaten legal action, though each stakeholder group can, in effect, make use of any of these resources.[136] From the above, it follows that the three licences are interrelated, and even reinforcing. Business responses to regulation and their willingness to go "beyond compliance" is a function of how these three licences interact. The most effective regulatory systems feature a mix of regulation, that addresses the different motivations.[137] In AYRES AND BRAITHWAITE's model of responsive regulation, successful regulation speaks to all three types of motivation, and state sanctions — the "benign big gun" — are limited and only used as last resort.[138]

[134] NEIL GUNNINGHAM, ROBERT KAGAN AND DOROTHY THORNTON, *Shades of Green: Business, Regulation and Environment*, Stanford University Press, Stanford, 2003, p. 36f.

[135] *ibid.*, p. 37.

[136] LEHMANN NIELSEN ET AL., *To What Extent Do Third Parties Influence Business Compliance?, op. cit.*, p. 313.

[137] GUNNINGHAM ET AL., *Shades of Green, op. cit.*; NEIL GUNNINHAM, ROBERT KAGAN AND DOROTHY THORNTON, "Social License and Environmental Protection: Why Businesses Go Beyond Compliance", *Law & Social Inquiry*, 29:307–341, 2004; WINTER ET AL., *Motivation for Compliance with Environmental Regulations, op. cit.*, p. 693. NEIL GUNNINGHAM AND PETER GRABOSKY, *Smart Regulation. Designing Environmental Policy*, Clarendon Press, Oxford, 1998.

[138] AYRES ET AL., *Responsive Regulation, op. cit.*, p. 19.

Nielsen and Parker note that business' compliance tends to be higher when a number of public and private actors are involved in the design and enforcement of regulation.[139] This would account for the popularity (and wide acceptance) of multi-stakeholder initiatives such as the EITI, where regulators and significant others design and implement transparency regulations for the extractive industries (see Chapter 8). Corporate behaviour is conditioned by factors such as the market, regulatory scrutiny and reputational pressures. Gunningham, Kagan, and Thornton note that these forces might work in different directions and that the interaction of the individual "drivers" of corporate behaviour produces different combinations of pressures to which corporations react.[140]

Conditions for Compliance

As addressed in more detail in Chapter 7 social reporting can be explained by legitimacy theory — companies report in order to sway public opinion in their favour.[141] Voluntary disclosure and the adoption of CSR strategies can be explained by applying the theory on social and normative motivations for compliance: by disclosing social information, companies aim for the approval of significant others. Likewise, and given the emergence of social responsibility and transparency as a norm, especially in the extractive industries (see Chapter 8), firms are become more likely to report simply because such behaviour has become standard in the sector. In line with institutional theories for corporate behaviour, firms become socialised into existing norms and in the long-run this shapes the firms' basic motivations.[142] This also holds for membership in industry-wide initiatives or codes of conduct: "[f]or firms, the value of joining a green club over taking the same actions unilaterally is to appropriate the club's positive brand reputation."[143] Winter and May focus on a specific aspect of social expectations, namely the relationship between the regulator and the regulatee. Regulators can be broadly grouped into two "enforcement styles", one characterised by coercion and "sticking to the rules" and another being more flexible and based on negotiations and aimed a changing the attitudes of regulatees.[144]

[139] Lehmann Nielsen et al., *To What Extent Do Third Parties Influence Business Compliance?, op. cit.*, p. 310f.

[140] Gunningham et al., *Shades of Green, op. cit.*, p. 35.

[141] Hooghiemstra, *Corporate Communication and Impression Management, op. cit.*, p. 55.

[142] Parker et al., *Introduction, op. cit.*, p. 22.

[143] Matthew Potoski and Aseem Prakash, "Green Clubs and Voluntary Governance: ISO14001 and Firms' Regulatory Compliance", *American Journal of Political Science*, 49(2):235–248, 2005, p. 235.

[144] Winter et al., *Motivation for Compliance with Environmental Regulations, op. cit.*, p. 678f.

Like excessive fines (which might lower compliance), coercion and formalism can backfire.

Reporting and disclosure is particularly salient when there is public pressure following violation of environmental or human rights standards. As social reporting is about changing people's perceptions of a company, it tends to be "self-laudatory".[145] John Elkington notes that "most reporting companies still viewed their reports as public relations vehicles, designed to offer reassurance and to help with 'feel-good' image building"[146] While this links to the aforementioned economic, social and normative motives for compliance, Hooghiemstra emphasises the role of corporate identity as a driver of social reporting. Here, corporate identity is the way the strategy of the organisation is seen and implemented by its members, i.e. how the company "presents itself to an audience."[147] Similar to Kotter and Heskett's visible corporate culture (see above), identity is reflected in behaviour (and the audience is informed about that through communication and symbolism), which, in turn feeds into a firm's image and reputation. Image and reputation have economic implications for a company, for instance easier access to capital, easier access to investors, lower credit ratings or more qualified staff.[148] Emphasising compliance alone is not necessarily helpful in improving or maintaining a company's image.[149] If reputational concerns matter, one should expect to see increasing movement "beyond compliance" and the emphasis of voluntary CSR activities in companies' communications.

OPERATIONALISATION OF CORPORATE CHANGE

To understand corporate behaviour in the changed regulatory landscape, i.e. the emergence of civil and networked regulation, the concept of compliance must be extended. The compliance relationship is not only between states and firms but includes NGOs, IGOs,

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[145] Hooghiemstra, *Corporate Communication and Impression Management, op. cit.*, p. 57.
[146] John Elkington, *Cannibals with Forks. The Triple Bottom Line of 21st Century Business*, New Society Publishers, Gabriola Island, 1997, p. 171.
[147] Hooghiemstra, *Corporate Communication and Impression Management, op. cit.*, p. 57.
[148] Charles Fombrun, *Reputation: Realizing Value from the Corporate Image*, Harvard Business Review Press, Cambridge, Mass., 1996.
[149] This happened in relation to Shell's disposal of the *Brent Spar*, where the company — correctly — emphasised that sinking the buoy met existing standards and was in fact the most environmentally friendly way to do so. Yet insisting on compliance only worsened the public's attitude towards the company. Hooghiemstra, *Corporate Communication and Impression Management, op. cit.*, p. 64.

IFIS and other businesses as well.[150] What is more, some of these new forms of regulation are based in the (to varying degrees) voluntary consent to being regulated.[151] In light of the above discussion on drivers of compliance, these new forms of regulation thus emphasise the social and normative motivations for compliance.

In this thesis, then, compliance is understood broadly, and not limited to compliance with formal regulation and the different motivations for it. Rather, it uses the different motivations for compliance and the different licenses to explain the subjection to and embrace of civil regulation by Chinese companies and thus convergence between Chinese companies and traditional investors. As with other companies, the adoption of CSR, sustainable business practices and the move beyond compliance, is not rooted in one single motivation. In venturing abroad, Chinese companies are exposed to different kinds of risk, some regulatory, some — such as protests or asset security — directly linked to the way the companies conduct business. For the companies, these risks are comparatively new, and adjustment of business practices to mitigate these risks is on-going.[152] In doing so, I do not aim to assess how compliance is constructed, but how compliance outcomes can be explained given the theory outlined above. This approach is part "compliance-exogenous" research[153], in that it assesses those variables that might explain if and how Chinese companies respond to the changing regulatory environment in the extractive industries. That is, there are certain types of regulation that work through reputation and certain actions taken by companies to improve their reputation. If social and normative considerations did not matter, companies (be they Chinese or not) would not aim to comply or even go beyond compliance — the very fact that regulation is complied with thus makes the existence of social and normative motivation (next to economic ones) plausible. In the end, however, compliance (in the broad sense) itself is only an intervening variable that reflects corporate change.

Observing compliance is challenging. Much of motivations and interesting variables regarding compliance and performance of firms in the extractive industries are unobservable.[154] This also extends to social performance and the broad interpretation of compliance. DUNNING notes the empirical problems of CSR performance, as non-financial

[150] CHRISTINE PARKER AND VIBEKE NIELSEN, "The Challenge of Empirical Research on Business Compliance in Regulatory Capitalism", *Annual Review of Law and Social Science*, 5:45–70, 2009, p. 48.

[151] ERROL MEIDINGER, "Competitive Supragovernmental Regulation: How Could It Be Democratic?", *Chicago Journal of International Law*, 8:513–534, 2008, p. 524.

[152] *Interview*, Lizzie PARSONS, Global Witness.

[153] PARKER ET AL., *The Challenge of Empirical Research on Business Compliance, op. cit.*, p. 50–52.

[154] VICTOR ET AL., *Introduction and overview, op. cit.*, p. 14.

aspects of a company's performance are difficult to measure and rarely published.[155] Corporate culture and motivations for compliance are not readily observable, much less so in large multinational corporations. Measuring motivations is a challenging task — surveys would need to be administered at different companies and at different levels (recall that different motivations may be at play and that different identities may exist at different levels or units of any one company). Self-reporting on motivations is also likely to be biased as respondents will know what is socially desirable (which could partly be overcome by anonymity). While interpretative research on compliance — which focuses on individual-level decisions that led to business complying (or not) with regulations and the interactions between business people and regulators and those who enforce regulations — allows for more nuanced views of compliance, i.e. the different degrees of or dimensions to compliance, for instance an assessment whether compliance is a mere "cosmetic" act[156], this thesis resorts to a more objectivist approach. Objectivists look at compliance through structural variables, both at the company and the regulators' level. These include the capacities and resources for compliance, as well as the nature of regulation and level of attention a given regulatory area might attract from third parties.[157] In this strand of research, the aforementioned variables of organisational qualities, individuals' convictions or enforcement mechanisms are set in relation to the outcome of compliance vs. non-compliance.[158] I focus on the compliance outcome, i.e. successful regulation of businesses, and voluntary movements beyond compliance, which in the light of the discussion in the prevous sections are taken to be indicative of change in normative and social motivations.

Empirically, this research will focus on structural aspects and what companies reveal — directly or indirectly — about compliance. That is, the extent to which companies are subject to legislation in the first place and, where appropriate or available, the number of infractions of companies. Indicators include information on formal compliance such as transgressions or safety records (where available) but also application of home country regulations home or disclosure requirements in financial markets or countries of operation, e.g. EITI disclosure requirements. Still, such an approach poses difficulties regarding data: even compliance itself is hard to quantify, as data on corporate transgressions (or, as a proxy, fines) are not necessarily published widely and not necessarily a good measure

[155] Dunning et al., *Multinational Enterprises and the Global Economy, op. cit.*, p. 653.
[156] Parker et al., *Introduction, op. cit.*, p. 7.
[157] *ibid.*, p. 3.
[158] Prakash et al., *The Voluntary Environmentalists, op. cit.*

of the seriousness of an offence. I will emphasise evidence on those aspects of compliance that are rooted more in social and normative motivations. These are more voluntary in character and provide a stronger indicator of endogenous change than formal compliance — after all China and Chinese companies prefer state-centric governance and are keen to emphasise their formal compliance[159] — the hallmark of change and convergence is thus the move beyond mere compliance. These indicators include membership in industry associations, initiatives or standards that work towards the improvement of governance in the extractive industries (e.g. participation in EITI, statements of support for transparency, non-mandatory disclosure and safety procedures).

CONCLUSION

This chapter has provided the groundwork for understanding the conditions for the increasing, though still lagging, incorporation of Chinese raw materials companies into foreign markets and the global regulatory framework that has come to govern them.

Regulation conditions corporate conduct, though each firm can be expected to have different motivations for compliance and different forms of regulation are complied with for different reasons. Corporate behaviour in general and compliance in particular are determined by multiple factors and different aspects of corporate behaviour — i.e. strategic ones such as investment decisions and operational ones such as compliance — have different explanations. In the case of China, strategic corporate behaviour is largely, though not exclusively, conditioned by the government and operational conduct by markets, significant others and norms, though the lines are not clear cut. Part of China's behavioural change is simply due to the changed environment in which they operate. While the boundaries are somewhat fluid, this tends to apply to state-implemented regulation (that is largely civil regulation, i.e. ultimately conceived in conjunction with CSOs or business associations). But change is not only structural, companies do take part in voluntary initiatives too, and go beyond compliance. In this context social and to some extent normative motivations are the drivers for change.

A central argument of this thesis is that civil regulation i.e. voluntary forms of regulation that are a response to activist pressure or formal regulation that is designed or

[159] Lai-Ha Chan, Pak Lee and Gerald Chan, "Rethinking global governance: a China model in the making?", *Contemporary Politics*, 14(1):3–19, March 2008. In the past, companies have referred to formal compliance (with lax regulations) when faced with criticism.

implemented with the help of private and civil society actors has helped equalise the regulatory playing field for companies (see Chapter 8). This civil regulation is anchored in home and host countries and financial markets and enforced through them, making it difficult for any firm wanting to operate in these markets to avoid regulation. This thesis takes a broad view of compliance, i.e. companies comply with formal regulations but also with softer forms — i.e. they "comply" with expectations about teir conduct rather than merely sticking to the letter of the law. In civil regulation, the private sector does play a role in designing and enforcing these regulatory regimes as well, and the motivations that drive firms (or individuals) to compliance also incentivise them to move beyond compliance. This is quite relevant with respect to China: presumably, Chinese companies' economic and social motivations for compliance and the adoption of standards or initiatives that go "beyond compliance" are driven by the necessity to operate in markets where a) formal regulation has been strengthened and b) compliance is expected in an industry that is under a great deal of scrutiny from civil society. It should not be unexpected Chinese companies gradually become more similar to their established counterparts – by doing so they do away with competitive disadvantages. By contrast, normative motivations are likely to be at play where Chinese companies go beyond compliance without external prompting. NIELSEN AND PARKER note that some motivations depend more on external factors: companies comply because they "are forced of presuaded to do so, or because they want to avoid some kind of puishment or obtain a reward", whereas internal motivations lead to compliance for its own sake.[160] In this respect, it appears plausible that for Chinese companies, external motivations dominate compliance at this point. At any rate, their adaptation is slow, which is both a result of the still evolving regulatory regimes and the incomplete internalisation of norms, which in turn is a result of the inertia of companies and the institutions at home that define them.

This thesis addresses more than just the change in corporate behaviour. It seeks to show that the impact of China's rise is not as detrimental as it is made out to be, i.e. that there is no substantively significant difference between the behaviour of Chinese and western companies anymore. Differences between emerging market firms and those from OECD countries should not mask the fact that there is considerable intra-group variation and the distinction between Chinese and non-Chinese companies might be considered somewhat artificial. Chinese companies are changing and they do so in a changing environment, which further obscures the factors and mechanisms that make corporate change

[160] LEHMANN NIELSEN ET AL., *Mixed Motives, op. cit.*, p. 433.

happen. Ultimately, however, I argue that the changing regulatory environment accounts for this change and that the receptiveness of China and its companies to this change is part due to domestic factors such as organisation and ownership of companies and part due to the emergence of the same norms that drove regulatory change in the first place. Like their western counterparts, Chinese companies do not only find themselves in a ever tighter regulatory web (which accounts for the external part of the changes in corporate behaviour), but the drivers that promoted regulation in the extractive industries also effected internal change. In essence, there are two processes at play; one reactive to external pressures given by a changing regulatory structure and one internal process, that augmented companies' (and their parent government's[161]) normative and social motivations for compliance. CSOs have successfully acted as norm entrepreneurs and created a more stringent regulatory environment in the extractive industries. This process has been accompanied by greater public scrutiny of the private sector's activities in resource-rich developing countries — and companies' social and normative motivations to compliance have increased in order to maintain their legal, social (and ultimately also economic) licenses to operate. While the first process elicited responses in terms of compliance to newly created regulation (be they formal or civil), the second and still less pervasive process has directly affected China and its companies, by changing norms according to which companies (and their parent government) operate.

[161] Change is not limited to companies only, the Chinese government, too, appears to be motivated by the approval of significant others.

2

THE RESOURCE CURSE

INTRODUCTION

Countries that are dependent on the exports of raw materials such as oil and minerals have exhibited lower than expected rates of economic growth, have a tendency for authoritarian governments and are more likely to experience violent conflict. Since the 1970s, this phenomenon, which by now has been dubbed the "paradox of plenty" and, more generally, the "resource curse", has received increasing scholarly attention.

Much of this literature is centered on the state or the national level institutions and often fails to account for the role of companies and the links they provide to the outside world. This chapter will provide a brief introduction serving to describe the resource rich state and provide a context for the remainder of this thesis. Resource wealth does not spell doom, as many countries that are abundant in resources, such as Norway or Chile show. Neither are many of the ills that plague resource rich countries directly related to corporate activity per se. Instead, dependence from the extraction of natural resources does shape institutions within states and companies in resource rich countries operate within this institutional context. This might allow them to take advantage of weak governance in the areas of their operations but also complicate their operations — both because operating in badly governed country poses additional risks for a company's operations and because operating in such states might attract the attention of activists abroad and thus damage a firm's reputation.

In the following, I will give a brief overview of each of the various arguments brought forward in the existing literature. Many authors have linked the physical properties and geographic or geologic location of different natural resources to different institutional outcomes. In order to understand the impacts of natural resource extraction it is necessary to take into account the context in which natural resource extraction takes place, the socio-economic linkages of natural resource extraction, pre-existing conditions, and the way resource production and export connect a country to the rest of the world.[1] The symptoms of and mechanisms behind the resource curse differ markedly depending on the type of resource extracted. But when looking at the effects of investors in the natural resource industries, it is less the quality of the natural resource, its physical form or location that matters but the way it is accessed, extracted and the way extraction and revenues from resource production are linked to the local and world economy.

THE RESOURCE CURSE

Broadly, approaches to analysing the resource curse can be grouped into economic and political explanations. Next to the large inflows of capital and the associated effects on a country's economy, the value of natural resources and the potential benefits from controlling production of resources impact the institutional structure of a resource-rich country. Most of the explanations for the resource curse, therefore, focus on the domestic political economy of resource-rich countries. The existence of patronage networks, the potential to finance repression, the relative independence from taxation and the resultant lack of accountability as well as the weakness of bureaucratic structures have been found to be the characteristics of so-called "rentier states".[2] As Karl notes: "The revenues a state collects, how it collects them, and the uses to which it puts them define its nature."[3]

Economic explanations

Resource wealth has been directly associated with poor economic performance by making resource exporters vulnerable to shocks. Government revenues in resource rich states are often highly volatile, because world market prices for raw materials fluctuate, as do production figures. Sachs and Warner[4] found that countries dependent on natural re-

[1] Thad Dunning and Leslie Wirpsa, "Oil and the Political Economy of Conflict in Colombia and Beyond: a Linkages Approach", *Geopolitics*, 9(1):81–108, 2004.

[2] Hossein Mahdavy, *The Patterns and Problems of Economic Development in Rentier States: The Case of Iran*, in: M.A Cook, (ed.), *Studies in the Economic History of the Middle East*, pp. 428–467. Oxford University Press, London, 1970, Terry Lynn Karl, *The Paradox of Plenty*, University of California Press, Berkeley, 1997. For a review see: Michael Ross, "The Political Economy of the Resource Curse", *World Politics*, 51(2):297–322, 1999 and Michael Ross, "Does Oil Hinder Democracy?", *World Politics*, 53(3):325–361, April 2001.

[3] Karl, *The Paradox of Plenty, op. cit.*, p. 13.

[4] Jeffrey Sachs and Andrew Warner, "Natural Resource Abundance and Economic Growth", NBER *Working Paper 5398*, December 1995.

source wealth consistently underperform in terms of economic growth.[5] The extraction of resources leads to a change in the structure of the domestic economy, which may become overly dependent upon its resource exports due to a loss in competitiveness of other industries. In expectation of an oil bonanza, many resource-rich countries stabilise their expenditure and investment programmes on a relatively high level — which some observers attribute to short-sightedness.[6] Expenditures can significantly surpass revenues simply because resource rich countries — especially those where production has not yet reached full capacity — are able to borrow large sums of money with future oil income as collateral. Thus, resource wealth can leave countries highly indebted: during boom periods expenditures stabilise at a high level, which can be difficult to reduce once revenues decrease.

Resources other than petroleum, such as gold, copper, or coltan typically — while also valuable — do not gain as much importance for the domestic economy and a government's revenues. Although the total value of hard-rock minerals may not be significant in terms of government revenues or GDP, these resources may have considerable impact in the local economy or for individual actors. In mineral rich countries, government revenues from resource extraction tend to be much lower than in hydrocarbon rich countries. Between 2000 and 2005, the former received on average 12.8% of their government revenues from mining, whereas fiscal revenues from hydrocarbon production provided 55% of government revenues in countries rich in oil and gas.[7] When looking at the value of a resource it is important to assess production in relatives terms, i.e. to set it in the context of the size of the economy of the country where extraction takes place. Petroleum extraction is often associated with large inflows of revenues and a developing country that produces petroleum will likely find its economy dominated by this sector. This, in turn, increases the potential prize from capturing the state or at least the access to resources. More importantly, different types of resources and their modes of extraction give rise to different institutional failures, which will be addressed below.

The failure of resource wealth to generate sustained economic growth has also been attributed to the "enclave" character of the sector, i.e. the absence of linkages with the

[5] For qualifications of this argument see below and Jeffrey Sachs, *How to Handle the Macroeconomics of Oil Wealth*, in: Macartan Humphreys, Jeffrey Sachs and Joseph Stiglitz, (eds.), *Escaping the Resource Curse*, chapter 7, pp. 173–193. Columbia University Press, New York, 2007.

[6] Mahdavy, *The Patterns and Problems of Economic Development, op. cit.*, Ross, *Does Oil Hinder Democracy?, op. cit.*, Ross, *The Political Economy of the Resource Curse, op. cit.*

[7] International Monetary Fund, *Guide on Resource Revenue Transparency, op. cit.*, pp. 54ff.

local economy.[8] The extraction of natural resources creates relatively little employment, inputs are often imported, whereas the raw materials are often processed elsewhere, not least because of importing countries' higher tariffs on processed goods. Also, the profits generated by foreign firms from the extraction of resources are often repatriated rather than reinvested in the local economy. Enclaves are also created because of high entry barriers — once a company gains access to (monopoly) rights over exploitation of a resource the high capital and skills requirements often preclude local participation.[9]

Economists have used the term *Dutch disease* to describe the detrimental effects windfall revenues from the petroleum sector (or, in fact, any one sector) can have on an economy: new oil discoveries lead to a sudden increase in the demand for services and labour in the petroleum sector. With the appreciation of the local currency, brought about by the export of petroleum, the industrial and agricultural sector lose competitiveness as goods are imported more cheaply. Also, the nontradeables sector, such as housing and infrastructure expands.[10]

Poor economic performance is by no means a necessary outcome of resource abundance. NEARY AND VAN WIJNBERGEN point out that policy-makers, should, in principle, be able to offset the impact of Dutch disease symptoms, e.g. by adopting strategies of diversification and investing surplus revenues abroad.[11] Also, empirical evidence seems to show that the symptoms of the Dutch disease occur much more rarely in developing countries than elsewhere.[12] This implies that the reasons for economic failure lie in the weakness of institutions, i.e. the inability or unwillingness of governments to promote economic growth rather than in the origin or size of revenues. For the purposes of this thesis, the economic aspects of the resource curse are only of interest in so far as they are the result of bad policy choices, which, in turn, are rooted in state weakness, short-sightedness of policy-makers and institutional failures brought about by the reliance of state and economy on the extraction of natural resources.

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[8] RICHARD AUTY, *Resource-based Industrialization: Sowing the Oil in Eight Oil-exporting Countries*, Clarendon Press, Oxford, 1990.

[9] GAVIN BRIDGE, "Global production networks and the extractive sector: governing resource-based development", *Journal of Economic Geography*, 8:389–419, 2008, p. 408.

[10] The term *Dutch disease* alludes to the phenomenon's appearance in the Netherlands in the 1960s. The discovery of natural gas was followed by a decline of the Dutch manufacturing sector. It was first described in: MAX CORDEN AND PETER NEARY, "Booming Sector and De-Industrialisation in a Small Open Economy", *Economic Journal*, 92(368):825–848, December 1982.

[11] PETER NEARY AND SWEDER VAN WIJNBERGEN, (eds.), *Natural Resources and the Macroeconomy*, Blackwell, Oxford, 1986.

[12] ALAN GELB AND ASSOCIATES, *Oil Windfalls. Blessing or Curse?*, Oxford University Press, New York, 1988.

The universality of the resource curse has been called into question: In his later contributions Ross challenges the somewhat overgeneralising notion of a resource curse. Rather than speaking of a broad resource curse, the economic and political effects of natural resource wealth are focused on oil-rich states more than mineral rich countries and are even less pronounced in countries rich in other resources such as timber of coffee (which does not mean that they are absent in non-oil producng countries).[13] Further, he challenges the common measurement of resource wealth or resource dependence — resource exports per capita — proposing oil income as the variable of interest as it better captures the actual production of resources.[14] Ross also points out that the authoritarian effects of oil income tend to hit poor and weak countries and while they have experienced economic growth, their economic performance has been disappointing, that is, they have experienced "normal" growth rates rather than high growth that they could potentially attain given their sub-soil assets.[15]

Institutional Explanations

It is not the value of natural resources alone that matters, but rather the associated rents — i.e. the difference between value and cost of production. The presence of valuable resources increase the potential government revenues and the benefits from rent-seeking. The concept of the rentier state was first advanced in relation to the Middle East in response to the failure of the countries of the Middle East to democratise and develop economically. Rentier states have two characteristics: first, their unearned income from oil tends to make them less democratic and second, their governments fail to promote economic development.[16] In his original definition and explanation, Mahdavy does not go much beyond the characteristics of a rentier state's economy, i.e. one that receives a substantial amount of external rent. He does however raise a few points about the social and

[13]Jeffrey Sachs makes a similar argument, noting that while oil economies have at times outperformed their non-oil counterparts, their performance is well below potential. Sachs, *How to Handle the Macroeconomics of Oil Wealth, op. cit.*

[14]That way, the measurement mitigates the problem of overrepresentation of poorly governed countries that stems from the fact that the latter often have smaller economies and do not consume a large proportion of their production. Michael Ross, *The Oil Curse. How Petroleum Wealth Shapes the Development of Nations*, Princeton University Press, Princeton and Oxford, 2012, p. 16f.

[15]*ibid.*, p. 13.

[16]The notion that dependence on "unearned" income was detrimental to development was, however, already present in the writings of Adam Smith and David Ricardo.

political implications of oil dependence.[17] He posits that frictions, due to the unequal distribution of wealth and income may be less likely in rentier states, as the inequality is rooted in the exploitation of oil rather than of the people, which in turn is likely to lead to socio-political stagnation. He also claims that the existence of external rents may lead to short-sightedness of policy makers who assume that ever-increasing wealth limits the need to embark on sound — and costly — development programmes.[18] Finally, he expects that the state's capacity to repress or co-opt opposition is likely to be greater in rentier states.[19]

BEBLAWI refines the concept of the rentier state. He distinguishes between a rentier economy, i.e. an economy that can be sustained from outside without having a productive domestic sector, and the rentier state, which he describes as a subset of the rentier economy. The rentier state is defined as a state where "only few are involved in the generation of this rent (wealth), the majority only being involved in the distribution or utilisation of it."[20] This notion of the role of the state, rather than its formal economic characteristics marks a significant extension of MAHDAVY's original concept. It is reprised in the same volume by Giacomo LUCIANI, who introduces a different typology, distinguishing between *allocation* and *production* states. Allocation states limit themselves to the distribution of revenues, as the state itself is the source of revenue; any strengthening of state structures or the domestic economy is an unnecessary "luxury". In production states on the other hand, the state's existence, strength and growth is determined by the extent to which the domestic economy can support the state. It is thus that "the nature of the predominant production processes conditions certain basic parameters of existing state structures."[21]

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[17] MAHDAVY, *The Patterns and Problems of Economic Development, op. cit.*, p. 428. In its original formulation by MAHDAVY, the rentier state thesis is not limited to oil-exporting countries, even oil poor states can receive considerable income though remittances, pipeline fees, etc. These may have different effects, though LUCIANI excludes those external revenue flows that do not accrue directly to the government from his definition of the rentier state. GIACOMO LUCIANI, *Allocation vs Production States: A Theoretical Framework*, in: HAZEM BEBLAWI AND GIACOMO LUCIANI, (eds.), *Nation, State and Integration in the Arab World. The Rentier State*, volume II, pp. 63–82. Croom Helm, 1987, p. 70.

[18] He attributes this to the fact that, given the assumption of increasing revenues in the future, the relative value of consumption and welfare is higher in the present. MAHDAVY, *The Patterns and Problems of Economic Development, op. cit.*, p. 443.

[19] *ibid.*, pp. 466f.

[20] HAZEM BEBLAWI, *The Rentier State in the Arab World*, in: HAZEM BEBLAWI AND GIACOMO LUCIANI, (eds.), *Nation, State and Integration in the Arab World. The Rentier State*, volume II, pp. 49–62. Croom Helm, 1987; p. 51.

[21] LUCIANI, *Allocation vs Production States, op. cit.*

Although originally only applied to countries in the Middle East, the epithet rentier state has since been applied to almost any exporter of raw materials.[22] This is not without problems. According to LUCIANI, due to their larger population relative to resource wealth, minor exporters do not fulfil the criteria of allocation states. This argument can also be made for different types of resources: impacts on institutions is less likely to be significant if a country lives mainly off its mineral resources rather than oil, simply because gold or diamonds are less valuable than oil or gas and their extraction fails to account for a share of national income comparable to that of petroleum production. In countries that rely on the extraction of minerals, the economic and institutional impacts of resource wealth should be expected to be different from those in the "classical" rentier states.

In his study on the antidemocratic effects of oil wealth Michael ROSS extends the concept beyond the Middle East. He finds that oil wealth does impede democracy and advances the possible explanations for the lack of democratisation in oil dependent states that were already present in MAHDAVY's writing: a "rentier effect" whereby states that do not rely on the taxation of their citizens are less accountable, the "repression effect" according to which oil wealth provides governments with the funding to enhance security and the "modernisation effect" where oil-induced growth fails to result in social and cultural change needed for democracy.[23]

A second effect BEBLAWI and LUCIANI describe is the ability of governments to buy off any opponents and prevent the establishment of independent social groups — an argument that had also been made by Theda SKOCPOL in her study of the Iranian revolution.[24] VANDEWALLE extends the earlier arguments on the rentier state. He, too, contends that rulers of distributive states where the collective interests of societal groups are weakly developed are reinforced by the rulers' capability to prevent the emergence of an opposition by distributing revenues. His contribution lies in his explanation and interpretation against the Libyan background: rulers are not likely to diversify their economies (even

[22]DIRK VANDEWALLE, *Libya Since Independence: Oil and State Building*, Cornell University Press, Ithaca, 1998, GWENN OKRUHLIK, "Rentier Wealth, Unruly Law, and the Rise of Opposition", *Comparative Politics*, 31(3):295–316, April 1999, DOUGLAS YATES, *The Rentier State in Africa. Oil Rent Dependency and Neocolonialism in the Republic of Gabon*, Africa World Press, Trenton and Asmara, 1996.

[23]ROSS, *Does Oil Hinder Democracy?, op. cit.*, p. 328. Ross later nuanced his argument using different measure of oil wealth and accounts for existing institutions and how oil might then hinder transitions towards democracy. He also notes that the repression and modernisation effects cannot be supported statistically and explains the positive correlation of oil wealth and democratisation in Latin America by the fact that the oil producers there had previously experienced democracy. MICHAEL ROSS, "Oil and Democracy Revisited", UCLA *Working Paper*, March 2009.

[24]THEDA SKOCPOL, "Rentier State and Shi'a Islam in the Iranian Revolution", *Theory and Society*, 11:265–283, 1982.

in the case of the boycotted Libya) because reliance on taxation would create or reinvigorate groups that had previously been bought off.[25] The failure to stimulate growth, is therefore not simply the result of neglect or myopia, rather it becomes the optimal strategy for political survival. His and LUCIANI's analyses are limited in the sense that due to the unequal distribution of wealth people can simply "manoever for personal advantage within the existing setup" rather than collaborating with others in an attempt to change the system. In this regard LUCIANI's model of the allocation state cannot easily be applied to, say, Nigeria, where large parts of the population are excluded from oil wealth and have, in fact, formed alliances to topple the existing system.[26]

JENSEN AND WANTCHEKON as well as LEITE AND WEIDMANN show that resource abundance has no direct effect on economic performance but provides a breeding ground for corruption thus lowering institutional quality which in turn is an important determinant for growth.[27] Conversely, MEHLUM, MOENE AND TORVIK hypothesise that institutions are the decisive factor in determining variations of growth rates between resource rich countries and come to the conclusion that only countries with weak institutions fall victims to the resource curse.[28] Rentier theory does however allow for the fact that redistribution or re-allocation of government revenues need not necessarily benefit all parts of society. Rent-seeking models assume that the large volumes of government revenues are easily appropriated by paying bribes and distorting public policy.[29] The opportunity to appropriate these rents diverts the allocation of private capital towards unproductive sectors.[30] This scenario does not apply to all countries, therefore making a rent-seeking as sole explanation for the resource curse too simplistic.[31] WATTS also criticises resource-curse theorising and emphasises that resource wealth does not happen in a vacuum and that re-

[25] VANDEWALLE, *Libya Since Independence, op. cit.*, pp. 12f.

[26] GIACOMO LUCIANI, *Allocation vs. Production States: A Theoretical Framework*, in: GIACOMO LUCIANI, (ed.), *The Arab State*, pp. 65–84. Routledge, London, 1990, p. 76. Note that Luciani does not apply his analysis beyond the Middle East, where economic and demographic factors are such that a large part of society, namely those who hold citizens rights *are* able to profit from oil wealth at least to some extent.

[27] CARLOS LEITE AND JENS WEIDMANN, "Does Mother Nature Corrupt? Natural Resources, Corruption and Economic Growth", IMF *Working Paper* WP/*99/85*, July 1999, NATHAN JENSEN AND LEONARD WANTCHEKON, "Resource Wealth and Political Regimes in Africa", *Comparative Political Studies*, 37(7):816–841, 2004.

[28] HALVOR MEHLUM, MOENE KARL AND RAGNAR TORVIK, "Institutions and the Resource Curse", *The Economic Journal*, 116:1–20, January 2006.

[29] RAGNAR TORVIK, "Natural Resources, Rent Seeking and Welfare", *Journal of Development Economics*, 67:455–470, 2002.

[30] PHILIP LANE AND AARON TORNELL, "Power, Growth, and the Voracity Effect", *Journal of Economic Growth*, 1(2):213–241, June 1996.

[31] ERWIN BULTE, RICHARD DAMANIA AND ROBERT DEACON, "Resource Intensity, Institutions, and Development", *World Development*, 33(7):1029–1044, 2005; p. 1031.

source wealth often meets weak "pre-oil" institutions. Such an environment allows rents to be captures by state–firm alliances.[32]

Isham et al. note that in resource abundant states, pressures for modernisation are low. Rulers prefer to extract rents from a single economic base because they fear the emergence of other power centres. The extraction of oil and minerals is done by a small — usually foreign — workforce "as a result, neither economic imperatives nor workers themselves generate pressures for increased literacy, labour organisations and political influence."[33]

Michael Shafer and Terry Karl argue that the types of sectors or revenues upon which a state depends determine its institutions and consequently its development.[34] States develop different institutions according to what resources are produced and control over resources and the associated revenues depends on the type of resource a country produces. Terry Karl provides the first attempt at a synthesis of the above-mentioned arguments and explicitly introduces the role of institutions in the equation. The economic environment, i.e. the presence of large natural resource rents, shapes institutions; these institutions, in turn, determine the development outcomes. In this view, the "resource curse" has its roots not in economic symptoms but in weak institutions, the "economic effects like the Dutch disease become *outcomes* of particular institutional arrangements and not simply causes of economic decline."[35]

Institutional Weakness and Accountability

Governments of rentier states can finance their expenditure without resorting to the taxation of their citizens and therefore acquire independence from their people.[36] Also, the fact that rentier states do not need to develop bureaucratic state structures other than for the purposes of managing petroleum revenues tends to weaken overall institutional capacity of these states. Both Beblawi and Luciani place considerable emphasis on taxation

[32] Michael Watts, "Resource curse? Governmentality, oil and power in the Niger Delta, Nigeria", *Geopolitics*, 9(1):50–80, 2004.

[33] Jonathan Isham, Michael Woolcock, Lant Pritchett and Gwen Busby, "The Varieties of Resource Experience: Natural Resource Export Structures and the Political Economy of Economic Growth", *The World Bank Economic Review*, 19(2):141–174, 2005; p. 148.

[34] Michael Shafer, *Winners and Losers. How Sectors Shape the Developmental Prospects of States*, Cornell University Press, Ithaca, 1994, Karl, *The Paradox of Plenty, op. cit.*

[35] *ibid.*, p. 6.

[36] Hazem Beblawi, *The Rentier State in the Arab World*, in: Giacomo Luciani, (ed.), *The Arab State*, pp. 85–98. Routledge, London, 1990, p. 89.

as link between a state and society, and the implications of the absence of taxation for the relation between a state and its citizens.

Although the link between taxation and state formation has been described much earlier — though mostly in relation to Western Europe, LUCIANI's argument is the first that introduces the concept explicitly into the debate on rentier states.[37] LUCIANI notes that people coalesce around their economic interest. Yet in the fiscal sociology literature the fact that selling off resources — which ultimately belong to the citizens and hence affects citizens' economic interest — is also a form of taxation is often ignored. According to him, ruling families in Libya and Iraq were seen as "forfeiting revenue", and hence overthrown.[38] There are two problems with the argument that oil hinders democracy: The first issue is that the existence of a link between taxation and democracy does not automatically imply that non-taxation should be associated with a lack of (demand for) democracy. Second, the extraction of natural resources may well be conceived as a form of taxation and thus set in motion a bargaining and accountability relationship between government and citizens that eventually may result in a more democratic state. Thus it is conceivable that in countries that have failed to provide for their citizens — unlike those of the oil rich Arab states — the lack of direct taxation should not be expected to translate into citizens' indifference. Whereas the rentier state in its original description is still a rather functional state — i.e. the government redistributes the income more or less effectively and efficiently and does deliver services as BEBLAWI describes with respect to Kuwait, United Arab Emirates and Qatar. The redistribution mechanism works very differently in other — especially African — countries where petroleum or mineral rents fail to trickle down to the population. The claim that oil hinders democracy because it leads to a situation where citizens do not need to engage with their governments, should not be expected to hold everywhere. Quite the contrary, it should be expected that citizens in countries are disgruntled and demand more democracy, precisely because they are taxed — in the sense that the government takes away their wealth — yet do not get anything in return. It is precisely the forfeiture of revenues that has elevated the problems of resource revenues and development on the agenda of international donors and activists (see Chapter 8). OKRUHLIK contests the broad generalisations of rentier theory, noting that "the

[37]A more thorough treatment of the 'fiscal sociology paradigm' is provided by: CHARLES TILLY, *Coercion, capital, and European state,* AD *990–1990*, Blackwell, London, second edition, 1992, MICK MOORE, "Revenues, State Formation, and the Quality of Governance in Developing Countries", *International Political Science Review*, 25(3):297–319, 2004 and MICK MOORE, *How Does Taxation Affect the Quality of Governance?*, Institute of Development Studies Working Paper No. 280, Brighton, April 2007.

[38]LUCIANI, *Allocation vs, op. cit.*, p. 77.

idea of the rentier state has come to imply so much that it has lost its content" and argues against the view that rentier states are devoid of politics and the idea that rentier states are autonomous from their citizens. Rather, the state's expenditure decisions (or the decision to withdraw money) do in fact elicit responses from the citizens, even foster opposition.[39]

Vanderwalle also sets the presence of large resource rents in the context of state-building and institutional development: whereas states that rely on the taxation of their citizens are required to create bureaucracies and build institutions to do so, this is not the case in rentier states. The way in which states collect revenues matters greatly in determining the shape of its nascent institutions. By implication, then, a state is only likely to become a rentier state if external capital inflows coincide with state building — i.e. timing matters. This would explain the observation that countries that became reliant on resource exports at a later stage in their development, e.g. Norway, have not fallen victim to the resource curse.

Ross challenges the very notion that oil rich countries consistently suffer from a lack of accountability and weak state institutions. He finds that democratic countries might not necessarily be better at managing oil revenues, even though in theory they should be more responsive to their citizens' welfare. He finds that significant oil and gas producers that were democratic did not perform consistently better than autocracies.[40] Institutional explanations of the resource curse have also been criticised: Rather than deteriorating state capacity to manage oil wealth Ross notes that institutional quality has improved in these countries.[41] By focusing on institutional quality, researchers have been comparing apples and oranges, he argues: Many oil producers (especially new ones) do not have very mature institutions to begin with, and that their institutional quality should not be compared to high-income developed countries.[42]

The so-called resource curse is by no means deterministic and since the earlier contributions on the links between natural resources and various development failures, scholars have developed more fine-grained analyses in an attempt to explain why not all resource-

[39] Okruhlik, *Rentier Wealth, Unruly Law, and the Rise of Opposition, op. cit.*, p. 295.

[40] Crucially, however, he limits his analysis to oil producers *outside* North America and Europe and does not account for the quality of democracy. Ross, *The Oil Curse, op. cit.*, pp. 198ff.

[41] Though given data availability, he limits the analysis to the period between 1996 and 2006 (as opposed to the period between 1974 and 1989 which he had identified as the time when oil wealth was detrimental to democracy and economic growth — i.e. when, according to Ross the resource curse applies) and uses control of corruption and government effectiveness as measures of institutional quality (which are difficult to measure). *ibid.*, p. 208ff.

[42] *ibid.*, p. 212f.

rich or resource dependent countries suffer from the same problems. Some of the variations have been explained with other factors such as institutional capacity, others are often explained by the type of natural resource involved. A number of authors have developed typologies that associate different types of resources and the way they generate revenues with different outcomes in terms of institutional quality.

NATURAL RESOURCES AND SOCIO-ECONOMIC LINKAGES

Natural resource dependence does not only affect a country's growth prospects directly as outlined above, but also affects intervening variables, such as a country's institutional quality, which in turn determines the context in which natural resource wealth either helps or hinders development.[43] It appears that natural resources play a role in economic development mostly though their impact on institutions. Countries with high levels of corruption or weak rule of law and authoritarianism tend to grow slower. Sala-i-Martin and Subramanian note that oil has a significant negative effect on institutional quality, but once they control for institutions, oil appears to have a positive effect on growth, suggesting that petroleum production only has an indirect economic effect.[44] Isham et al. distinguish between the composition of natural resource exports and find that point natural resources, i.e. those that are geographically concentrated are linked to weak state institutions which in turn hamper economic development.[45] According to them, not only the economic structure of production matters, but also the ways natural resources are produced.

A number of authors study not only the link between resources and institutions in general, but also account for different types of resources. One and the same resource can have opposite effects on development and institutions, depending on how it is extracted.[46]

[43] William Easterly and Ross Levine, "Tropics, Germs, and Crops: How Endowments Influence Economic Development", *Journal of Monetary Economics*, 50:3–39, 2003.

[44] Xavier Sala-i-Martin and Arvind Subramanian, "Addressing the Natural Resource Curse: An Illustration from Nigeria", Working Paper 9804, National Bureau of Economic Research, June 2003.

[45] Isham et al., *The Varieties of Resource Experience, op. cit.*

[46] However, this thesis is not concerned with resources that are not extracted by large companies. Moreover, the robustness of the relationships between resource types and institutional quality is somewhat questionable: one measure commonly employed is the dependence on primary commodity exports, which include not only oil and minerals but also agricultural products. Also, data on some resources — often those that are produced on a small-scale and regularly smuggled — are scarce, posing problems for large-N quantitative studies on natural resources and economic development. Lay and Mahmoud note that previous studies had shown that point — rather than diffuse — resources are associated with low levels of growth. They find that fuel products, non-processed minerals and metals as well as non-ferrous metals are associated with low

While in some cases it might be useful to group natural resources according to these categories outlined above, the extraction of each mineral gives rise to different institutions and industries, which again will impact development. Likewise the institutional framework is of crucial importance in determining outcomes in terms of development, governance and civil war.[47] Even more so, as SNYDER emphasises, one and the same resource can have different effects in different countries — being associated with stability in one and conflict in another.[48] ISHAM ET AL. recall that while diamonds, timber, and gold in the Kivu region supported Zaire's elite, resources such as coltan are supporting rebels in the DRC.[49] Natural resources have had a role in starting, prolonging or financing violent conflict. A number of mechanisms by which this might occur have been described. Broadly, there are two schools of explanations for this "symptom" of the resource curse: one focussing on rationalist political economy approaches which are rooted in the assumption that natural resource wealth increases the potential benefits and of and hence competition for the control of the state. On the other and there are approaches that focus on grievances that result from the extraction of natural resources. Research into the link between natural resources and civil war, has developed rapidly over the past ten years.[50] The contribution lies mainly in providing evidence for a positive correlation between natural resources and violent conflict, as well as the qualitative assessment of possible mechanisms at work. As with the relationship between economic and political explanations of the resource curse, the causes for the onset of civil conflict may be found in resource abundance directly as well as — indirectly — in economic underdevelopment or state weakness. Poverty, economic inequality and rent-seeking all contribute state-weakness, and are therefore likely

levels of growth. Fruit and vegetables as well as coffee exports appear to have a negative effect on growth, whereas processed minerals, animal products fish and sugar do not. They therefore maintain that the distinction between *point* and *diffuse* resources is not a sufficiently strong predictor the different effects of different natural resources. ISHAM ET AL. have different categorisations — they believe coffee and cocoa to be more susceptible to rent extraction (e.g. by state marketing boards) and since production methods vary they cannot be classified as either point or diffuse resources. They find that *point source* exports as well as coffee and cocoa both lead to weak of state institutions. JANN LAY AND TOMAN OMAR MAHMOUND, *The Resource Curse at Work: A Cross-Country Perspective with Focus on Africa*, in: MATTHIAS BASEDAU AND ANDREAS MEHLER, (eds.), *Resource Politics in Sub-Saharan Africa*, volume 14 by *Hamburg African Studies*. Institut für Afrika-Kunde, Hamburg, 2005, p. 56; ISHAM ET AL., *The Varieties of Resource Experience, op. cit.*, p. 151

[47]RICHARD SNYDER, "Does Lootable Wealth Breed Disorder? A Political Economy of Extraction Framework", *Comparative Political Studies*, 39(1):943–968, 2006, p. 964.

[48]*ibid.*, p. 944.

[49]ISHAM ET AL., *The Varieties of Resource Experience, op. cit.*, p. 142.

[50]Ross identifies the studies of KEEN as well as COLLIER AND HOEFFLER as the starting point for research on the topic: MICHAEL ROSS, "What Do We Know About Natural Resources and Civil War?", *Journal of Peace Research*, 41(3):337–356, 2004; DAVID KEEN, "The Economic Functions of Violence in Civil Wars", *Adelphi Paper No. 320*, 1998 PAUL COLLIER AND ANKE HOEFFLER, "On Economic Causes of Civil War", *Oxford Economic Papers*, 50(4):563–573, 1998.

to facilitate to civil war. But natural resources have also been linked to civil war more directly: rent-seeking arguments such as those by Collier and Hoeffler look at natural resources as providing an incentive to wage war or to finance the start up-costs of doing so.[51] Their findings — and the concentration on the utility of those involved rather than ethnic cleavages or grievances in general — were met with immediate criticism as being reductionist and deterministic.[52] After all, there are many resource-rich countries that have *not* experienced civil war. Many more possible mechanisms regarding the extent to which natural resources may influence violent conflict have been empirically tested: for instance, the relationship between different kinds of resources and the duration or intensity of civil wars, or questions regarding the link between location of resources and the incidence of separatist conflict.[53] However, a consensus regarding the dominant mechanisms at work and the question if natural resource abundance alone can be made responsible for civil war has yet to emerge.

Isham, Woolcock, Pritchett and Busby as well as Sala-i-Martin and Subramanian link corruption and institutional quality not only to the abundance of natural resources, they also start differentiating between the *types* of resources as explanatory variables: they distinguish between *point source* natural resources — i.e. those that are concentrated in one place thus easily put under government control — and diffuse resources such as agricultural products.[54] Woolcock, Pritchett and Isham distinguish between *point* and *diffuse* resources, arguing that the concentration of ownership of natural resource production determines the formation of social capital. Petroleum, gas, most ores which are extracted by deep-shaft mining as well as plantation crops such as sugar give rise to concentrated ownership of natural resources. This, in turn, makes the state reliant on relatively few rentier capitalists (or companies), which become essential for the generation of the state's income and hence powerful. Moreover, the extraction of these

[51] Paul Collier, "Economic Causes of Civil Conflict and Their Implications for Policy", 2000, Paul Collier and Anke Hoeffler, "Greed and Grievance in Civil War", *Oxford Economic Papers*, 56(4):563–595, 2004.

[52] Karen Ballentine and Jake Sherman, *Introduction*, in: Karen Ballentine and Jake Sherman, (eds.), *Beyond Greed and Grievance. The Political Economy of Armed Conflict*, pp. 1–15. Lynne Rienner, Boulder, 2003.

[53] Philippe le Billon, "Fuelling War: Natural Resources and Armed Conflict", *Adelphi Paper No 373*, 2005, Michael Ross, "How Do Natural Resources Influence Civil War? Evidence from Thirteen Cases", *International Organization*, 58:35–67, Winter 2004.

[54] Isham et al., *The Varieties of Resource Experience, op. cit.*, Sala-i-Martin et al., *Addressing the Natural Resource Curse, op. cit.*

resources is capital rather than labour intensive, leading to divisions in society along the lines of those who can benefit from resources, which can also create conflicts.[55]

Point source resources, especially petroleum, are often described as enclave sectors. Richard AUTY notes that point resources lead to greater economic distortion, because their capital intensity results in relatively low employment levels for a local workforce. Therefore large-scale mining and petroleum industries do contribute little to local demand. In addition, the technology required to extract and process point resources is often unavailable in resource-rich developing countries, which means that inputs need to be imported while finishing or refining is undertaken abroad. This distortionary effect is greater the higher the rent from a natural resource.[56] Diffuse resources however, allow for more social capital creation.[57]

On the other hand, diffuse resources, e.g alluvial diamonds and other minerals that are extracted on a small scale or smallholder crops, have different effects. Here, given the relative labour intensity, the barriers of entry are low and wealth can neither be easily captured by the state nor can the interests of those extracting the resource capture the state. By allowing larger parts of the population to benefit from them, diffuse resources tend to produce a more equal distribution of wealth.[58]

While WOOLCOCK ET AL.'s notion of point and diffuse resource relates to the degree of concentration in any one group's hands, LE BILLON and others emphasise the geographical dispersion of resources, where diffuse resources are those that are produced across larger tracts of land, such as timber or cash crops. BOSCHINI ET AL. predict development outcomes by interacting institutional quality with type of resource, similar to MEHLUM ET AL. who find that natural resource abundance has different effects depending on institutional quality.[59] They find that paired with weak institutions, minerals and diamonds

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[55] MICHAEL WOOLCOCK, LANT PRITCHETT AND JONATHAN ISHAM, *The Social Foundations of Poor Economic Growth in Resource-Rich Countries*, in: RICHARD AUTY, (ed.), *Resource Abundance and Economic Development*, UNU–WIDER Studies in Development Economics, chapter 5, pp. 76–92. UNU–WIDER/Oxford University Press, Oxford, 2001, p. 82. SOKOLOFF AND ENGERMANN note with respect to colonisation in Latin America where natural resources were mined (silver) or produced in plantations (sugar) using slave labour institutions developed to protect landowners from peasants. KENNETH SOKOLOFF AND STANLEY ENGERMANN, "Institutions, Factor Endowments, and Paths of Development in the New World", *Journal of Economic Perspectives*, 14(3):217–232, Summer 2000, p. 221.

[56] RICHARD AUTY, "Natural Resources and Civil Strife: a two-stage Process", *Geopolitics*, 9(1):29–49, 2004, p. 38.

[57] WOOLCOCK ET AL., *The Social Foundations of Poor Economic Growth, op. cit.*

[58] *ibid.*; p. 82.

[59] ANNE BOSCHINI, JAN PETTERSSON AND JESPER ROINE, "Resource Curse or Not: A Question of Appropriability", *Scandinavian Journal of Economics*, 109(3):593–617, 2007, WOOLCOCK ET AL., *The Social Foun-*

have the worst effect on economic development, i.e. that a lack of proper institutions is a greater problem for countries rich in resources that are easier to appropriate. With institutional appropriability, i.e. institutional capacity, resource abundance has a positive impact on economic development.[60]

Much of the literature assesses resource type in its relation to conflict, especially on ease with which potential challengers to the government could appropriate resources to fund their endeavour.[61] For this thesis this is not particularly relevant, as the focus is on large multinational companies in oil and mining. However, these typologies do map quite well to non-conflict contexts. One common feature of these typologies is that they relate resources to the degree to which governments can control them and who can extract resources and benefit from that extraction. Resources that are easy to extract have low barriers to entry and could potentially attract different types of investors (or sizes of companies) with different necessity, willingness or capacity to comply with regulation.

The concept of point and diffuse resources and lootability are linked in what Boschini et al. term *appropriability*: They argue that the negative relationship between natural resource wealth and economic development is determined by an interaction between resource abundance and institutional quality and that the type of resource is a major factor in that it determines the degree to which rent-seeking, conflict and corruption can occur.[62] Appropriability is not only linked to the physical characteristics of a resource but also the degree to which a country's institutions allow for rent-seeking to happen, which they term institutional appropriability, i.e. how well the state institutions can control production, trade and revenues from a given resource.

Rather than focusing on physical or economic characteristics of natural resources, or geographical dispersion it is of greater value to study the types of businesses that are associated with the extraction of different resource and how they relate to communities and

dations of Poor Economic Growth, op. cit., Isham et al., *The Varieties of Resource Experience, op. cit.*, Mehlum et al., *Institutions and the Resource Curse, op. cit.*

[60] Boschini et al., *Resource Curse or Not, op. cit.*, p. 599.

[61] One powerful distinction between natural resource comes out of the literature on natural resources and conflict which often distinguishes between *lootable* and *non-lootable* resources. The former can be easily appropriated by rebel groups even without access to sophisticated technology. Philippe le Billon, "The Political Ecology of War: Natural Resources and Armed Conflict", *Political Geography*, 20:561–584, 2001, p. 566. Next to the relative ease of extraction, lootable resources are characterised by a high value to weight ratio. For example, petroleum extraction requires a considerable amount of expertise and capital investment which makes petroleum operations the domain of large companies. In contrast to non-lootable resources such as petroleum, alluvial diamonds (i.e. those diamonds found in former river beds) can be extracted and transported without significant capital investment and technology.

[62] Boschini et al., *Resource Curse or Not, op. cit.*, p. 594.

governments. Natural resources do not have agency, and it is not the resource itself that has a bearing on a country's development or whether it is more or less likely to suffer from violent conflict or corruption. Rather, the consequences of natural resource abundance are determined by "extractive networks" in which these resources are produced. These systems not only include the physical and geographic characteristics of a resource but also relate to the scale of production and the actors (governmental, non-governmental or private; domestic or international) that extract and benefit from these resources. Looking at the modes and scale of production may often be a more useful exercise as the very same resource might be extracted or traded in different ways.

Different types of natural resources give rise to different modes of production and industries whose behaviour also shape development. Different resources have, according to their physical and geographical properties, different effects on institutions while social and environmental consequences around sites of extraction might more associated with the mode or scale of production. With the focus on large oil and mining companies, revenues from natural resource extraction should be easy to appropriate, and the relatively few actors involved should be easy to regulate and control. However, in this scenario, states and their ruling elites are then dependent on relatively few actors which in turn might align their interests with those who extract rather than their citizens.

Other than the issues associated with failures of government and macro-economic problems associated with the availability of rents, by virtue of the properties outlined above, governments face different challenges in appropriating rents from different natural resources. In practice — at least from a government's perspective — the degree of appropriability is reflected in the taxation of natural resources. Ideally, governments aim to tax away all economic rents from the extraction of natural resources, but in practice tax systems in the petroleum and mining sectors cannot accomplish this task.[63] Even worse, some fiscal systems are designed such that they entitle governments to only a small fraction of rents. Especially in the mining and forestry sectors, government revenues from natural resources do not reflect the value of resources extracted (see Chapter 3).

The extraction of some types of resource deposits requires large scale investments, skill and technology, while others are more easily produced. The latter, such as alluvial diamonds or timber, lead to lower barriers of entry, whereas other resources — most prominently natural gas and petroleum — give rise to relatively concentrated industries. Dif-

[63] Silvana Tordo, *Fiscal Systems for Hydrocarbons: Design Issues*, The World Bank, Washington, D.C., 2007.

ferent resources benefit or harm different actors and thus shape the political economy of resource-rich countries and regions. In investigating the mechanisms linking resource extraction and the various dimensions of development it is, however, insufficient to merely follow the money and reduce the analysis to greed-biased rational actor models. The presence of natural resources and extractive industries does not only have an impact on actors who defend or challenge state power. Different resources also provide different opportunities and grievances for local populations and different structures of resource industries or scarcity of resources internationally determine the opportunities and willingness to regulate the extractive sector.

Environmental impact is also dependent on the type of natural resources: Different resources and their production also challenge the environment and the communities living around production sites. Whereas communities might be less affected from day-to-day offshore oil production, open-pit mining has significant consequences for livelihoods of communities in resource-rich territories. HILSON notes deforestation, mercury pollution, erosion, acid mine drainage and land degradation as main environmental concerns of artisanal and small-scale mining.[64] They do however have a significant impact on the local level — be it though environmental degradation, human rights, or the monopolisation of violence at local levels. In the mining sector, effects are usually localised and hence affect communities rather than governance at the national level.[65]

Richard SNYDER focuses on the actors that extract natural resources and provides a more detailed assessment of the socio-economic linkages. The outcomes of natural resource wealth depend on who controls extraction. SNYDER distinguishes between no extraction, e.g. where rulers who themselves are unable to extract resources prevent others from doing so lest they might gain wealth and power, unregulated private extraction, public extraction where ownership and production rests with the state or state-owned

[64] Artisanal and small-scale mining is often inadequately regulated or outright illegal, causing numerous problems for the environment or human rights, labour standards or a state's capacity to tax the sector. Problems associated with ASM are pollution, deforestation and land degradation, and a lack of safety provisions at the mining, many of which are to to the fact that state lack the capacity to regulate these informal activities. While informal extraction of minerals provides little benefit for the state in terms of revenues, the sector often makes considerable contributions to a country's labour market. Gavin HILSON notes that small-scale mining has contributed to well-being and poverty reduction. Artisanal and small-scale mining does not require large capital investments or skills and serves as an employment alternative to subsistence farming. KNUD SINDING, "The Dynamics of Artisanal and Small-Scale Mining Reform", *Natural Resources Forum*, 29:243–252, 2005p. 244, RUBEN DE KONING, "Artisanal Mining and Post-Conflict Reconstruction in the Democratic Republic of the Congo", SIPRI *Background Paper*, October 2009, GAVIN HILSON, "Small-Scale Mining and its Socio-Economic Impact in Developing Countries", *Natural Resources Forum*, 26:3–13, 2002.

[65] DAVID HUMPHREYS, "A Business Perspective on Community Relations in Mining", *Resources Policy*, 26:127–131, 2000, p. 128.

companies and joint extraction where public and private cooperate in resources production. In the latter scenario, incomes are shared either by means of formal taxation or some form of revenue sharing and patronage.[66] Public extraction maximises the government's revenues and deprives potential adversaries of a foundation upon which they could build a power base. With respect to lootable resources this is hard to achieve since the low barriers of entry into the industry as well as the ease of smuggling make lootable resources hard to control, even more so if resources are distant and/or diffuse. While Snyder focuses on the outcomes in terms of power balance in resource-rich countries, Jones Luong and Weinthal emphasise fiscal regimes (in a broad sense, including taxation but also expenditure management) and argue that the ownership of natural resource wealth, rather than resource wealth itself, conditions institutions. In other words, they argue that there is no resource curse but an ownership curse, i.e. resource wealth itself is not harmful, whereas the choices how ownership is structured (and hence how relation between owners and controllers of natural resources on one hand and beneficiaries on the other is mediated) determine whether natural resources contribute to economic development.[67] Different ownership structures (state-ownership with and without the state's control over the resource and private domestic or private foreign ownership) exclude different groups from the proceeds of resource production, who then seek to derive benefits from them otherwise.[68] Who controls the wealth and can claim benefits from it depends on the ownership structure — governing elites in the case of state-ownership, paired with state-owned companies or foreign investors that control the resource. They also note that foreign involvement in the natural resource sector — either jointly with the state as co-owner or on their own — create different expectations and hence different fiscal regimes. Limiting the analysis to the relationship between government and extractors is not enough as the development outcomes will be determined by a confluence of a variety of factors. The reliance on different sectors requires different institutions — rents cannot as easily be appropriated by the state from an informal, small-scale mining firm as from a large multinational company. Different resources thus shape the state's institution in different ways.[69]

Resource-curse theorising has focused on the national level. This has led the academic debate shift towards weakness of local institutions — the policy debate, in con-

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[66]Snyder, *Does Lootable Wealth Breed Disorder?, op. cit.*, p. 948.

[67]Pauline Jones Luong and Erika Weinthal, *Oil Is Not a Curse. Ownership Structure and Institutions in Soviet Successor States*, Cambridge University Press, Cambridge, 2010, p. 13–15.

[68]*ibid.*, p. 10.

[69]Shafer, *Winners and Losers, op. cit.*, p. 36.

sequence, is focused on national governance.[70] But resource wealth can only have the above-mentioned effects if it is monetised. Therefore, much of the literature misses investors as important actors that link resource-rich developing countries to international markets.[71] Many of the dynamics described in the literature but specific on centralised revenues, they say little about the actors doing the extraction.[72]

Bridge points out that the resource curse debate is anchored in the national perspective and notes that given that "oil is embedded within state structure to a much greater degree"[73], makes a state-only centered view obsolete. Whereas oil is either seen as a problem within individual states or between countries (competing importers, or importers vs exporters), companies or the production chain should be assessed to account for the multitude of different actors.[74] Watts notes "what is striking in all of this resource-politics scholarship is the almost total invisibility of both transnational oil companies (which typically work in joint ventures with the state) and the forms of capitalism that oil or enclave extraction engenders."[75]

Lay and Mahmoud add more dimensions: First, they also look at the extent to which different resources provide linkages to the local and international economies and especially the degree to which value is added, e.g. if raw materials are refined in the resource-rich country. Here it is notable that oil is usually cited as an enclave sector, whereas mining provides at least some basis for local economic activity. Also of interest are international linkages as most, though not all, natural resources are exported and thus provide a revenue base for whoever controls resource extraction.

CONCLUSIONS

This chapter has presented different approaches to assess the effects of natural resource extraction on economic development. Different resources affect institutions in different ways and overall, the effects of natural resources appear to be ambiguous and dependent on context. Although the approaches presented in this chapter have yielded some useful conceptualisations of the mechanisms linking natural resource wealth and institutional

[70] Bridge, *Global production networks and the extractive sector, op. cit.*, p. 393.
[71] *ibid.*, p. 391.
[72] Watts, *Resource curse? Governmentality, oil and power, op. cit.*, p. 75.
[73] Bridge, *Global production networks and the extractive sector, op. cit.*, p. 413.
[74] *ibid.*, p. 413.
[75] Watts, *Resource curse? Governmentality, oil and power, op. cit.*, p. 53.

and economic development, the analysis does not do justice to the complexity of the systems in which natural resources are extracted.

This Chapter argued that natural resources weaken institutions, either because they become strongly focused on the resource sector, are geared towards patronage or because flush with oil revenues states' elites have little incentives to be responsive to the citizens. It is this weakened institutional context in which the private sector operates. Resource extraction often, though not always, occurs in the context of weak governance and companies (as well as their home governments' involvement) can exploit institutional weakness and might well perpetuate low levels of development in resource-rich countries. This should also serve as a reminder that neither natural resource production nor companies alone are responsible for economic and governance failures in resource rich countries.

Resource-curse theorising has mainly focused on the resource-rich state, and is mostly concerned with the corrosive effect of natural resource revenues on institutions. While this — apart from the provision of revenues — is largely independent from corporate behaviour, rentier states provide the context in which companies operate and to which they adjust. To understand the effects of resource exploitation on development it is necessary to move beyond the resources and address the interrelationship between the agents exploiting these resources or benefiting from their exploitation.

Rather than limiting analysis to the physical characteristics of resources, the linkages with government, communities, companies and other countries should be addressed when seeking an understanding of the role of different resources. Natural resources do not have agency and what impacts development is not simply a matter of whether a country produces oil, gold or diamonds. Rather than the resource itself, a determinant is the confluence of institutional quality and mode of production, the geographic location physical characteristics such as lootability, and value and the social linkages and financial flows that are associated with the resource.[76] Ultimately, these extractive systems do not stop at a country's border. A focus on the modes of exploration, production and trade also means that it is important to look at external actors, notably the private sector.

[76] Philippe le Billon, "Natural Resource Types and Conflict Termination Initiatives", *Colombia Internacional*, 70:9–34, 2009, p. 17f.

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THE ROLE OF COMPANIES IN RESOURCE RICH COUNTRIES

INTRODUCTION

So far, I have only considered how the revenues that are associated with the extraction of resources shape the economy and institutions in a resource-rich country and what drives and constrains corporate behaviour. Chapter 2 noted that corporate activities as well as international linkages remain relatively under-explored in the resource curse literature. Development in resource-rich countries is not determined only by those who extract resources and "many examples of the perceived negative consequences of foreign investment are actually either the result of the policies of the less developed countries themselves or an integral part of the development process itself."[1] Still, companies do have a role in the persistence of low levels of economic development and social grievances. In this chapter, I will take a step back and assess why regulation is needed and therefore focus on the roles of companies in affecting the development outcomes in resource rich states.

The extraction of natural resources has immediate impacts, on the environment, on human rights and social and economic development in regions where companies operate. Companies ultimately provide the link between resources and revenues, as the extractive industries provide the revenue base for governments in resource-rich countries. The actions of companies affect development for resource-rich countries as a whole — even long before operations begin. Problems may start before the first hole is drilled — negotiations between companies and governments set the framework in which each company explores for and produces mineral resources and expectations of future wealth affect the political economy in the soon-to-be resource rich country. While corporations can contribute to the ills that often plague resource-rich developing countries, this is not necessarily a function of their origin, but contingent upon sector, size or business strategy of a firm. Different corporate strategies, FDI trajectories and international experience between Chinese

[1] Gilpin, *The Political Economy of International Relations, op. cit.*, p. 248.

and non-Chinese enterprises were evident at the beginning of China's going out strategy, the focus on a western vs. non-western dichotomy masks the underlying differences in corporate behaviour.

Companies have often been criticised for taking advantage of the relative weakness of resource-rich countries' governments when they negotiate concession agreements. This chapter will show that while many inexperienced governments or those with only a short history of exploration do in fact get unfavourable deals, this is somewhat inherent in the industry and the bargaining relationship between countries and governments. In so-called frontier countries, which have little experience with resource extraction and where the commerciality of resource deposits is subject to great uncertainty nearly every company gets a good deal — which is also the result of inequitable risk sharing between companies and host countries. Contracting and negotiations set the legal basis for exploitation of minerals. But before projects are brought on-line, they do have environmental and social impacts during prospecting and exploration, constructing, during production and, after production has ceased, decommissioning and renaturalisation.[2]

This Chapter emphasises bargaining, both because it is rather specific to the extractive industries and because much of regulation and activism in relation to the extractive industries is concentrated on the transparency of the relationship between companies and host-governments. Most of bargaining is about taxes — an issue area that has become the centre of attention for NGOs and donors seeking to improve governance in resource-rich countries. Fiscal terms are "a key component in the overall package of linkages between extractive activities and states."[3] Bargaining between companies and governments is particularly telling, because it determines not only the basic frameworks according to which companies operate in a country, it also shows that much of corporate conduct in resource rich countries is conditioned by the institutional environment. I use bargaining between companies and governments to show that companies have structural impacts as well, as there might be an alignment between companies and ruling elites.

Mineral extraction is accompanied by a series of social, environmental and governance impacts. Mineral regulation is often insufficient to direct corporate behaviour in resource-rich developing countries. To force companies to address (at least some of) these issues, mineral regulation seeks to mandate companies to internalise these externalities, e.g. by

[2] Oxfam America, *Governance of Extractive Industries in Southeast Asia. Managing Resources for Regional Prosperity*, in: *Workshop Report and Proceedings*, Phnom Penh, 2010. Oxfam America, East Asia, pp. 21, 23.

[3] Bridge, *Global production networks and the extractive sector, op. cit.*, p. 405.

conducting environmental and social impact assessments, or to clean up spills. However, many of these are weakly developed or enforced (see Chapter 8). During the 1990s, donor-imposed reforms in the extractive sector placed an emphasis on liberalisation, facilitating private investment.[4] This externally driven reform process, paired with the administrative weaknesses in host countries, led to a "retrenchment of the state" from the sector and companies are — informally — responsible for local regulation.[5]

ECONOMIC, SOCIAL AND ENVIRONMENTAL IMPACTS OF EXTRACTIVE INDUSTRIES

Much of the economic and institutional impacts of resource extraction as such have already been discussed in the previous chapter. This section will focus on operational aspects of resource extraction. The problems described here are those common to the industry and are best thought of as externalities, which are to a large extent inevitable if resources are produced. The problem is the extent to which companies are able to mitigate these problems or to what extent regulators can force companies to internalise these externalities, e.g. by obliging companies to clean up spills or to create local supply chains.

For companies involved in the extraction of resources, one of the main problems regarding their effect on the local economy is that they often do not have a noteworthy impact in terms of creating economic activity. Resource companies tend to be isolated in host society, economically, geographically, and socially. The enclave character of the industry means that few economic linkages exist with the local economy. Extractive industry projects tend to be better integrated with the international markets than with the host country and provide relatively few employment prospects. Job opportunities exist mostly for expatriate workers. In contrast to other industries, oil and mining operations are not necessarily close to the centres of political or economic power. One of the few links with domestic society is that between companies and local elites. In principle, mining operations should provide ample revenue opportunities for the governments of resource-rich countries, but they often fail to contribute to local economic development.

Even their contribution to governments' revenues might be limited. Besides striking deals that are unfavourable for host governments (see below), companies can erode a government's revenue base. Multinational companies in the extractive industries (and

[4] Campbell, *Corporate Social Responsibility and development in Africa, op. cit.*, p. 139; Kumar, Claire, *Undermining the Poor. Mineral Taxation Reforms in Latin America*, Christian Aid, London, 2009.

[5] Campbell, *Corporate Social Responsibility and development in Africa, op. cit.*, p. 140.

elsewhere) control a vast number of subsidiaries (e.g. BP controlled 1,491 companies in 2011). This allows them to engage in the practice of transfer mis-pricing where individual units of a company charge their affiliates prices above the actual market price, thus enabling the company to shift profits to low-tax countries. Although this practice is fairly common, its success is contingent upon capacities within the tax administration to detect it — such capacities are often missing in resource-rich developing countries.[6] Mining and oil operations are often associated with environmental and social grievances.[7] Given their proximity to the local population, on-shore oil operations often have much graver effects on local communities than other large industrial operations. Depending on the scale and type of production, the extraction of resources has direct consequences for the population in the vicinity of a company's operations. The establishment of operations is often associated with the loss of land for the indigenous population, environmental contamination, human rights abuses by security forces, labour violations, discrimination, but also brings social change as land and land use are often inextricably linked to the indigenous culture. Indigenous people suffer particularly from a lack of consultation and the weak regulatory environment.[8] Human Rights violations are particularly common in the extractive industries; the sector accounts for the largest share of human rights abuses. The most common violations occur in the field of labour rights, such as access to a safe work environment, collective bargaining or right of association, and rights to physical and mental health, which in turn is linked to environmental harms and a safe workplace.[9]

In all of these types of violations, companies are usually directly involved, but situations where companies are indirectly responsible for rights violations are also frequent — these include the actions of service companies or governments who act on behalf of companies. Shankleman notes that many mining and oil companies attempt to control how security forces engage with local communities, as this is one of the major risks for human rights

[6] John Christensen and Richard Murphy, "The Social Irresponsibility of Corporate Tax Avoidance: Taking CSR to the Bottom Line", *Development*, 47(3):37–44, 2004; OECD, OECD *Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations*, Paris, 2010, PWYP Norway, *Lost Billions: Transfer Pricing in the Extractive Industries*, Publish What You Pay Norway, Oslo, 2012, PWYP Norway, *Piping profits, op. cit.*, p. 15. The report notes that of the 10 largest resource companies' 6,038 subsidiaries, 2,083 are incorporated in tax havens or "secrecy jurisdictions". Philippe le Billon, *Extractive sectors and illicit financial flows. What role for revenue governance initiatives?*, U4 Issue, November 2011.

[7] Bonnie Campbell, *Mining in Africa. Regulation and Development*, Pluto Press, London, 2009.

[8] United Nations Human Rights Council, *Report of the Special Rapporteur on the rights of indigenous peoples, James Anaya. Extractive industries operating within or near indigenous territories. A/HRC/18/35*, United Nations, New York, 11 July 2011.

[9] Michael Wright, *Corporations and Human Rights: A Survey of the Scope and Patterns of Alleged Corporate-Related Human Rights Abuse*, Harvard University, John F. Kennedy School of Government, 2008.

abuses.[10] Environmental Impact Assessments are still often merely a formal exercise and their completion is often weakly enforced. But they have become more comprehensive, including consultations with local communities and experts on environmental and social impacts.[11] Oil exploration and production as well as mining can cause significant environmental damage, most notably because of oil spills.[12] The flaring of associated gas — a practice that is common in the Niger Delta — releases pollutants, causes acid rain and has been associated with respiratory problems. Exploration activities require the clearance of vast areas of land.

Mining also differs from the oil industry, and while both industries have impacts on the environment, land rehabilitation and labour standards are a greater issue in the mining sector. Processing plants, where the desired metals are extracted from the ore can further contribute to environmental degradation as the chemicals used in these processes are often disposed into local water supplies — either deliberately or by the accidental breaking of tailings dams[13] Especially open-pit mining requires the use of vast areas of land. Mining operations at the Tambogrande mine in Peru were preceded by the loss of arable land upon which the local population had depended. When looking at issues such as land use, often western observers fail to take into account the meaning that fertile land has or had to non-western societies.[14] Hyndman notes that the operators at the Ok Tedi mine in Papua New Guinea held the view the land had no importance. Clearly, indigenous people held a different view. The company's lack of awareness of the local context also mislead the operators regarding what to expect in terms of resistance.[15]

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[10] Shankleman, *Going Global: Chinese Oil and Mining Companies and the Governance of Resource Wealth*, Woodrow Wilson International Center for Scholars, Washington, D.C., 2011, p. 43.

[11] *ibid.*, p. 45.

[12] Spills are very common: In 2011, Shell recorded about 200 spills in the Niger delta alone, though the company is keen to state that about two thirds of these were caused by sabotage or theft of oil. ExxonMobil reports 484 company-wide spills for 2011. Shell, *Oil Spills in the Niger Delta*, Shell Petroleum Development Company of Nigeria, Abuja, 2012; ExxonMobil, *Performance Data (citizenship data)*, ExxonMobil, Irving, 2013.

[13] For instance, mining operations in the Peruvian Yanacocha mine have made water supplies unusable, both for consumption and fishing. Mining at the Ok Tedi mine in Papua New Guinea was done without a tailings dam "and produced sediments saturated with heavy metals." David Hyndman, "Academic Responsibilities and Representation of the Ok Tedi Crisis in Postcolonial Papua New Guinea", *The Contemporary Pacific*, 13:33–54, 2001, p. 24.

[14] Volker Böge, Christopher Fitzpatrick, Willem Jaspers and Wolf-Christian Paes, "Who's Minding the Store? The Business of Private, Public and Civil Actors in Zones of Conflicts", 2006, p. 12.

[15] Hyndman, *Academic Responsibilities and Representation of the Ok Tedi Crisis, op. cit.*; p. 37; José de Echave, Alejandro Diez, Ludwig Huber, Bruno Revesz, Xavier Ricard Lanata and Martín Tanaka, *Minería y Conflicto Social*, Instituto de Estudios Peruanos, Lima, 2009.

Even though mining creates more linkages with the domestic economy than petroleum extraction, these may not necessarily benefit communities in mining areas. Mining operations can quickly change the social fabric of community. The influx of workers, new businesses, and the fact that mining nearly exclusively provides work for men can upset the social balance. Given the potentially large investments of the natural resource industries — especially mining — demand for labour may create internal migration that could lead to tensions with the indigenous population.[16] If companies provide facilities or employment for some communities but not others, local tensions may rise.[17] If certain language skills needed to find employment are only present in parts of the population some groups may be implicitly favoured over another.[18] Development spending of corporations is mostly targeted at the communities in the vicinity of a company's operations, thereby increasing competition between different communities.

While social, economic and environmental grievances are common, companies have at times become involved in violent conflict or even caused it. In already fragile countries, a large investment can have disruptive or destabilising effects. Natural resource extraction is geographically limited and can create or intensify economic imbalances in a country. Although investment decisions are taken according to the geographic location of resource deposits, an investment in a specific region might reinforce ethnic or social divides.[19] Local communities are not unitary or homogeneous actors. Investments can divide these communities further into those who can profit from it — be it through the selling of land or the ability to find work — and those who cannot.[20] For example, mining activities in Peru are highly contested, and conflicts boil down to the degree to which the state is willing or able to safeguard the interests of its citizens against those of the private sector.[21] Mining in Peru is characterised by conflict — at times violent — between companies and the government on one side and communities in which mining takes place on the other. The number of conflicts has increased over the past decade. The Office of the Peruvian Ombudsman lists about 150 social and environmental conflicts for the years 2012 and 2013, up from 37 in 2007. Of these, about 100 of which are related to mining and 20 to

[16] Jessica Banfield, Virginia Haufler and Damian Lilly, *Transnational Corporations in Conflict Prone Zones. Public Policy Responses and a Framework for Action*, International Alert, London, 2003, p. 19.

[17] *ibid.*; p. 19f.

[18] Böge et al., *Who's Minding the Store?, op. cit.*

[19] Banfield et al., *Transnational Corporations in Conflict Prone Zones, op. cit.*, p. 21.

[20] Böge et al., *Who's Minding the Store?, op. cit.*, p. 13.

[21] Anthony Bebbington and María Luisa Burneo, *Conflictos Mineros: ¿Freno al Desarrollo ó Expresión Ciudadana?*, in: *Pobreza, Desigualdad y Desarrollo en el Perú. Informe Anual 2007–2008*, pp. 45–51. Oxfam GB, Lima, 2008, p. 47.

petroleum exploration and production. Most of these conflicts are about environmental damage caused by mining operations.[22] The increase in such conflicts is a result of increased mining activities and their failure to generate development as well as limited capacities of the Peruvian institutions to enforce regulations and broker compromise between the private sector and local communities.[23]

Extractive activities also have a bearing on larger-scale violent conflict. Often extractive industries are the only foreign investments that continue to operate in zones of conflict. Companies can impact dynamics of an existing conflict in a number of ways and BANFIELD ET AL. distinguish between two categories on which corporations can have an impact on conflict. Micro-level impacts that affect the immediate vicinity of a company's operations and macro-level impacts that are related to an investment's impact on a country's political, economic, and social environment.[24] SWITZER addresses conflict around mining sites and address conflict from the perspective of operations.[25] With mining, as with the production of oil and gas, those who bear the environmental costs of conflict are often not those who receive economic benefits.[26] Conflicts arise from lack of willingness on the part of a mine's management to engage with community or local environmental conflict.[27] Additional burdens on the local environments are the construction of infrastructure in the form of pipelines or roads and the influx of outsiders into resource producing areas.[28] The conduct of security forces around a company's installations are another prominent factor directly linking companies to conflict. The security situation around a company's installations may deteriorate because of a company's actions — most prominently, these include misbehaviour of the security forces that are supposed to protect the company's assets. These security forces can either be subcontracted or as is the case in Indonesia, the host country's military can provide these services. There are reports that the Indonesian military engineered unrest around the Grasberg mine of Freeport McMoRan in West Papua in order to render itself indispensable as a provider of security for

[22] DEFENSORÍA DEL PUEBLO, *Reporte de conflictos sociales*, Lima, various; DEFENSORÍA DEL PUEBLO, *Informe Extraordinario: Los Conflictos Socioambientales por Actividades Extractivas en el Perú*, Lima, 16 April 2007.

[23] BEBBINGTON ET AL., *Conflictos Mineros, op. cit.*, p. 48.

[24] BANFIELD ET AL., *Transnational Corporations in Conflict Prone Zones, op. cit.*

[25] JASON SWITZER, "Armed Conflict and Natural Resources. The Case of the Minerals Sector", IIED *Report*, (12), July 2001.

[26] *ibid.*, p. 8.

[27] *ibid.* SWITZER mentions the conflicts around the Panguna Copper mine in Papua New Guinea and land and forest clearing by Mitsubishi in Ecuador.

[28] *ibid.*, p. 11.

Freeport's operations.[29] Shell has provided the Nigeria Mobile Police — often dubbed the "Shell Police" — with weapons and transport. Some firms have even been accused of supplying combatants with arms.[30] Moreover, as Scott LEWIS points out for the case of Talisman of Canada's investments in Sudan, the infrastructure provided by a company may sometimes unintentionally change the course of an existing conflict as it could be used for military operations.[31] Grievances may also be rooted in unmet expectations. Local populations may see a company's investments as source of employment opportunities, wealth, and development, which the firm may ultimately be unable to deliver.[32]

On the macro level, if a company's management is closely associated with the political elites, political or social tensions within a country may crystallise around the company itself.[33] Extractive industries often operate in remote areas where the authority of a government may be limited from the outset and government service delivery, such as education, housing and schooling is weak. In such contexts, companies are often considered an alternative to the government service provision (see Chapter 7), but they may also have to take the criticism for the government's failures.[34] A company that operates in a conflict-torn country indirectly finances conflict as it provides revenues — usually to the government[35] — on which the war effort depends. In the case of an ongoing conflict, by using government security forces to protect their installations, companies ally themselves with one side and may thus become a target of warring parties. Companies provide an important economic linkage of the conflict to the outside world, and thus the conflict parties' ability to sustain conflict. Their presence makes large companies also targets of greed. This can take the form of access to compensation payments (see Chapter 7) or extortion. In the 1990s, guerrillas in Colombia extorted 150 million USD from oil com-

[29] GLOBAL WITNESS, *Paying for Protection. The Freeport Mine and the Indonesian Security Forces*, Global Witness, Washington DC, July 2005.

[30] KAREN BALLENTINE AND HEIKO NITZSCHKE, "Business and Armed Conflict: An Assessment of Issues and Options", *Die Friedens-Warte*, 79(1–2):35–56, 2004, p. 39.

[31] The infrastructure built by the company enabled government forces to access the Bahr region and thus unindendedly changed the balance of the conflict in that area. SCOTT LEWIS, "Rejuvenating or Restraining Civil War. The Role of External Actors in the War Economies of Sudan", 2004, p. 23; HUMAN RIGHTS WATCH, *Sudan, Oil, and Human Rights*, Human Rights Watch, New York, 2003, p. 446. See Chapter 9.

[32] BÖGE ET AL., *Who's Minding the Store?, op. cit.*, p. 14.

[33] SWITZER, *Armed Conflict and Natural Resources, op. cit.*, p. 12.

[34] BÖGE ET AL., *Who's Minding the Store?, op. cit.*, p. 16.

[35] Companies usually side with the government, because it is more likely to be internationally recognised, but there are exceptions: French oil company Elf paid royalties to the secessionist Biafran Government and the Belgian mining company UMHK made payments to the breakaway Katanga province of the DRC. THE HAMMARSKJÖLD COMMISSION, *Report on whether the evidence now available would justify the United Nations in reopening its inquiry into the death of Secretary-General Dag Hammarskjöld, pursuant to General Assembly resolution 1759* (XVII) *of 26 October 1962*, The Hague, 9 September 2013, p. 5.

panies.[36] Shell paid off militant groups to protect their operations in Nigeria, and were then extorted by them.[37]

COMPANIES AND INSTITUTIONS

The privatisation of mining and the liberalisation of mineral regulatory regimes has rendered many states incapable to enforce these regimes.[38] Weakness of institutions and regulatory frameworks should not be mistaken for the absence of regulation. Mining and oil are heavily regulated industries and there are plenty of permits and bureaucratic approvals needed. This, in turn, opens many opportunities for corruption, although "grand corruption" is most likely to occur during the process of granting concessions.[39]

Companies can benefit from weak regulatory environments, and they can also contribute to this weakness (and suffer from them). Although it is far from certain that corporations generally comply with what the governments in resource-rich developing countries mandate anyhow, companies can also try to influence the scope of government regulation. Shell had inserted people into important ministries to gather information on the Government's policies.[40] This is not necessarily uncommon, host government capacity is often enough provided by importing countries' technical assistance projects[41] or companies themselves whose exploration agreements often include the training of officials who are tasked to oversee the operations in the extractive sector.[42] Negotiations including environmental work programmes or tax rates are especially common in the natural resources sector and often companies bargain from a relative position of power. In

[36] Dunning et al., *Oil and the Political Economy of Conflict, op. cit.*, p. 87.

[37] Watts, *Resource curse? Governmentality, oil and power, op. cit.*

[38] Campbell, *Corporate Social Responsibility and development in Africa, op. cit.*

[39] Ian Marshall, "A Survey of Corruption Issues in the Mining and Mineral Sector", IIED *Report*, (15), November 2001, p. 29.

[40] David Smith, "WikiLeaks cables: Shell's grip on Nigerian state revealed", *The Guardian*, 8 December 2010.

[41] Rex Bosson and Bension Varon, *The Mining Industry and the Developing Countries*, Oxford University Press for The World Bank, Washington, D.C., 1977, p. 132.

[42] Chevron initially paid for an adviser to the National Petroleum Authority of Cambodia; later, his services became part of a assistance programme of the Asian Development Bank. *Interview*, Michael McWalter, CNPA. In Sierra Leone, Repsol's exploration contract stipulates that the company has to provide training for officials at the Petroleum Resources Unit — the agency in charge of the sector — at their Madrid headquarters. *Interview*, official of Petroleum Resources Unit, Sierra Leone.

the extreme case, companies can also resort to bribery to ensure regulations are not enforced, or in order to gain advantages in their negotiations for concessions (see below).[43]

In principle, one should expect companies to have an interest in the stability of countries in which they operate and that they benefit from the rule of law, and low levels of corruption because they want to avoid disruption to their operations. The private sector thus has an interest in promoting good governance.[44] Companies that are responsive to their reputations find it increasingly harder to justify investments in conflict zones, and the same can be argued for investment in badly governed countries in general.[45]. Bray notes that amongst major mining and oil companies concerns about investing in corrupt environments is a deterrent for investment (concern about human rights abuses appeared to be somewhat less widespread amongst companies in the sector).[46]

This argument can also be reversed: some companies may find operating in an unstable environment brings them competitive advantages or provides them with the opportunity to enter an industry in the first place. If they are prepared to take higher risks, or better than their competition in dealing with corruption or making concessions to government officials. In this regard, size matters: smaller companies are more likely to take risks in badly goverened countries or those that suffer from conflict, because their business strategies are built on the ability to operate in high-risk environments (with potentially high returns). This distinction also applies to Chinese firms: Power et al. note that Chinese investment needs to be deconstructed, i.e. that there are differences according to size and ownership of the investors, all of which are likely to have different impacts.[47] This is echoed by practitioners who note that that the distinction in terms of compliance or corporate misconduct is not along the lines of origin, but along the lines of size and business outlook. Small Chinese companies care equally little as small privately held (and not listed) western companies.[48] These companies concentrate on exploration and once

[43] Jedrzej George Frynas, *Beyond Corporate Social Responsibility. Oil Multinationals and Social Challenges*, Cambridge University Press, 2009, p. 157.

[44] While it is certain that political regimes, corruption or even war have only deterred investment in the most extreme circumstances, these do add to risk and costs of operations. The fact that "long-term investment hasn't been prevented by the venality and despotism of the regions rulers" does not mean that companies would not benefit from better investment contexts. Scott Pegg, "Social Responsibility and Resource Extraction: Are Chinese Oil Companies Different?", *Resources Policy*, 37(2):160–167, 2011, p. 162. See also Ricardo Soares de Oliveira, *Oil and Politics in the Gulf of Guinea*, Hurst, London, 2007, p. 291.

[45] John Bray, *Attracting Reputable Companies to Risky Environments: Petroleum and Mining Companies*, in: Ian Bannon and Paul Collier, (eds.), *Natural Resources and Violent Conflict*, pp. 287–352. The World Bank, 2003, p. 288, 291.

[46] *ibid.*, p. 295f.

[47] Power et al., *China's Resource Diplomacy in Africa, op. cit.*, p. 205f.

[48] *Interview* Francisco Paris, eiti.

a deposit is determined to be viable, all or part of it is sold to a larger investor with the capacities to expand and sustain development.[49] Juniors might also possess fewer capacities to act sustainably and are less likely to be able to run social or environmental programmes to mitigate their impact. Given the nature of their business, these junior companies might be inclined to take "shortcuts" (e.g. in terms of bribe-paying) that more reputable players cannot take (anymore), because they are under more scrutiny. This also presents a problem for activists — large reputable companies might be susceptible to pressures from civil society groups, but if these pressures are successful, less scrupulous companies tend to enter the scene.[50] The above dichotomy between juniors and majors can be transferred to the operations of Chinese companies. In the earlier phases of their going out strategy, Chinese state-owned companies — despite being everything but small juniors in terms of their financial prowess — engaged in high-risk investments and did little in terms of ancillary social activities, though, as I maintain throughout this thesis, this has changed and Chinese state-owned companies have "graduated" to majors that value their reputation and play by the rules. The investments of CNPC and ONGC in Sudan are a case in point. These companies were more prepared to deal with the risk associated with operating in a war-torn country and at the same time did not have to face the pressures of their home-governments and activists at home while the Western firms were forced to pull out of that country (see Chapter 9).[51] Thus, the dichotomy between irresponsible Chinese and enlightened non-Chinese companies masks the fact that other factors such as size, experience or visibility have a bearing on corporate behaviour — though these variables themselves are partly conditional on the origin.

BARGAINING

The dynamic bargaining theory developed with respect to natural resource investments in developing countries treats the relationship between governments and companies as one that changes over time and where power gradually shifts towards governments.

Ideally, Governments would try to maximise society's social welfare and bargaining between company and host government is mainly about the relative distribution of revenues,

[49] Bray, *Attracting Reputable Companies to Risky Environments, op. cit.*, p. 299.

[50] *ibid.*, p. 300.

[51] Virginia Haufler, *Is there a Role for Business in Conflict Management?*, in: Chester Crocker, Fen Osler Hampson and Pamela Aall, (eds.), *Turbulent Peace. The Challenges of Managing International Conflicts*, pp. 659–675. United States Institute of Peace Press, Washington D.C., 2001, p. 661.

but is not a zero-sum game because how revenues are allocated has an impact on returns.[52] Investments in the oil and mining sector involve very high risks[53] — large amounts need to be invested for exploration and installation of production facilities, whereas the first revenues might not start to flow until a many years later.[54] Initially, agreements favour companies because of, in MORAN's words, "the quasi-monopolistic control over the skills necessary to bring a major operation on-line, and reflect a heavy discounting for the risk of failure."[55] In addition, the deals reflect the country's inexperience with the industry. Investors are not the sole risk-takers, however. The riskiness of mining investments has often been used to push for fiscal regimes that are particularly favourable to investors. This ignores risks borne by host countries, especially the communities in which companies operate. EMEL AND HUBER argue that companies, with the help from international donors, are able to hedge their political and geological risks trough generous tax concessions, which limits the potential rewards for the social, economic or environmental risks taken by host countries.[56] This unequal distribution of risk and rewards can ultimately delegitimise a companies operations, i.e. its economic and social licence to operate (see Chapter 1 and the case study on Zambia in Chapter 9) and to calls for nationalisation or the imposition of higher taxes and royalties.

Three aspects might be important for governments over the lifetime of an extractive project: an increase in tax, royalty or in-kind revenues, an increase in linkages with the domestic economy (e.g. job opportunities and the use of local inputs) and increased control over natural resources production.[57] Companies possess technology and access

[52] JAMES COBBE, *Governments and Mining Companies in Developing Countries*, Westview Press, Boulder, Colorado, 1979, p. 88; THEODORE MORAN, "The Evolution of Concession Agreements in Underdeveloped Countries and the United States National Interest", *Vanderbilt Journal of Transnational Law*, 7(1):315–334, 1974, p. 319. For instance, the returns of a project might be lower, if the governments collects a relatively large proportion in royalties (rather than profit-based taxes), thereby making the production from lower grade or marginal deposits unprofitable.

[53] ANGELIER notes that three out of four ventures fail. A medium-sized field requires an investment of 1bn dollars. Rewards are also very high for successful project: a field producing 30,000 barrels per day can translate into 1 bn dollars of profits. JEAN-PIERRE ANGELIER, *L'évolution des relations contractuelles dans le domaine pétrolier*, Note de Travail 11/2008. LEPII, Université Pierre Mendèz-France, Grenoble, 2008, p. 1.

[54] MORAN, *The Evolution of Concession Agreements, op. cit.*, p. 315.

[55] *ibid.*, p. 315.

[56] JODY EMEL AND MATTHEW HUBER, "A risky business: Mining, rent and the neoliberalization of "risk"", *Geoforum*, 39:1393–1407, 2008, p. 1394.

[57] RAYMOND VERNON, "Long-Run Trends in Concession Contracts", *Proceedings of the American Society of International Law*, 61:81–89, 1967.

to markets[58] while hosts governments control access to natural resources and — in the case of mining — labour.[59]

In the following, I will outline the basic aspects of bargaining between host governments and companies. Although companies are often criticised for striking deals that are "unfair" to governments of resource-rich countries, the problem is inherent in the extractive industries. This goes to show that the negative effects of companies are as much due to the weak institutional framework in which companies operate in as they are due to the willingness of companies to exploit these weaknesses.

The relationship between host government and company is far from straightforward. Apart from the fact that it may not necessarily be clear who is the negotiating partner or who takes decisions (as a number of ministries and agencies might be involved), home governments, competitors as well as other local interests such as labour or environmental rights groups as well as international organisations also impact the relationship between host country and firm.[60] Increasingly, the bargaining relationship includes other actors such as the World Bank or international NGOs who provide expertise and are at times actively involved in designing legal/regulatory frameworks in the sector.

Licensing for oil and mining investments is usually subject to negotiations between governments and potential investors. Contracts are made on a company-by-company basis because of the special role these companies play in the host economy.[61] The basis of operations of individual firms in their host countries is the result of bargaining between the government and the company, which, in turn offers plenty of opportunities for corruption.[62] Mining or petroleum agreements regulate the majority of aspects in which firms might impact socio-economic development of a resource rich country. The parameters include the fiscal regime, environmental requirements and rehabilitation[63], minimum investments and work requirements, the provision of infrastructure, the use of local in-

[58] Governments are less dependent on the private sector's market access in the case of oil.

[59] Ronald Libby and James Cobbe, "Regime Change in Third World Extractive Industries: A Critique", *International Organization*, 35(4):725–744, Autumn 1981.

[60] Cobbe, *Governments and Mining Companies in Developing Countries, op. cit.*, p. 81.

[61] David Smith and Louis Wells, *Negotiating Third-World Mineral Agreements: Promises as Prologue*, Ballinger, Cambridge, Mass., 1975, p. 564.

[62] Marshall, *A Survey of Corruption Issues in the Mining and Mineral Sector, op. cit.*, Shankleman, *Going Global, op. cit.*, p. 42

[63] Originally, (i.e. until the 1970s) little attention has been paid to social or ecological impact of mining in agreements, and even after that provisions regarding environmental and social impact assessments were rarely enforced. Smith et al., *Negotiating Third-World Mineral Agreements, op. cit.*, p. 110 and Angelier, *L'évolution des relations contractuelles, op. cit.*, p. 5.

puts and labour as well as training of the local workforce or government officials.[64] While model agreements do often exist, most parameters are open to negotiation. Mining codes often describe, in vague terms, the framework in which contracts are negotiated giving government authorities considerable discretion in negotiating agreements.[65] In their efforts to attract investment, governments often grant companies extraordinary exemption from various regulations in taxation or the environment, though over time, the distribution of oil rents between companies and governments has become increasingly favourable for governments.[66]

Most developing countries lack the skills to negotiate with experienced multinational companies and find it challenging to protect their interests.[67] In some cases their incentives might be more aligned with the investor than with citizens or those who bear the impacts of resource extraction: for example, in 2007, the Peruvian president Alan García penned an article in which he criticised indigeneous people's obstruction of developemnt of natural resources in the Amazon.[68] During his administration, from 2006 to 2009, the share of Amazonian forests designated for oil exploration increased from 15 to 72 per cent.[69]

Ministries often lack capacities to monitor legislation or formulate policy. Bureaucracies are large and ineffective, low salaries mean that it is difficult to attract qualified staff. People with practical experience are missing or prefer to work elsewhere, especially if the agency or ministry formally in charge of the sector is sidelined and political considerations override technical ones. Given the importance of the sector, and the opportunities for rent-seeking, the executive often assumes responsibilities of dealing with investors.[70]

[64] Daniel Johnston, *Petroleum Fiscal Systems and Production Sharing Contracts*, Penn Well, Tulsa, 1994; James Otto, Craig Andrews, Fred Cawood, Michael Doggett, Pietro Guj, Frank Stermole, John Stermole and John Tilton, *Mining Royalties. A Global Study of Their Impact on Investors, Government, and Civil Society*, The World Bank, Washington, DC, 2006.

[65] Smith et al., *Negotiating Third-World Mineral Agreements, op. cit.*, p. 563. Petroleum agreements tend to be less flexible. In advanced oil producers the contractual arrangements differ altogether. There, companies get service contracts where they are service providers for the state and receive a fee for each barrel produced. Such contracts are used in Iraq for example: There the terms tend to be very favourable for the Government and companies receive less than $10 per barrel: During the 2009 licensing round in Southern Iraq, a consortium led by bp and cnpc had to settle for a fee of $2 to exploit the Rumaila oil field.

[66] Angelier, *L'évolution des relations contractuelles, op. cit.*

[67] Bosson et al., *The Mining Industry and the Developing Countries, op. cit.*, p. 17.

[68] Alan García, "El síndrome del perro del hortelano", *El Comercio (Lima)*, 28 October 2007, He compares the indigeneous population employing the metaphor "the dog in the manger" who does not eat but does not let others feed either.

[69] Beatriz Jiménez, "Los perros del hortelano muerden a Alan García", *El Mundo (Madrid)*, 11 June 2009.

[70] Bosson et al., *The Mining Industry and the Developing Countries, op. cit.*, p. 15f.

As government capacities are limited, host governments rely on multinational enterprises for capital and technological expertise.

Resource-rich developing countries are characterised by (often) more radical political changes and instability, lack of property rights (or the enforcement thereof). Owing to political risk, investors often try to extract favourable conditions from governments, which they might not seek in industrialised countries or well-established producers.[71] Especially in the mining sector — where returns are not as high as in the petroleum industry — companies are more averse to political risk and seek other forms of assurances.[72] In order to attract investments, governments often grant generous tax holidays for investors. Initially, the bargaining relationship between companies and the government is highly unequal. There are mainly two reasons for this. An internationally operating company is likely to have a better idea of the geological situation in a potential zone of investment, simply for reasons of expertise. Also, companies are better able to evaluate market conditions for the sale of the minerals that are to be extracted. The exact value of deposits and production costs is not known until the production has ceased and there is no one-size-fits-all optimal fiscal system. Negotiations often cover significant aspects of tax law, including bargaining about depreciation and capital allowances. All these matters can pose significant burden on the often weak institutions in developing countries. Once the investment has taken place, the bargaining relationship is quickly reversed. Companies have incentives to lobby those in charge and push for lax regulation or fiscal legislation, thus ultimately contributing to a longer-term erosion of state revenues.

In terms of bargaining this means that companies are in a much stronger position initially, as they not only have more expertise in evaluating the potential of a resource deposit but also because — especially in "frontier" areas, where investors' risks are high and there is less competition for access to concessions — they can present governments with a take-it-or-leave-it offer.[73] The resource-rich governments' acquiescence to such demands is unnecessary as expected tax liability — unlike profitability, property rights and stability — is not a key factor in determining a company's investment decision.[74]

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[71] The OECD Guidelines state that companies should not seek exemptions. OECD, *Guidelines for Multinational Enterprises*, Paris, 2000.

[72] Raymond Mikesell and John Whitney, *The World Mining Industry. Investment Strategy and Public Policy*, World Industry Studies 6. Allen & Unwin, Boston, 1987, p. 89.

[73] Moran, *The Evolution of Concession Agreements, op. cit.*, p. 320.

[74] Michael Keen and Mario Mansour, "Revenue Mobilization in Sub-Saharan Africa: Challenges from Globalization", IMF *Working Paper* WP/09/157, July 2009; James Otto, "Competition for Investment: Implications for Africa", *The Mining Journal*, p. 51, 29 September 1995; African Development Bank and OECD, *African Economic Outlook*, OECD, Paris, 2010, p. 109.

Bargains struck are not stable: as the host government gains experience, it increases its bargaining power. Once a company has invested in fixed assets, it may be less costly to renegotiate an agreement than to divest. In this *obsolescing bargain*, bargaining power shifts towards the host government as the investor accumulates fixed assets in a country.[75] Over time, the bargaining power tends to shift away from companies towards governments. This is relevant because it shows that the outcomes of negotiations are not necessarily dependent upon the "ruthlessness" of the firm. Given the arrival of new investors from emerging economies one should not expect fundamentally different deals to be struck by different companies. Rather, different negotiating outcomes are the result of the involvement of third parties (such as companies' home governments) and the willingness of host country elites to side with the foreign investors — upon which they depend.[76] The relationship between companies and host governments is continuous and tends to be more severe when profitability rises.[77] One aspect where company and government expectations diverge considerably is risk: The company will spread risks and expected profits over the whole of its operations, whereas the government's perspective is obviously limited to operations within its territory. The government will attempt to create as many linkages with the local economy as possible and extract the most of all companies operating in a country. This set-up is problematic in the case a given project is particularly profitable and conflicts between host government and foreign investor intensifies with profitability: from the firms' perspective these profits can be used to offset less successful projects in other countries, whereas the government will seek its shares of the windfall profits.[78]

Likewise, rises in export prices also shift power towards the government, as do the prospects of more potential investors.[79] Once discoveries have been made, the bargaining position of the host country improves as the geological risk of investing is reduced for other firms that might want to enter into a country. While concession contracts are usually long term in nature (anything from 20 to 99 years), they become obsolete fast

[75] Vernon, *Sovereignty at Bay, op. cit.*

[76] William Reno, *Business Conflict and the Shadow State: The Case of West Africa*, in: Ronald Cox, (ed.), *Business and the State in International Relations*, pp. 149–163. Westview Press, Boulder, Co., 1996, pp. 149f.

[77] Raymond Mikesell, *Foreign Investment in Copper Mining. Case Studies of Mines in Peru and Papua New Guinea*, Johns Hopkins University Press, Baltimore, 1975, p. xxii.

[78] Bosson et al., *The Mining Industry and the Developing Countries, op. cit.*, p. 13.

[79] Libby et al., *Regime Change in Third World Extractive Industries, op. cit.*, p. 726; Robert Curry and Donald Rothchild, "On Economic Bargaining between African Governments and Multi-National Companies", *Journal of Modern African Studies*, 12(2):173–189, June 1974; Bosson et al., *The Mining Industry and the Developing Countries, op. cit.*, p. 137.

as its terms do not reflect the "realities of the situation".[80] Once a project is successful, "it may be politically impossible not to revise the terms of the initial concession" and the balance of power shifts. Thus concession agreements are unstable and renegotiations are common, not least because only after the exploration will there be knowledge about the size (and hence potential value) of a deposit.[81] Renegotiation is often a built-in feature of contracts[82], especially in countries with known deposits, negotiations have two stages, one of exploration and one for exploitation.[83] However, stabilisation agreements — e.g. exemptions from future changes in tax law — are undertaken to reduce or compensate for host-country political risk — something that is less likely to happen in industrialised countries.[84] For instance, the investor-friendly character of Peru's mining regulatory framework is even reflected in the country's 1993 constitution, which guaranteed stability of mining agreements for 10 to 15 years.[85] Over time, renegotiations occur or new investors enter a country, therefore, MORAN argues, the "host-country learning curve" needs to be part of explaining the changing balance of power between governments and companies.[86]

For instance, if a project is successful, governments have an incentive to renegotiate as the investor is then often seen as exploiting the country. In terms of the relationship between government and company it is important to note that original contracts or exploration concessions are made long before resources are discovered. After the discovery of oil governments often find themselves surprised at the unfavourable deals they struck, and often ignore that the initial investment involved a high degree of risk.[87]

JONES LUONG AND WEINTHAL note that the framework which governs resource contracts and the type of company involved has changed over time, and that these changes

[80] MORAN, *The Evolution of Concession Agreements, op. cit.*, p. 323.

[81] *ibid.*, p. 315f.

[82] Renegotiations are common if the circumstances in which an agreement was made change (*rebus sic stantibus*). In the extractive sector this is occurs frequently, as only after the exploration phase knowledge about size or grade of a mineral deposit become known. Geological knowledge is incomplete and the true concentration of minerals in an ore body or the exact amount of petroleum recovered are often only known once production has ceased. BOSSON ET AL., *The Mining Industry and the Developing Countries, op. cit.*, p. 25.

[83] *ibid.*, p. 146.

[84] SMITH ET AL., *Negotiating Third-World Mineral Agreements, op. cit.*, p. 565.

[85] BARBARA KOTSCHWAR, THEODORE MORAN AND JULIA MUIR, *Chinese Investment in Latin American Resources: The Good, the Bad, and the Ugly*, Peterson Institute for International Economics Working Paper 12-3, February 2012, p. 8.

[86] THEODORE MORAN, *Multinational Corporations and the Politics of Dependence. Copper in Chile*, Princeton University Press, 1974, p. 163.

[87] JACK HARTSHORN, *Oil Companies and Governments. An Account of the International Oil Industry in its Political Environment*, Faber and Faber, London, 1962, p. 269.

in turn have had implications for the fiscal regimes and consequently the degree to which the proceeds from resource extraction benefit the economy. Up until the 1960s, most oil was extracted by IOCs, the "majors", and petroleum agreements were largely dictated by international (i.e. foreign practice) while the dealings between companies and host country elites were shrouded in secrecy to an even greater degree than is common today. This structure led to fiscal regimes that largely favoured the companies. The emergence of smaller independent oil companies from the 1960s onwards created unstable fiscal regimes because states could extract, often arbitrarily, better terms. Where foreign investors extracted the resource jointly with the state, greater social expectation existed in oil-producing states leading to somewhat greater social spending of oil proceeds. Most interestingly, they note that after 1990 the expectations of how the oil industry should operate changed. The emergence of international norms and NGO and IFI pressure for social spending and specifically raised expectations for social spending on part of the companies (see Chapters 7 and 8). In addition, due to heightened expectation directed at firms, the private sector has an incentive to push for transparent fiscal regimes and ensure that resource revenues are spent effectively and benefit the population at large.[88]

Collusion and Conflicts of Interest

What is more interesting, however, it the domestic political economy in the host country. It is necessary to leave the state-centric notion of the host-country as a unit of analysis, as this makes it possible to look at outcomes as results of intra-state power struggles.[89] A host country is not necessarily a unitary actor who gradually gains expertise and one cannot discount the domestic struggle and changes to internal political structure.[90] Because extractive companies are, in essence, carrying away a country's wealth, they are often much reviled in the countries of operation, and can serve as scapegoats for incumbent governments. This might also lead the opposition to aim to capitalise on these calls for renegotiations of contracts.

[88] JONES LUONG ET AL., *Oil Is Not a Curse, op. cit.*, p. 14f. They do however note that foreign involvement generally leads to worse fiscal regimes than private domestic control of mineral resources.

[89] MORAN, *Multinational Corporations and the Politics of Dependence, op. cit.*, p. 155.

[90] CARLOS FORTIN, "The State, MNCs and Natural Resources in Latin America", IDS *Bulletin*, 9(1):48–56, 1977, p. 49; MARCIA BURDETTE, "Nationalization in Zambia: A critique of Bargaining Theory", *Canadian Journal of African Studies*, 11(3):471–496, 1977, p. 474.

Bargaining theories often treat the relationship between host countries and companies as unrelated to the bigger picture of international relations and the interests of home governments.[91] This ignores the fact that often, companies' parent governments may sweeten deals for host governments, either directly by providing aid, or indirectly, by providing financing for their companies — practices for which Chinese companies in particular have been singled out although aid and diplomatic support are not specific to Chinese companies only (see Chapters 5 and 6). More importantly, the bargaining relationship between governments and companies described is one of two "non-colluding" parties. This view is insufficient for two reasons. First, because ignores the possibility that the governments' interests are more closely aligned with those of investors (upon which elites depend). Second, because increasingly donors and NGOs serve as a check on the deals struck between governments of resource-rich countries.

Libby and Cobbe criticise this economic bargaining model since its assumptions about the role and nature of the state are too simplistic.[92] In contrast they emphasise the political economy approach where interests of individual groups in society clash: the intermediaries between companies and the state which depend on foreign corporations and are also often in control of the state. If the interests of those controlling the state are more aligned with those of corporations, the resulting deals are likely to be biased in favour of investors. On the other hand, this does not imply that elites do not aim to get the most out of a mining or oil company investing in their country — after all, the revenues from a foreign company's operations may cement their wealth and political power. However, elites do to some extent depend on foreign investors to maintain their power while companies depend on existing relationships with elites rather than an opposition.[93]

Elites might follow strategies of "extraversion" in which they capture external rents to maintain their grip on power.[94] Their interests can become aligned with investors:

> "In those countries where elites have exclusive control over access to the country's resources, they oblige external actors to cultivate personal relations with them, whereas in those countries where the rule of law is meaningfully en-

[91] But see Vernon, *Long-Run Trends in Concession Contracts, op. cit.*, pp. 193–201 and Moran, *Multinational Corporations and the Politics of Dependence, op. cit.*, p. 170.

[92] Libby et al., *Regime Change in Third World Extractive Industries, op. cit.*, p. 726.

[93] *ibid.*, p 741.

[94] Jean-François Bayart, "Africa in the World: A History of Extraversion", *African Affairs*, 99:217–267, 2000.

> forced, the emphasis has been on meeting legal requirements and due process."[95]

Although theories predict a gradual improvement of the government's position vis-à-vis the investor, and many authors maintain the initially skewed distribution of benefits in favour of a company is common and inherent in the system, companies may be able to strike deals that are disproportionately unfair. Across countries, different relative shares between companies and governments are accounted for by Moran: elites ally with the companies rather than "the national interests"[96] According to his model exploitation or deals unfavourable to host countries are "a policy outcome in which the national interest is clearly not being pursued because domestic actors crucial to the decision-making process are using payoffs to foreign investors to advance their own private good at the public expense."[97]

The above literature on bargaining is highly stylised and inadequate for two reasons. The first is corruption which the literature only addresses indirectly, noting that the allegiance of the government representatives might not lie with the "national interest", but this largely exonerates companies for corrupt practices and the provision of incentives for government representatives not to act in the best interest of the country as a whole. The second, and for this thesis more important, reason is that even though the models do account for domestic interest groups and the competition between these groups, by now, there are plenty of other actors effectively involved in the bargaining process, which only played a minor role, if any, when these models were formulated: these include home countries, international financial institutions[98] and, increasingly, NGOs. This happened in Liberia, where Mittal Steel (later ArcelorMittal) negotiated a deal which would have exempted the company from compliance with human rights and environmental legislation, set the sale price of the iron ore produced — potentially eroding the tax base — granted the company a five-year tax holiday and ample powers for its own security forces. The deal was later renegotiated, due to pressure by the international NGO Global Witness (see Chapter 8 for the role of NGOs).[99] In 2008, Gabon renegotiated a secretive mining

[95] Chris Alden, *China in Africa*, Zed Books, London, 2007, p. 90. See also Emel and Huber who note that while those in charge of the "landlord state" can form class alliances with those in control of capital, these alliances are "always prone to conflict and disruption" Emel et al., *A risky business, op. cit.*.

[96] Moran, *Multinational Corporations and the Politics of Dependence, op. cit.*, p. 172.

[97] *ibid.*, p. 155.

[98] Note that during the 1980s and 1990s IFIs played a role in reforming fiscal frameworks for the extractive industries to make them more investor-friendly.

[99] Global Witness, *Heavy Mittal? A State within a State: The inequitable Mineral Development Agreement between the Government of Liberia and Mittal Steel Holdings NV*, Global Witness, London, 2006,

deal with the China Machinery Engineering Corporation (CMEC), owner of the Compagnie Minière du Bélinga, after NGO Brainforest campaigned against the project because of a generous 25-year tax break and the construction of a dam.[100] Within weeks after the announcement that the US oil junior Anadarko had struck oil off the Sierra Leonean coast, representatives of the Revenue Watch Institute (alongside the Norwegian Agency for Development Cooperation) offered their organisation's support for the design of a new petroleum policy.[101] Especially frontier countries lack the capacity to assess their resource potential, have inadequate legal framework and have a weak bureaucracy to manage the natural resources sector and increasingly these countries are building up capacities vis-à-vis companies — not least due to NGOs and donor intervention.[102]

Claims that companies exploit countries — at least in the initial stages of a project and in "frontier countries" — are inherent in the industry and it is not immediately clear why Chinese investors should be considered as driving a particularly hard bargain. Any company that takes such a high risk would be ill advised not to use its bargaining power. If anything, firms that are entering a mature industry are in principle more eager to give in to the host governments' demands.[103] Implicitly, however, the tendency of non-traditional investors to invest in countries where others found it hard to do business, might relax this proposition. Countries that are even more cash-starved or in need of foreign direct investment are particularly willing to make concessions.

CONCLUSIONS

The aim of this chapter was to show the problems most commonly associated with the extractive industries. Extractive operations have been associated with environmental degradation or labour and human rights violations and mineral extraction often fails to gener-

Global Witness, *Update on the Renegotiation of the Mineral Development Agreement between Mittal SteelI and the Government of Liberia*, Global Witness, London, August 2007; Raja Kaul and Antoine Heuty, *Getting a Better Deal from the Extractive Sector. Concession Negotiation in Liberia, 2006–2008*, Revenue Watch Institute, New York, 2009.

[100] Romain Dittgen, "To Bélinga or not to Bélinga? China's Evolving Engagement in Gabon's Mining Sector", SAIIA *Occasional Paper*, 98, 2011. The project has not materialised and after delays CMEC eventually lost the concession.

[101] Oil for Development, *Oil for Development Initiative Annual Report 2010*, Norad, Oslo, 2011.

[102] *Interview*, Ministry of Finance and Economic Development, Sierra Leone.

[103] Smith et al., *Negotiating Third-World Mineral Agreements, op. cit.*, p. 14, Sauvant et al., *Foreign Direct Investment by Emerging Market Multinational Enterprises, the Impact of the Financial Crisis and Recession, and Challenges Ahead, op. cit.*.

ate the expected economic and fiscal benefits. The perceived unattractiveness of frontier areas leads governments to make significant concessions in their licensing rounds, often designing fiscal systems which are very favourable to investors but generate little revenue for the government. A company's relationship with host governments can undermine governance. Companies are able to take advantage of the institutional weakness of resource-rich developing countries. The extent of the damage done is in no small part determined by the existing institutional weaknesses. As the dependence on large-scale mineral or oil production centralises the state, the relationship between the state and foreign investors is managed by an elite whose interests might be more aligned with their personal gain, or that of the investors rather than with citizens.

Some of these issues are intrinsic to mining and oil production (and can be mitigated) whereas others are a result of resource-rich states being unable to design or enforce regulation that would force companies to internalise the externalities associated with their operations. In reporting about Chinese companies, features that are common to the industry but may be considered controversial are made out to be features of the operations of Chinese enterprises in particular. Often, standard industry practice in terms of labour, the environment or transparency does not mean "best practice"; existing operational conduct and standards of large oil and mining companies are not at the top or the bottom, but rather somewhere in the middle. I am not aiming to assess whether the impact of China is positive or negative, but whether — given the track record of the industry, China is significantly worse than other players, who themselves are often poorly performing. Therefore, this chapter serves as a reminder that the extractive industries as such can be quite harmful. Context matters more than the origin of the company — oil resources have been developed comparatively well in Canada, the US, Norway and the UK for instance, by some of the same companies that are associated with violations of environmental standards, human rights abuses and corruption elsewhere. Conversely, supposedly high-standard companies such as BP or Exxon have caused considerable harm in the presumably well-regulated US. While this is not to absolve companies from the environmental and social damage they cause, a company's impact is a function of the institutional environment in which it operates. In badly governed countries natural resources tend to do no good. Chapter 2 showed that resource wealth per se does not necessarily lead to lower levels of development, but that there is a considerable role played by institutions. This Chapter has shown that not all negative aspects of resource extraction is the result of corporate behaviour, which also means that "not all the (under) development outcomes of mining or oil extraction activities are traced back to their 'Chineseness'."[104]

This Chapter has also pointed towards the fact that natural resource extraction is more than a bilateral affair between host governments and companies, and that other actors, parent governments, donors or NGOs are entering the bargaining relationship between companies and governments. NGOs also help publicising unfavourable deals and have pressured host government to correct helped to correct for governments' incapacity or unwillingness to act in the interests of their citizens (the role of NGOs will be addressed in greater detail in Chapter 8). While this assistance seeks to strengthen government capacities to oversee the sector and increase benefits from resource extraction, the involvement of parent governments often has more adverse effects: given the relevance of raw materials supplies for home governments and the high economic stakes involved, governments of importing countries often become politically or economically involved resource-producing regions.

[104] GONZÁLEZ-VICENTE, *Development Dynamics of Chinese Resource-Based Investment, op. cit.*, p. 47.

4

RAW MATERIALS COMPANIES AND INTERNATIONAL AFFAIRS

INTRODUCTION

Foreign investment — especially in the extractive sector — is not only a matter between companies and host governments. For states that are dependent on raw materials imports, the extractive industries are a strategic sector, and the very rise of China's demand for finite natural resources has alarmed western policy-makers as the country often presents itself as a less demanding political ally, donor and trading partner. Home government involvement in host country politics and in the relationship between companies and host governments can be motivated by the government's desire to support business interests — and the explicit demands by companies to gain home-government support — as well as the need to ensure the security of raw materials supplies. Businesses may be a factor in determining foreign policy, but they may not necessarily be decisive. Increasing international competition for access to energy or mineral resources and against the background of the growing importance of — frequently government-controlled — companies originating from developing countries poses the question if the presence of a company in a resource-rich country is reflected in its home government's policy vis-à-vis the host country.

Agnew notes that scholars and policy-makers are nervous about China's geopolitical position. The popular geopolitical reading of China's rise presented in the introduction to this thesis has permeated into the ways in which policy-makers react to China's rise. That is, language and political actions have "combine[d] to produce geopolitical imaginaries that both inform 'normal' foreign policies and induce change as different parties adjust to novel or evolving imaginaries."[1] China's rise tends to be portrayed in realist terms, and its growing demand for natural resources is seen as a zero-sum game in which

[1] John Agnew, "Emerging China and Critical Geopolitics: Between World Politics and Chinese Particularity", *Eurasian Geography and Economics*, 51(5):569–582, 2010, p. 571.

China's increasing "thirst" for oil is to the detriment of other countries or companies. The standard argument goes that in its energy or raw-materials dominated foreign policy, China stops at nothing.

This Chapter will briefly present general issues and the dominant narrative of raw materials security and will show that despite China's rise and increased demand, raw materials security has not decreased. It will show how raw materials might be important to states and how raw materials insecurity have defined (and continue to define) foreign policy. China's rise is a competitive threat and increased competition for raw materials (or at least the perception of it) drives governments to adopt more strategic and utilitarian approaches to energy security. Home (or parent) governments do play a more active role as well, and elevate natural resource extraction to international affairs. While resource extraction affects the state domestically, international actors do so too. Chapter 3 has shown the impact of corporations on the local level as well as their potential contribution to weak governance through the erosion of regulatory standards. Under the banner of energy security, governments may pursue policies that are detrimental to governance in resource-producing countries or that stifle regulation.

Home government involvement is not a new phenomenon, nor is it a uniquely Chinese trait. In the past, governments have used both sticks and carrots to ensure the stability of raw materials supplies, and while currently China is singled out for its "resource diplomacy", other raw materials importers were and still are willing to let raw materials interests drive their relationship with host countries. They have done so by supporting regimes in host countries diplomatically (or helping to install new ones), through financial or military aid.

In a second part, I will present the links between host governments and companies. Given the clout of raw materials companies at home and the need to ensure raw materials supplies one might be tempted to assume that business and state interests coincide and that foreign or aid policies might be conditioned by the desire to ensure access to raw materials. They have also aided companies, e.g. through government-backed loans, "aid for resources" deals with host governments or — when companies' operations or profitability were threatened by host-government policy — through the withdrawal of support. Given the differences in ideology and their state-ownership, there is concern about the degree to which China, and China's companies are following a coordinated strategy to boost their commercial presence abroad, to the detriment of established markets and its participants. For China, politics are seen to trump markets and in terms of raw materials access, the West's "benign" reliance on markets is usually pitted against China's state-controlled, mercantilist raw materials policy.[2] In contrast, the main argument of this thesis holds that rather than challenging existing structures, the new players are disciplined by the market that they enter. This chapter will show that while raw materials investments have influenced foreign policy stances of home governments in the past, it would be too simplistic to assume that policy outcomes are entirely determined by extractive investments. This will feed into the later argument in Chapter 6, which shows that despite the fact that the major Chinese companies are state-owned, Chinese companies and their home government are quite distinct and that China's foreign policy, too, is defined by a multitude of interests of which raw materials and business are but one.

RAW MATERIALS SECURITY AND INTERNATIONAL AFFAIRS

Natural resources are essential to economic growth but are distributed unevenly across states and governments in import-dependent states see themselves as vulnerable in terms of access to raw materials. As states depend on access to raw materials for growth, dependency from natural resource imports of vulnerability to disruptions of supply might induce governments to get involved in access to resources and support their companies in gaining access to resources. Involvement in the domestic affairs of producing countries is not limited to foreign policy intervention on behalf of business interests: the rationale for aid strategies with respect to the extractive sector or the US energy strategy explicitly reference the need to create or maintain stability in producing regions.[3]

Given the high stakes involved in raw materials markets, importers have an interest to become involved in the politics of resource-producing states. The issue of access to raw materials is highly securitised and states have been competing for access to natural resources throughout the 20th century (and before).[4] Companies and their home governments have been blamed for some of the woes commonly associated with the resource curse, though Ross points out that their role is not systematic: importing states have

[2] Rubén González-Vicente, "Mapping Chinese Mining Investment in Latin America: Politics or Market?", *The China Quarterly*, 209:35–58, March 2012, p. 41.

[3] National Energy Policy Development Group, *Reliable, Affordable, and Environmentally Sound Energy for America's Future [Cheney Plan]*, U.S. Government Printing Office, Washington, D.C., May 2001.

[4] Raymond Vernon, *Two Hungry Giants. The Unites States and Japan in the Quest for Oil and Ores*, Harvard University Press, Cambridge, Mass., 1983, p. 67, Michael Klare, *Petroleum Anxiety and the Militarization of Energy Security*, in: Daniel Moran and James Russell, (eds.), *Energy Security and Global Politics. The Militarization of Resource Management*, pp. 39–61. Routledge, Abingdon, 2009.

become involved in both oil and non-oil producing countries and international oil companies have lost much of their influence since the 1970s wave of nationalisation. Interestingly, it is the nationalisation of oil assets and the consequent creation of state-owned enterprises that contributed to a deterioration of democracy as rulers had much closer control over oil revenues, which could be funneled through national oil companies in secrecy rather than be more transparently managed as part of official government budgets.[5]

States do not need raw materials as much for warfare anymore but welfare: access to raw materials is crucial for economic development.[6] Policy makers often frame natural resource and raw materials policy in the context of vulnerability,[7] a discussion that is also present in China. Like the US, the Chinese Government acknowledges that its economy and growth is dependent on a stable supply of energy resources.[8] True vulnerability implies prohibitive costs of adjustment and implies dependence and some likelihood of the resources being withheld as well as a lack of alternatives.[9] Today, mere dependence from natural resource imports alone does not warrant such securitisation, as most mineral resources — save for a few exceptions such as rare earths — are produced in a large number of countries. In addition, diversification, substitution, stockpiling and more efficient use of natural resources mitigate vulnerability. Every resource gives rise to different markets and hold different importance for the industries in which it is used. Every market is different in terms of vulnerability because of the potential for recycling, substitution, or the concentration of the industry.[10] It is safe to say that energy resources — in the context of this thesis, oil and gas but generally also uranium and coal — are treated as the most strategic resources by import-dependent governments.

Producing countries can be vulnerable as well — if they so much depend on export income that they cannot easily or quickly deal with a loss of export markets.[11] As much as vulnerability is a concern for importers of raw materials, it gives exporters (some) leverage. Scarce resources that are concentrated have — e.g. in the case of the 1970s oil crises or the more recent withholding of rare earths exports by China — been used as

[5] Ross, *The Oil Curse, op. cit.*, p. 8f.

[6] Hanns Maull, *Raw Materials, Energy and Western Security*, Macmillan, London, 1984, p. 8.

[7] Ronnie Lipschutz and John Holdren, "Crossing Borders: Resource Flows, the Global Environment, and International Security", *Bulletin of Peace Proposals*, 21(2):121–133, 1990, p. 125.

[8] Zha Daojiong, "Energy Interdependence", *China Security*, pp. 2–16, Summer 2006, p. 157.

[9] Lipschutz et al., *Crossing Borders, op. cit.*p. 124; Maull, *Raw Materials, Energy and Western Security, op. cit.*, p. 12.

[10] *ibid.*, p. 36, 198.

[11] Helge Hveem, *Minerals as a Factor in Strategic Policy and Action*, in: Arthur Westing, (ed.), *Global Resources and International Conflict. Environmental Factors in Strategic Policy and Action*, pp. 55–84. Oxford University Press, Oxford, 1986, p. 67.

a political weapon and caused considerable concerns internationally and some market turbulence.[12] Still — with the exception of rare earths — oil and other minerals are now produced in many countries and regions, which both limits vulnerability as well as exporters' power vis-à-vis importers. The exporters' power, especially that of frontier area, does not so much stem from their ability to withhold access to resources or threaten to do so (which is reserved for the major players such as Saudi Arabia) but from the fact that — against the background of increased competition for access to raw materials — they can now choose to whom they grant access to their natural resources. By the same token, competition between importers of natural resources has implications for host countries, for instance in Darfur, "where U.S and Chinese energy security concerns, human rights, and geopolitics intersect to produce a tragic result, rather than a win-win where both the United States' and China's energy security would be improved by enhanced stability in Sudan and on the African continent in general."[13]

Although access to raw materials is often described as a major determinant of foreign policy, the motivations for the intervention of home governments may be different altogether. Rather than ensuring raw materials security or simply supporting business interests, home governments may have more ideological reasons to get involved in producing regions. The US government, rather than working towards direct control of resource deposits by US domiciled companies, generally pushed for a free-market approach, which contrasts with China's "strategic approach" to energy.[14]

Energy security, for the Chinese government, has become a matter of "high politics".[15] China is seen as following a mercantilist approach to raw materials security, which is usually contrasted with the west's market approach.[16] Raymond Vernon, too, emphasises open market policy of the US government (rather than security policy) which left much of its raw materials policy in the hand of the private sector. He notes however, that ad hoc initiatives have been undertaken occasionally.[17] Bromley argues that US foreign policy in

[12] Lipschutz et al., *Crossing Borders, op. cit.*, p. 124.

[13] Matthew Chen, "Chinese National Oil Companies and Human Rights", *Orbis*, pp. 41–54, Winter 2007, p. 45.

[14] Philip Andrews-Speed, Xuanli Liao and Roland Dannreuther, "The Strategic Implications of China's Energy Needs", *Adelphi Papers*, 346, 2002.

[15] Kenneth Lieberthal and Mikkal Herberg, "China's Search for Energy Security: Implications for U.S. Policy", NBR *Analysis*, 17(1), April 2006, p. 13, Andrews-Speed et al., *The Strategic Implications of China's Energy Needs, op. cit.*, p. 9.

[16] Linda Jakobson and Zha Daojiong, "China and the Worldwide Seach for Oil Security", *Asia-Pacific Review*, 13(2):60–73, 2006, p. 60.

[17] Vernon, *Two Hungry Giants, op. cit.*, p. 81. During the Vietnam War, the US administration successfully pressured nickel suppliers to give preferential treatment to the US (which meant that competing

the Middle East is less dominated by the desire to access oil resources, but that more generally, the US has sought to create an "open, capitalist system throughout the Gulf region, for the benefit of many states and firms." Oil is just a visible part of that larger strategy.[18] In any case, the creation of a free market has not always been at the centre of US foreign policy, especially if it concerned the entry of competitors in countries where US companies were already present.[19] Ultimately, however, a free-market strategy too is tantamount to ensuring supplies are in the hands of US companies or close allies as a competitive, free world market would still ensure the cheapest possible access to raw materials. It makes little difference if foreign policy aims at opening markets or is made in direct pursuit of control of natural resources.[20]

Even though China's approach is said to be more strategic, this is also becoming the case for other large energy importers. KALICKI AND GOLDWYN observe that

> "[n]ot long ago, consuming nations cooperated far more in the pursuit of energy security, creating open markets, resisting the impulse to lock up oil supplies in bilateral deals, and pooling resources to build buffer stocks of oil to combat disruption. Today, the trend is increasingly competitive not cooperative."[21]

With increasing dependence on oil from the international markets — before a surge in shale production, US domestic supplies had been depleting — oil from other countries had become critical to US energy security. The US has an interest in increasing world production of oil and to promote the interests of its domestic resource companies.[22] Western governments' concerns are often commercial ones, i.e. that China's strategy of buying resource companies or forging alliances aimed at long-term supply for raw materials will increase other actors' vulnerability. Ultimately, MORAN finds that this is only the case

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importers in Japan and Europe had to obtain nickel at inflated prices from Russia. OECD, *Interfutures: Facing the Future. Mastering the Probable and Managing the Unpredictable*, OECD, Paris, 1979, p. 53.

[18]SIMON BROMLEY, "The United States, Hegemonic Strategies and World Oil", *St. Antony's International Review*, 2(1):56–70, May 2006, p. 56 The same has been argued for the UK; ALFRED ECKES, *The United States and the Global Struggle for Minerals*, University of Texas Press, Austin, 1979, p. 241.

[19]In the 1920s, the US Government lobbied to wrest market access for US oil companies in the Middle East from French and British interests. VERNON, *Sovereignty at Bay, op. cit.*, p. 31.

[20]PHILIPPE LE BILLON AND FOUAD EL KHATIB, "From free oil to 'freedom oil': terrorism, war and US Geopolitics in the Persian Gulf", *Geopolitics*, 9(1):109–137, 2004.

[21]JAN KALICKI AND DAVID GOLDWYN, (eds.), *Energy and Security. Towards a new Foreign Policy Strategy*, Woodrow Wilson Center Press, Washington, D.C., 2005, p. 5.

[22]BROMLEY, *The United States, Hegemonic Strategies and World Oil, op. cit.*, p. 57.

with respect to rare earths — in other sectors, China's activities do actually increase competition and supply of natural resources.[23]

The entry of new actors into raw materials markets is not without precedent. Until the 1970s it was US companies that were the dominant raw materials producers — until Japan and Western Europe sought to secure their raw material supplies through their own multinationals.[24] Forty years ago, greater participation of Japan in world mineral trade led to increased competition and importers of minerals started to diversify their origins. Bosson and Varon note that this benefited all countries as more — previously marginal projects — became commercially viable and spurred technological change.[25]

Consequences of Home Government Involvement

Present-day economic interests differ somewhat from those analysed in the literature on business and foreign policy. Many authors studied the foreign policy response to the threat of nationalisation. Calls for foreign intervention in the second half of the 20th century were often linked to fears of expropriation. Today, in addition to an increase in "resource nationalism" — in the form of higher taxes on foreign investors in the sector — the main concern is not the threat to existing FDI[26] but the gaining of access to natural resources against a tougher competition.[27] This implies that foreign and aid policy would take different forms, relying more on carrots than on sticks: whereas nationalisation would be met with intervention or the withdrawal of aid, foreign policy would focus on providing positive incentives to the governments of resource-rich countries.

Attempts to ensure access to energy often amount to supporting unsavoury regimes. As Michael Klare observes, "We [the US] have repeatedly armed and otherwise protected repugnant, undemocratic regimes for the sole purpose of getting our hands on oil".[28] He maintains that increasing competition between Russia, China and the US for the Persian

[23] Theodore Moran, *China's Strategy to Secure Natural Resources: Risks, Dangers, and Opportunities*, Peterson Institute for International Economics, Washington, D.C., 2010.

[24] Vernon, *Two Hungry Giants, op. cit.*, Gilpin, *The Political Economy of International Relations, op. cit.*, p. 244.

[25] Bosson et al., *The Mining Industry and the Developing Countries, op. cit.*, p. 93.

[26] Multilateral Investment Guarantee Agency, *World Investment and Political Risk 2009*, The World Bank, Washington DC, 2010, p. 27.

[27] Although more recently, there have been nationalisations of oil operations in Bolivia, Venezuela, and Argentina.

[28] Michael Klare, *Blood and Oil*, Penguin, London, 2004, p. 189.

Gulf, as well as the Caspian and Central Asian energy supplies, leads to a militarisation of these areas.[29] The protection of US oil and gas extraction is one of the reasons why the US created a military command structure for Africa (AFRICOM).[30] Securing access to energy can involve regime protection, the protection of assets as well as access assurance.[31] "[T]he United States, Europe, and Asia have not confronted the connection between foreign policies that tolerate or enable repression and corruption in many oil-producing countries, and the threats of terrorism, instability, and volatility they face today"[32]

A rather harmless form may be the provision of home government support via the extractive company. In principle, such measures amount to no more than an attempt to gain an advantage over competitors, but — as will be shown below — it may limit the pressure for reform in host countries. Home governments may try to sweeten deals of their firms, e.g. through the provision of finance, export credit or aid.[33] They can also act as safeguard should the host government decide to renege on contracts.[34] Financing and aid need not necessarily benefit the host country directly: in the extractive industries, large amounts of risk capital are needed, therefore government backing is of great help to companies. The extent of government involvement can be expected to differ according to the background of a company and whether it is state-owned or not. This is thanks to the possibility of a firm to draw from taxpayers' money allows a company to be more risk-loving than one that is accountable to a large number of shareholders. Moreover, given the perceived relevance of the resource industries to a home country's security, investments, particularly in the petroleum sector, might be undertaken even if under normal market conditions it would not have been worthwhile.[35]

Competition between importers can have dire consequences for resource-rich states. Before the increase of demand and expansion of foreign investment by emerging economies, the main (oil) importing countries were developed industrialised countries, while

[29] *ibid*.

[30] SEAN MCFATE, "US Africa Command: Next Step or Stumble", *African Affairs*, 107(426):111–120, 2008; TOM MCCASKIE, "The United States, Ghana, and Oil: Global and Local Perspectives", *African Affairs*, 107(428):313–332, 2008.

[31] KLARE, *Petroleum Anxiety and the Militarization of Energy Security, op. cit.*

[32] KALICKI ET AL., *Energy and Security, op. cit.*, p. 6.

[33] COBBE, *Governments and Mining Companies in Developing Countries, op. cit.*, p. 160.

[34] For example, the Hickenlooper amendment to the Foreign Assistance Act stipulates that if US firms are expropriated without compensation foreign aid to that country should be automatically cut off.

[35] For instance, extractive companies from China are often criticised for taking advantage of aid from their home government in form of insurance or loans in order to set up operations. However, MIKESELL AND WHITNEY note that US firms have made use of export financing agencies as well. MIKESELL ET AL., *The World Mining Industry, op. cit.*, p. 30. The extent of Chinese export credit and aid for resources deals will be addressed below.

the suppliers, largely dependent on a single commodity for export, were peripheral.[36] With the emergence of non-traditional investors however, the relationships between importers and exporters change as export dependent countries no longer rely on a single "group" of buyers. Previously, resource-importing countries or home-governments may have treated resource producers (or the ruling elites in these countries) as their clients.

This competition, especially from China, is often framed as a danger for development.[37] In the eyes of many Western observers and policy makers, the advent of non-traditional investors poses a danger, not only because it is perceived to lead to the insecurity of raw materials supplies. It empowers producing countries and provides less leverage to impose political and economic reforms.[38] It is often held that the imposition of rules regarding the extractive industries (or governance reforms in general) requires enough leverage by (traditional) donors and that the rise of non-traditional investors allows governments of host countries to opt out of these arrangements. This view is most likely due to the "high profile" cases of Angola and Sudan, where efforts be western governments and donors were met with resistance and resulted in the countries' orientation towards China. But as Chapter 8 will show, initiatives and regulation can still be effectively imposed.

China's emphasis on sovereign rights and the stated willingness not to interfere in other countries' domestic affairs have made the country a preferred partner for many African regimes: "It is an African scramble for China more than the other way around", notes one observer.[39] For instance, following pressure by NGOs, home governments have tried to push for an end to human rights abuses in Sudan. This pressure led to a divestment of US and Canadian oil companies. Faced with pressure from a single importer, such threats might lead resource-producing countries to change their behaviour. With greater demand from emerging economies, raw materials producers are increasingly able to play out potential raw materials firms and their home governments. US sanctions policy in Iran and Libya were counterproductive, because they were unilateral and simply resulted

[36] Alexander Betts, Matthew Eagleton-Pierce and Anne Roemer-Mahler, "Editorial Introduction: 'The International Politics of Oil"', *St. Antony's International Review*, 2(1):3–10, May 2006, p. 6.

[37] Didier Djoumessi, *The Political Impacts of the Sino–U.S. Oil Competition in Africa*, Adonis & Abbey, London, 2009, p. 19.

[38] *ibid*., p. 20.

[39] Stephen Chan, "Scramble for China", *Prospect*, 24 August 2006. For an overview of China's economic and foreign policy goals with respect to the African continent see: Ian Taylor, *The 'All-Weather Friend'? Sino-African Interaction in the Twenty-First Century*, in: Ian Taylor and Paul Williams, (eds.), *Africa in International Politics. External Involvement on the Continent*, pp. 83–101. Routledge, London, 2004, Denis Tull, *Die Afrikapolitik der Volksrepublik China*, Stiftung Wissenschaft und Politik [SWP-Studie 20], Berlin, August 2005.

in other foreign oil companies entering these countries.[40] A similar argument might be made for the divestment of western companies in Sudan and the subsequent entry of China into the Sudanese oil sector.

Competition is, of course, not new and the aim of this section is to show that the rise of non-traditional investors has not led to substantially different policies. Rather, there is a double standard at play: western policy makers blame the newcomers for not exerting any pressure for reform on host governments (and western oil company representatives blame them for lower operational standards and oppose the Chinese development model).[41] But in fact, examples of misconduct by traditional and non-traditional actors alike, in the past and present, abound. The criticism that dependency theorists directed at Western companies might well apply to non-traditional investors as well as

> "[...] international capitalism is far more interested in working closely with the various regimes so as to ensure 'stability', which in turn will guarantee the continuous process of siphoning off profits from the local mineral dependent economies. In other words, the internal situations or political set-ups in these states — call it gross violation of human rights, apartheid or what have you — do not disturb the peace of mind of the TNCs and their chief backers, the major Western industrial democracies."[42]

Potential access to raw materials lead governments to abandon their official foreign policy principles. And while this is not to exonerate Chinese support for "pariah" states such as Sudan and Myanmar, the history of raw materials in foreign affairs serves as a reminder to contextualise China's more recent role. There are plenty of examples of raw materials importers backing unsavoury regimes, and western government have been as flexible in giving up their insistence on human rights as the Chinese have been to emphasise their policy of non-interference. The Katanga province in the broke away from then Zaïre because the region's leader Moïse Tshombe and the Belgian mining firm Union Minière du Haut Katanga that helped finance the secession assumed that the region's wealth in copper could make for a viable state.[43] France generally helped keep pro-French elites

[40] Bromley, *The United States, Hegemonic Strategies and World Oil, op. cit.*, p. 65f.

[41] Clinton, *Interview on Africa 360, op. cit.*

[42] Oye Ogunbadejo, *The International Politics of Africa's Strategic Minerals*, Greenwood, Westport, Conn., 1985, p. 180.

[43] John Clark, "Petro-Politics in Congo", *Journal of Democracy*, 8(3):62–76, 1997, p. 70; David Gibbs, *The Political Economy of Third World Intervention. Mines, Money, and U.S. Policy in the Congo Crisis*, University of Chicago Press, Chicago and London, 1991.

in power, regardless of the democratic credentials.[44] In contrast, the US could be more moralistic vis-à-vis Myanmar and Sudan, because not many business interests were at stake.[45]

In other instances oil or natural resource interests were more conspicuous and pressure for reform has by no means a principle of engagement for traditional investors. OGUNBADEJO argues that strategic minerals in South Africa precluded Western Governments from adopting a clearer anti-apartheid stance by disinvesting from the country, as other sub-Saharan African states were perceived to be too unstable.[46] Similarly, despite the rampant corruption and track record of human rights abuses by the government of Teodoro OBIANG NGUEMA in Equatorial Guinea, the past two US administrations have reneged on their policy to isolate the President to avoid repercussions for Exxon's concession agreement in the country.[47] In Congo-Brazzaville, where French oil major Elf-Aquitaine controlled the majority of oil production, then President Pascal LISSOUBA approached the company for a loan in order to pay government salaries. After the company refused, the president secretly turned to its US competitor, Occidental (Oxy). The Congolese government eventually had to renege on the deal due to French pressure. Eventually, France backed the rebels around Denis SASSOU NGUESSO who became the country's new president again.[48] Similar competition, this time over exploration licenses, occurred in Benin.[49] The French support did however not translate into the award of licenses to Elf-Aquitaine.[50] SCHRAEDER notes that the failure of France to secure exploration rights in Benin and Senegal indicates that African leaders in general became less obedient to French policy interests, similar to the emancipation of host governments one can observe today.[51]

[44] PETER SCHRAEDER, "Cold War to Cold Peace: Explaining U.S.–French Competition in Francophone Africa", *Political Science Quarterly*, 115(3):395–419, Autumn 2000, p. 407.

[45] LAWRENCE GRINTER, "China, the United States, and Mainland Southeast Asia: Opportunism and the Limits of Power", *Contemporary Southeast Asia*, 28(3):447–465, December 2006, p. 451.

[46] OGUNBADEJO, *The International Politics of Africa's Strategic Minerals, op. cit.*

[47] KEN SILVERSTEIN, "Our Friend Teodoro", April 2006 SHAXSON, *Poisoned Wells, op. cit.*

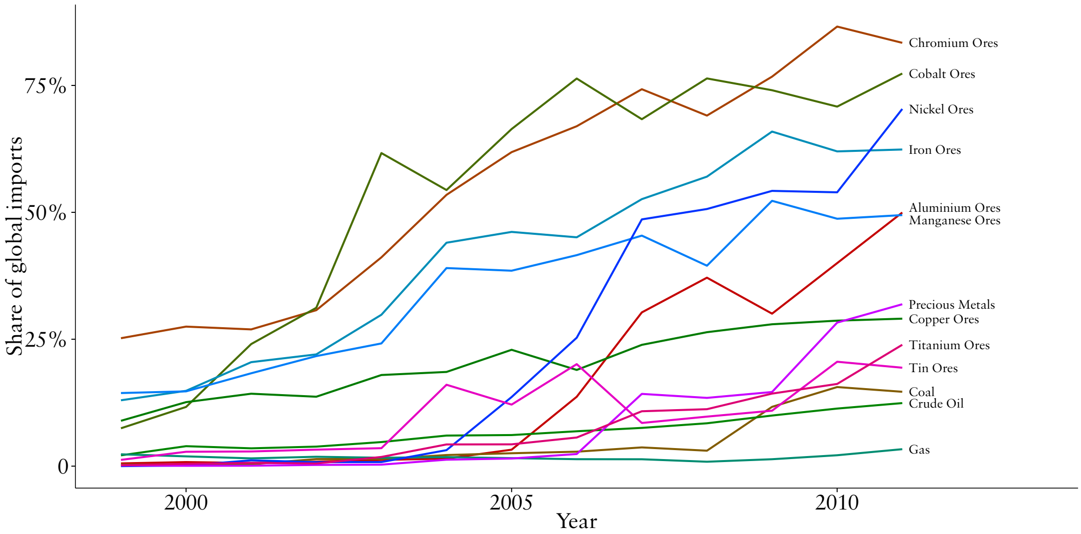
[48] MICHAEL ROSS, "Booty Futures", UCLA *Working Paper*, 2005; CLARK, *Petro-Politics in Congo, op. cit.*; SCHRAEDER, *Cold War to Cold Peace, op. cit.*, p. 405.

[49] France backed then presidential candidate Mathieu KÉRÉKOU versus US-backed President Nicéphore SOGLO.

[50] FRANÇOIS-XAVIER VERSCHAVE, *La Françafrique. Le plus long scandale de la République*, Stock, 1998; SCHRAEDER, *Cold War to Cold Peace, op. cit.*

[51] *ibid.*, p. 406.

Figure 1: China's Share in Worldwide Raw Materials Imports, 1999–2011



Source: United Nations, un *Commodity Trade Statistics Database*, New York, 2013.

China and Raw Materials Security

China's demand for natural resources is indeed large. Between 2003 and 2012, the country's petroleum consumption has increased from 5.77 million barrels per day to 10.22 million barrels, i.e. 7.2 and 11.38 per cent of the world's production, respectively. At the same time domestic production has only increased from 3.4 to 4.05 million barrels per day.[52] The developments in the minerals sector are similar: In 2003, China's imports of iron, copper and aluminium ores, accounted for 29.8, 17.9, and 1.2 per cent of the value of global imports, respectively. By 2011, these figures had increased to 62.37, 29.05 and 49.96 per cent respectively.[53] Figure 4 shows the increasing share of China in global mineral imports for the past decade.

The increasing international presence of Chinese companies has also sparked concerns regarding the security of supply of energy and other resources. This mainly relates to energy and raw materials security, and the — perceived — threat non-traditional investors pose for established actors. The market entry of Chinese (and other) players leads to heightened commercial competition and the dilution of influence in resource-rich coun-

[52]BP, *Statistical Review of World Energy*, 2013.
[53]United Nations, un *Commodity Trade Statistics Database, op. cit.*

tries of established importers.[54] Even though this market entry will naturally increase competition, the consequences of China's rise and the severity of the threats it poses are overblown. While China's rise is noticeable, it is a smaller phenomenon as is often portrayed (see Chapter 6). The energy security discourse is largely made out to be a competition of countries for resources; competition between the US and China, China and India and so on. LIEBERTHAL AND HERBERG attribute much of the energy security concerns to a "pre-1970 understanding of the global oil markets", where the availability of oil to a given importing country would have been related to that country's presence as an investor in a producing state.[55] By investing abroad, so the argument goes, China is limiting the physical availability of oil for other importing countries. At times, this is made out to be a direct challenge at established oil importers.[56] Next to the claim that they decrease the (physical) availability of oil, emerging economies presumably also lower energy security because their demand increases prices.[57] LIEBERTHAL AND HERBERG note that demand of traditional importers has also risen.[58]

China is of course concerned about its energy security — and explicitly seeks to enter into contractual supply arrangements, increase production at home and geographically diversify its sources of energy.[59] China's access to raw materials supplies worried policy makers, especially in the US. One report argues that it will be "difficult to leverage or threaten" a resource-secure China and that its strategy of diversification means that it might be difficult for the US to pressure China's resource suppliers.[60] JAKOBSON AND DAOJIONG note that in contrast to Western concerns about China lowering raw materials security, Chinese commentators see a need for their country to carve out its space in a hostile environment.[61] Western policy makers are concerned with China's increased demand for energy and other raw materials and the Chinese Government is actively trying to counter the claims that its rise is a threat. This has even led to the government basing its energy policy on coal.[62] Chinese companies have faced difficulties and growing "re-

[54] Initially, Chinese companies did not compete directly for the same deposits as western companies (see Chapter 6).

[55] LIEBERTHAL ET AL., *China's Search for Energy Security, op. cit.*, p. 21.

[56] NATIONAL ENERGY POLICY DEVELOPMENT GROUP, *Reliable, Affordable, and Environmentally Sound Energy, op. cit.*

[57] Definitions of energy security usually contain references to affordability. UNDP, *World Energy Assessment*, United Nations Development Programme, New York, 2004.

[58] LIEBERTHAL ET AL., *China's Search for Energy Security, op. cit.*, p. 20.

[59] SIGFRIDO BURGOS CÁCERES AND SOPHAL EAR, "The Geopolitics of China's Global Resources Quest", *Geopolitics*, 17(1):47–79, 2012, p. 52.

[60] RAMBO, *China's Resource Quest, op. cit.*, p. 52.

[61] JAKOBSON ET AL., *China and the Worldwide Seach for Oil Security, op. cit.*

[62] DAOJIONG, *Energy Interdependence, op. cit.*, p. 5.

source nationalism" which meant that many proposed acquisitions failed (e.g. CNOOC's takeover of Unocal or Minmetals' attempt to take over the Canadian miner Noranda). Policy-makers therefore feel that China is being squeezed and that established actors are cutting the country off raw materials supplies. KONG notes that Chinese petroleum insecurity is not independent from US policy. Chinese policy makers were worried that Chinese security of supply would be in danger if the Arab countries had used oil as a weapon in the wake of the interventions in Afghanistan and Iraq. Likewise, terrorist attacks against production or transport infrastructure were of concern to the Chinese. The concomitant rise of oil prices (caused by limitation in supply from the Middle East) could have seriously affected China's economic growth.[63]

Security of raw materials supplies — regardless of the actor and the strategy — is a key determinant in the foreign ventures of Chinese state-owned enterprises (see Chapter 4). While many western observers and policy-makers perceive this as a direct challenge on the status quo, JIANG argues that the Chinese energy strategy is driven by insecurity not predation.[64] While the West is increasingly relying on a "market approach" to energy security, China's attempts to be more strategic.[65] Raw materials security provides the common aim of the Chinese government and resource companies. Both because the Chinese government sees the domestic scarcity of raw materials as a threat to economic growth. The government actively encourages the acquisition of foreign assets in the raw materials sector. For companies, of course, access to raw materials is their raison d'être. In the realist narrative of energy security, China's increased presence abroad is portrayed as a zero-sum game, where China seeks to "lock up" natural resources[66], effectively lowering others' raw materials security (see also Chapter 6). ROSEN AND HAUSER argue that Chinese investment in states with questionable governance and human rights records does not decrease energy security, as it brings petroleum resources to the market that would otherwise have been left unexploited.[67]

[63]KONG, *China's International Petroleum Policy, op. cit.*, p. 53, BO KONG, "Institutional Insecurity", *China Security*, pp. 64–88, Summer 2006, p. 77 fn. 35.

[64]WENRAN JIANG, "Fuelling the Dragon: China's Rise and Its Energy and Resources Extraction in Africa", *China Quarterly*, 199:585–609, 2009, p. 608.

[65]BURGOS CÁCERES ET AL., *The Geopolitics of China's Global Resources Quest, op. cit.*, p. 19.

[66]*ibid.*, p. 48.

[67]DANIEL ROSEN AND TREVOR HOUSER, *China Energy. A Guide for the Perplexed*, Center for Strategic and International Sudies and Peterson Institute for International Economics, 2007, p. 31.

Thus, Chinese companies do not remove oil from the markets.[68] While US and European Energy security strategies seem to view the increased demand from China as a threat, the going-out strategy so far has made the international raw materials markets more competitive and has added to international supplies of natural resources.[69] Thus, China's energy policy is not a strategic, coordinated, challenge to the US (or others), but does have "collateral impacts".[70] China may have outward investment in the sector but this does not mean that the country imports natural resources from these countries.[71] Chinese oil companies have secured relatively little equity oil, i.e. oil that the shareholder can retain and ship back home.[72] This is rather outdated, as ownership in oil is not required to get access to it, nor does it guarantee access. China's "mercantilist energy impulses" imply a preference for equity oil rather than acquisition on the open markets, which reflects an antiquated view of energy markets, as even if imports in kind are secure, prices would still be volatile.[73] Equity does not mean security, and supply disruptions could still happen.[74] It would be unlikely that Chinese companies would be able to satisfy Chinese demand simply because many countries do not allow foreign equity participation in petroleum production in which case the foreign NOCs would not be entitled to a share of oil.[75]

Whereas equity deals of IOCs are assumed to end up at the open market, those of Chinese NOCs are assumed to be shipped to China. Even of the little equity oil they have, not all of it is shipped to China but sold to the highest bidder, which in the past has also been due to rather mundane problems such as long transportation and lack of refining capacities.[76] Economic considerations beat politics: Oil is sold on international markets

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[68] Jakobson et al., *China and the Worldwide Seach for Oil Security, op. cit.*, p. 65, Julie Jiang and Jonathan Sinton, *Overseas Investments by Chinese Oil Companies*, Information Paper. International Energy Agency, February 2011, p. 13.

[69] The export restrictions imposed by the Chinese government on rare earth metals are a notable exception. In this case, however, China had been the main exporter.

[70] Lieberthal et al., *China's Search for Energy Security, op. cit.*, p. 17.

[71] Shankleman, *Going Global, op. cit.*, p. 29.

[72] Kong, *China's International Petroleum Policy, op. cit.*, p. 92.

[73] Lieberthal et al., *China's Search for Energy Security, op. cit.*, p. 20, 40: Though Mitchell and Lahn point out that China would need to pay a premium of about $2 per barrel for non-equity oil.

[74] John Mitchell and Glada Lahn, "Oil for Asia", *Chatham House Briefing Paper*, March 2007, p. 3.

[75] Erica Downs, *China's Energy Rise*, in: Brantly Womack, (ed.), *China's Rise in Historical Perspective*. Rowman and Littlefield, Lanham, Maryland, 2010, p. 189.

[76] Rosen et al., *China Energy, op. cit.*, p. 30; Jiang et al., *Overseas Investments by Chinese Oil Companies, op. cit.*, p. 18; Kong, *China's International Petroleum Policy, op. cit.*, p. 93; Mitchell et al., *Oil for Asia, op. cit.*, p. 6 Chinese domestic oil prices are regulated which provides companies with a disincentive to sell fuel domestically, and Kong points out that when there were fuel shortages in 2004, companies actually increased exports of fuel. Kong, *Institutional Insecurity, op. cit.* p. 75. Before 2004 there were import quotas — e.g. CNOOC could only sell 4m tons of crude oil domestically and had to sell the majority on the international market.

to the highest bidders, rather than shipped back to China, where price controls would make sales less profitable for companies.[77]

For other resources, the situation is different. China imports a large share of the World's copper, iron and bauxite/alumina. Those Chinese mining companies that do have foreign operations (which are much less diversified than those in the petroleum sector) tend to be vertically integrated, and thus their production abroad does feed smelters and mills back in China.[78] In the case of iron, Chinese expansion abroad is also motivated by the desire to break free of the price-fixing of the "iron cartel", Rio Tinto, BHP Billiton and CVRD/Vale.[79]

Chinese (and other emerging market) NOCs are still no competitive challenge for established companies. The notion of a threat to energy security of the West is misguided as the oil market is too large for the new entrants' acquisitions to matter just yet.[80] For example, in 2011 PetroChina — the 14th largest oil company by reserves — held about 0.67% of the world's reserves.[81] Since China's pick-up in consumption, the amount of proved reserves has increased. Much of it is due to recent developments in Canadian oil sands but some of the increase in available oil, e.g. in Sudan, can be directly associated with Chinese activities.[82] Some petroleum companies do have large reserves, but this does not mean that they are "locking up" resources: Most of their production and reserves are from China. Table 1 shows the reserve levels of Chinese oil companies, in comparison to their peer group.

BUSINESS POWER IN INTERNATIONAL RELATIONS

The presence of a company in a given country can induce its home government to directly promote the economic interests of its companies via its foreign, security or development policies. Although at first sight it may seem obvious that a state will protect the interests

[77] Downs, *The Fact and Fiction of Sino-African Energy Relations, op. cit.*

[78] González-Vicente, *Mapping Chinese Mining Investment in Latin America, op. cit.*, p. 55.

[79] Robert Miller, *China needs Iron*, 21 November 2007.

[80] Mikkal Herberg, *Asia's National Oil Companies and the Competitive Landscape of the International Oil Industry*, in: *Asia's Rising Energy and Resource Nationalism*, NBR Special Report #31, pp. 29–37. National Bureau of Asian Research, September 2011, p. 36.

[81] Marily Radler and Leena Koottungal, "Oil prices boost OGJ100 firms' 2011 earnings", *Oil & Gas Journal*, 110:44, 3 September 2012.

[82] BP, *Statistical Review of World Energy, op. cit.*

Table 1: Largest Oil Companies by Reserves of Crude Oil in 2011

Rank	**Company**	**Reserves (million bbl)**	**Share of Total Proved Reserves**
1	Saudi Aramco	264,520	15.99%
2	PDVSA (Venezuela)	211,170	12.77%
3	National Iranian Oil Company	151,170	9.14%
4	Iraq National Oil Company	143,100	8.65%
5	Kuwait Petroleum Corp	101,500	6.14%
6	Abu Dhabi National Oil Corp	92,200	5.57%
7	National Oil Corp (Libya)	47,100	2.85%
8	NNPC (Nigeria)	37,200	2.25%
9	Qatar Petroleum	25,380	1.53%
10	Rosneft (Russia)	18,351	1.11%
11	Lukoil (Russia)	13,123	0.79%
12	Exxon (US)	12,228	0.74%
13	Sonatrach (Algeria)	12,200	0.74%
14	PetroChina	11,128	0.67%
	of which outside China†	4,629	0.28%
15	Petrobras (Brazil)	10,782	0.65%
16	BP (UK)	10,565	0.64%
17	Pemex (Mexico)	10,263	0.62%
18	Sonangol (Angola)	9,500	0.57%
19	Petroecuador	7,210	0.44%
20	Chevron (US)	6,455	0.39%
for comparison			
	Total (France)	5,784	0.35%
	Shell (UK)	4,384	0.27%
	Sinopec	2,848	0.17%
	of which outside China	79	
	CNOOC	2,031	0.12%
	of which outside China	515	
Proved reserves worldwide		1,654,133	

† Includes marginal Chinese fields.
Source: PetroChina and Sinopec Form 20-F, Company Reports, BP, MARILY RADLER AND LEENA KOOTTUNGAL, “Oil prices boost OGJ100 firms’ 2011 earnings”, *Oil & Gas Journal*, 110:44, 3 September 2012.

of its industries abroad, foreign policy is of course not exclusively determined by business interests. DOWNS notest that is often assumed that on the part of China there is a

> " [...] highly coordinated quest for oil and natural gas assets in which the companies are merely puppets of the state, executing directives of their political masters in Beijing. This perception stems from a combination of the authoritarian nature of the Chinese government, the state ownership of China's oil companies, and the country's growing demand for oil."[83]

In this section, I briefly present the relationship between home governments and their companies. Despite the superficial congruence of their interests in terms of access to raw materials, these corporate and state actors should not be equated. With respect to raw materials investments the distinction between business interests and national interests may, however, be increasingly irrelevant given that raw materials security has become a key issue for industrialised countries. Undoubtedly, levels of interaction between businesses and the home governments vary across industries and countries.

My aim is not to assess the implications of raw materials for theories of the state, but merely to provide the groundwork for the argument that despite their formal closeness and complementary strategies, the government's foreign policy towards resource-rich developing countries is not exclusively driven by raw materials security objectives or business interests (conversely, the government does not have full control over the companies). There are several theories of the role (or lack thereof) of companies in their home governments' policies towards third countries and there is considerable disagreement about the extent to which business interests drive foreign policy.[84] Statist (or realist) explanations maintain that foreign policy making (in the US) is largely autonomous from business interests and is rather determined by the 'national interest' — which overrides (but still may coincide) with those of any specific interest group.[85] Pluralist explanations emphasise the potential of some groups as each interest is considered to have an equal role in shaping a country's foreign policy. In the pluralist interpretation business are just one groups amongst many[86] — although some argue that business are a privileged group.[87] While

[83] DOWNS, *The Fact and Fiction of Sino-African Energy Relations, op. cit.*, p. 48.

[84] STEPHEN KRASNER, *Defending the National Interest. Raw Materials Investments and U.S. Foreign Policy*, Princeton University Press, Princeton, 1978, RONNIE LIPSCHUTZ, *When Nations Clash. Raw Materials, Ideology, and Foreign Policy*, Ballinger, 1989, RONALD COX, *Power and Profits. U.S. Policy in Central America*, The University Press of Kentucky, Lexington, 1994.

[85] KRASNER, *Defending the National Interest, op. cit.*

[86] DAVID VOGEL, "The New Political Science of Corporate Power", *Public Interest*, 87:63–79, Spring 1987.

[87] CHARLES LINDBLOM, *Politics and Markets*, Basic Books, 1977.

GIBBS argued that "a Statist approach would better explain intervention by the communist countries"[88], the fact that they are state-owned does not make them tools of their government, or vice versa, as Chapter 6 will argue in greater detail.

Government–business relationships are complex, not only because many more players are involved in foreign policy and businesses are far from monolithic. Home governments and companies — even if state-owned — have distinct and possibly divergent interests regarding different host countries, and "the fact that an oil company is often not operating in one country alone, and may have a world-wide scatter of interests, tends to complicate the industry's relationship with each individual government."[89] Companies have been able to influence their home government's behaviour and given their economic clout at home and strategic relevance in terms of raw materials supply, large oil and mining companies have often been used to illustrate the relationships between the private sector and governments. They "wield enormous political influence within state that require external investment in order to exploit reserves, and the long-term nature of contracts give them a significant stake within the provision of public goods and regulation within the state."[90] Although by now, western oil companies tend to be in private hands, they have close and well-documented ties with governments.[91] In contrast, mining companies have received less support. For instance, the US Government has supported individual mining companies occasionally, but because of the temporary nature of administrations this support is not consistent over time, as mining companies possess considerably less power that oil companies.[92] The majority of small firms are not necessarily interested in foreign policy — large ones however "have interests so far flung and resources so extensive that they can and must insert themselves in debates over issues of war and peace, the character of international institutions, the openness of the global economy and the political and ideological orientation of major states".[93] Although in the past there certainly have been instances — for example in relation to opening up the Middle East to US corporations — where there has been close cooperation between the private sector and US, British, and

[88] GIBBS, *The Political Economy of Third World Intervention, op. cit.*, p. 205.

[89] HARTSHORN, *Oil Companies and Governments, op. cit.*, p. 175.

[90] BETTS ET AL., *Editorial Introduction, op. cit.*, p. 8.

[91] *ibid.*, p. 4, p. 8; VERNON, *Two Hungry Giants, op. cit.*, p. 63.

[92] *ibid.*, p. 76.

[93] DAVID SKIDMORE, "Review: The Business of International Politics", *Mershon International Studies Review*, 39(2):246–254, October 1995, p. 252. Small firms can do so only in the framework of collective business associations.

French governments there are as many instances where home governments have been acting against corporate interests.[94]

Conversely, it is far from clear why the interests of the private sector should be wholly aligned with that of home governments as foreign investors need the blessing of governments in producing states to start or continue operations. Even though, as Edith Penrose puts it "[...] some governments may connive with the firms to advance their mutual interests as against the interest of the governments or economies of other countries in which the firm operates"[95], political interests of home governments might not be in line with the companies' business interests. Being seen as agents of the home government can frustrate efforts to maintain good relations with the host country elites.

Oil majors act as agents for their parents, but also for their hosts.[96] Companies might well find themselves be caught in the middle of disputes between home and host governments. During 1970s oil crises, available supplies were distributed by oil companies, which were lobbied by importing governments for preferential treatment — efforts which were successfully resisted in order not to compromise their position vis-à-vis the host countries. Eventually, the majors who complied with the Arab oil embargo were not seen as agents of the parent government but rather as extensions of host governments.[97] They may also complicate their home government's policy-making by constricting the foreign policy options of the parent government merely by their presence.[98] But it is not only home governments that may be hesitant to lend support to companies. In some instances firms with considerable exposure in foreign countries, may want to keep their home governments at arm's length.[99] Efforts by the home country to lobby on behalf of their companies can backfire. In Chile the US government tried to influence the nationalisation of Anaconda's and Kennecott's copper operations and obtain greater compensation on behalf of the companies which only hardened the position of Chileans.[100]

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[94] Vernon, *Sovereignty at Bay, op. cit.*, p. 209; Gilpin, *U.S, op. cit.*, pp. 139ff. Vernon cites the absence of "retaliatory measures" by the US Government against nationalisations of oil installations in Mexico amongst others. Similar conflicts of interests have occurred with respect to Chinese state-owned companies — despite the formally more close relationships between companies and governments (see Chapter 6).

[95] Edith Penrose, *The Large International Firm in Developing Countries: The International Petroleum Industry*, MIT Press, Cambridge, Mass., 1969, p. 52.

[96] Louis Turner, *Oil Companies in the International System*, George Allen & Unwin/Royal Institute of International Affairs, third edition, 1983, p. 119.

[97] *ibid.*, p. 125.

[98] *ibid.*, p. 120f.

[99] Vernon, *Two Hungry Giants, op. cit.*

[100] Moran, *Multinational Corporations and the Politics of Dependence, op. cit.*, p. 215.

Assessing the role of natural resources in foreign policy runs the risk of becoming deterministic. It is not claimed here that natural resources and business interests in the sector are the sole factor in foreign policy or dominant foreign-policy making, yet there are plenty of examples where access to raw materials was a factor in foreign policy.[101] Industrialised states seek access and stability of supplies, while producing states seek revenues and use their position as resource suppliers to assert their position in the international arena or isolate them from criticism.[102] A number of states, most notably the US, China, Russia and France have used their power to ensure the security of energy supplies or (in the case of Russia) export markets. From home government support for companies it follows that companies in some ways or another pressure their governments to adopt certain policy stances. Investors in the raw materials sector tend to be more interventionist than others, as they are most vulnerable to threats of expropriation due to their geographic concentration and few links with the host economy.[103] Despite perceived vulnerability of raw materials supplies, foreign policy-making is not necessarily determined by access to resources and it is difficult to gauge the impact that business had on their home governments' position.[104] Jeffry FRIEDEN notes the inadequacy of the debate on economic considerations of foreign policy and lack of clarity of analytical categories which vaguely distinguish between economic interests and political influence.[105] Heightened competition for access to raw materials leads to a situation where business interests and foreign policy objectives may increasingly coincide, even if the policy of home governments is not determined by businesses. There are countless instances where access to raw materials and companies business strategies became identified with home government policy.[106] Many European oil companies — and those from emerging economies — have their roots in enterprises that were politically and financially supported by their respective home governments. The UK attempted to have British companies own oil assets in countries within its sphere of influence — the government had a controlling stake in the BP since 1914. Similar arrangements were adopted by the French and Italians.[107] There are both instances

[101] LIPSCHUTZ ET AL., *Crossing Borders, op. cit.*, p. 121.

[102] BETTS ET AL., *Editorial Introduction, op. cit.*, p. 4.

[103] JEFFRY FRIEDEN, "The Economics of Intervention: American Overseas Investments and Relations with Underdeveloped Areas, 1890–1950", *Comparative Studies in Society and History*, 31(1):55–80, 1989, p. 59: The seizure of assets of other investors would be far less profitable for host governments.

[104] SKIDMORE, *Review, op. cit.*, p. 253.

[105] FRIEDEN, *The Economics of Intervention, op. cit.*, p. 57.

[106] DANIEL YERGIN, *The Prize. The Epic Quest for Oil, Money and Power*, Free Press, New York, 2nd edition, 2008. This was most conspicuous in the earlier decades of the 20th century.

[107] PENROSE, *The Large International Firm in Developing Countries, op. cit.* BP is a successor of the Anglo Persian oil company which the British government "underwrote" to reduce dependence from American-

where economic interests were ignored as well as instances where foreign policy served certain industries. Foreign policy may be overdetermined: actions might be in the interests of business (with little or no conflict between different businesses or companies) as well as foreign policy in general. In many instances there was a "complementarity of interests between oil companies and US government officials".[108] A similar argument can be made for France, whose siding with the secessionists in the Nigerian civil war was interpreted as France's quest for oil, but might just have been the result of the country's wish to extend its influence in ex-British African colonies.[109] The intervention or suspension of aid need not necessarily occur because of economic interests of the private sector. For instance, the overthrow of the MOSSADEGH and ALLENDE regimes in Iran and Chile respectively can be considered to have taken place due to US fears of communist takeovers.[110] FORTIN makes this point with respect to Chile, arguing that the NIXON administration's stance towards ALLENDE, was formulated regardless of the latter's nationalisation of the copper industry.[111]

China is increasingly trying to act as a responsible power, a strategy which might ultimately collide with the promotion of her interests to gain access to resources.[112] Even with respect to the "newcomers" foreign or economic policy might be unrelated to the wish to secure strategic resources: despite having taken place in the wake of the signing of a cooperation agreement between the State of Nigeria and Chinese oil companies, an arms deal struck between the two countries is said to be unrelated — simply because China has approved arms shipments to "almost every willing buyer."[113] In Sudan, China's

controlled oil. Similarly, Total a successor of the Compagnie Française des Petroles, was founded by the French government for similar reasons. HARTSHORN, *Oil Companies and Governments, op. cit.*

[108] TURNER, *Oil Companies in the International System, op. cit.*, p. 109 see also GILPIN, *The Political Economy of International Relations, op. cit.*, p. 241.

[109] TURNER, *Oil Companies in the International System, op. cit.*, p. 111. Conversely, the UK's Foreign Office had an anti-secessionist policy stance anyhow.

[110] KRASNER, *Defending the National Interest, op. cit.* See also: ROBERT GILPIN, *The Challenge of Global Capitalism: The World Economy in the 21st Century*, chapter 6, pp. 163–192, Princeton University Press, Princeton, 2000, p. 174. Another interesting example of a government not putting the interests of the private sectors first is provided by the fact that in the 1980s, the MPLA used Cuban troops to protect US oil installations in Angola, while the US government supported UNITA rebels. PHILIPPE LE BILLON, "Angola's Political Economy of War: The Role of Oil and Diamonds 1975–2000", *African Affairs*, (100):55–80, 2001, p. 56, fn. 36.

[111] FORTIN, *The State, MNCs and Natural Resources in Latin America, op. cit.*, p. 55.

[112] MADHU BHALLA, "Domestic Roots of China's Foreign and Security Policy", *International Studies*, 42(3 & 4):205–225, 2005, p. 212; DREW THOMPSON, "A Gathering Consensus on Sudan?", *South China Morning Post*, 18 November, 18 November 2004.

[113] DINO MAHRANI, "Nigeria turns to China for defence Aid", FT.*com*, 27 February 2006.

role is increasingly conditioned by interests that go beyond petroleum, as the countries' economic ties have diversified (see Chapter 9).[114]

To assess the degree of impact of businesses on foreign policy it is useful to study the relationship between host governments and businesses. David Gibbs as well as Ronald Cox advance a business conflict model, according to which business have acted in concert with state bureaucracies and have been able to determine policy outcomes and implement policy.[115] The business conflict model is not only concerned with how host governments advance business interests, it also addresses the question of how companies affect government decision-making, e.g. through personal connections, lobbying or bribery.[116] Often there is a "revolving door" exchange of personnel between government and business. In Gibbs' model, businesses are only united when they face a threat to the business community at large. According to the model businesses are split into factions — even within home countries — according to which policy options serve their business interests better. With respect to the oil and mining industry one can expect these to be more aligned, as there are generally fewer players involved that are not necessarily competing with each other over the access to the same deposits. This applies to the advent of non-traditional investors as well. Western business interests are united against the — perceived threatening — ones of non-traditional investors.[117]

Again, whether one believes that the national interests take precedent over pressure from extractive companies, that the state acts to preserve free raw materials markets or that businesses can impose their policy preferences on the state: the outcomes appear to be the same as — where raw materials are concerned — national security and business interests are more closely related. Changes in international politics do not result from the entry of non-traditional actors themselves, but are a consequence of competition or a perceived threat that the newcomers pose to established actors: both in terms of supremacy of traditional investors' development models and regarding the security of raw materials supplies. Raw materials policy and especially energy policy is becoming

[114] Alden et al., *Harmony and Discord in China's Africa Strategy, op. cit.*, Pádraig Carmody and Ian Taylor, "Flexigemony and Force in China's Resource Diplomacy in Africa: Sudan and Zambia Compared", *Geopolitics*, 15(3):496–515, 2010.

[115] Gibbs, *The Political Economy of Third World Intervention, op. cit.*; Cox, *Power and Profits, op. cit.*; Ronald Cox, *Introduction: Bringing Business Back In — The Business Conflict Theory of International Relations*, in: *Business and the State in International Relations*, pp. 1–7. Westview Press, Boulder, Co., 1996.

[116] Gibbs, *The Political Economy of Third World Intervention, op. cit.*, p. 30.

[117] Which, for instance, is reflected in the way businesses resist domestic regulation by arguing explicitly against the loss of competitiveness compared to their Chinese counterparts (see Chapter 8).

more strategic, and analysts — especially in the US — are calling for a mainstreaming of energy-security related issues into foreign policy.[118] This holds true for China as well. Strategies of Chinese companies and their home government too are largely congruent (though, like with traditional investors, companies are not driven by their government), and China's diplomatic support for resource-rich countries is part of China's larger international role. Rather than a "monumental blitzkrieg of diplomatic engagements [...] to foster ties with oil-rich countries"[119], China's ties with these countries are intensifying because of its increased international economic and political clout (see below and Chapter 6).

CONCLUSION

The extraction of natural resources involves more than just host countries and companies. Given the importance many governments attach to raw materials security, on numerous occasions, the companies' home (or parent) governments have become involved in the politics of host governments or aimed to facilitate foreign direct investment of companies domiciled within their territory. Access to raw materials is a security issue for states and a commercial necessity for companies operating in the extractive industries.

Even though China's demand for natural resources has not led to raw materials insecurity so far, discursive and policy responses betray a broadly realist view. China is seen as a competitive threat (both in political and commercial terms). This competition might cause a growing government intervention and securitisation of energy and raw materials security but may also lead to the abandonment of human rights or governance concerns of importers who wish to maintain a competitive edge vis-à-vis China. The perception of a security threat that China poses for raw materials supplies does not appear to be rooted in the reality of raw materials production and trade. Even though business interests and home government's raw materials insecurity have at times determined foreign policy, it is all too convenient to reduce everything to "resource diplomacy".

Although home governments' foreign policy is not solely determined by access to raw materials, there are numerous instances where home government policy have not only di-

[118] David Victor, *National Security Consequences of U.S. Oil Dependency*, Council on Foreign Relations Independent Task Force Report 58, 2006. This is changing due to lower import dependence brought about by increased exploitation of domestic resources.

[119] Burgos Cáceres et al., *The Geopolitics of China's Global Resources Quest, op. cit.*, p. 65.

rectly benefited elites in resource-rich countries but have also helped companies to gain or maintain a competitive advantage. As a result, in the past host countries have often been relegated to the status of client states. On the other hand, there is ample evidence that industrialised countries have at times tried to exert pressure for political reform on authoritarian governments in resource-producing states, but often enough home government policy was characterised by inaction in order to ensure continued flow of raw materials. Such behaviour is not confined to China, even though its relationship with developing countries (many of which are abundant in natural resources), is usually framed that way. Again it appears that western actors fail to adhere to the standards by which China's actions are judged.

Businesses do not fully control governments or vice versa, even if those businesses are state-owned. Raw materials investments cannot be studied in isolation of home governments but firms should not be seen as mere extensions of their governments. Although public and private interests may often coincide, companies and their home governments may have conflicting goals. Companies from emerging economies, namely China, have been suspected of gaining "unfair" advantages over their Western competitors as it is often assumed that the strategies of state-owned companies is bound to be linked more closely with the foreign policy goals of their parent government. The following Chapters will assess this in greater detail. Chapter 5 will specifically address the implications of China's aid system and its policy of non-interference for resource-rich countries and show that China's policies are not exclusively driven by access to raw materials. Chapter 6 will argue that despite the congruence of the companies' and the government's interests to gain access to raw materials the Chines government is unable to implement a grand strategy that would ensure access to raw materials.

5

CHINESE FOREIGN AFFAIRS AND DEVELOPMENT AID

INTRODUCTION

Resource-rich states suffer from weak governance and the foreign policy and aid given by OECD countries has (at least nominally) become increasingly conditional on recipients' implementation of reforms. With the increasing importance of non-traditional investors, the success of such policies is far from assured: non-traditional investors — above all, China — adhere to different development models and generally claim to avoid interference in the domestic affairs of sovereign states, thus potentially weakening the position of other investors' vis-à-vis the host countries for whom nominally unconditional aid often provides a welcome alternative to Western imposed reforms. Western donors often criticise the strategy to link aid with commercial goals as mercantilism. Those aspects of China's aid that are most troublesome for western donors are "win-win" cooperation (i.e. explicit commercial interests) and non-interference (which is often seen as a disguise for supporting authoritarian regimes). China offers a different development model; its indifference towards governance reforms makes China an attractive partner.

After having outlined the general issues of raw material and international affairs, I specifically address the concerns about China's rise. China's foreign policy, especially towards Africa but also with Latin American countries,[1] is often painted as geared towards building partnerships that ultimately ensure a flow of natural resources from these continents to China.[2]

Like its diplomatic support, China's aid programme has been criticised for undermining Western donors' efforts at improving governance in resource-rich countries. Tull maintains that politically, China's return to Africa and the support of authoritarian gov-

[1] Eisenman et al., *China's Post-Cold War Strategy in Africa, op. cit.*

[2] China's Foreign policy is more developed with Africa than with Latin American or Southeast Asian states (as a group) and the country uses international fora such as the Forum on China–Africa Cooperation (FOCAC) to gain a foothold in Africa. Shankleman, *Going Global, op. cit.*, p. 69. Carmody et al., *Flexigemony and Force in China's Resource Diplomacy in Africa, op. cit.*, p. 510.

ernments is "likely to prove deleterious" and that its economic involvement on the continent will most likely only benefit African elites[3] which, of course, would conceivably also be the result of other investments on the continent.[4]

This Chapter will outline the background of China's foreign policy and its stance on human rights. It will also assess the claim that the country's aid programme is primarily designed to gain access to natural resources and argue that China's investment and aid policies do not appear to be specifically geared towards access to resources or to be detrimental to governance in resource-rich countries. China provides diplomatic support, as well as military and development aid to resource-rich developing countries. This, in turn, could have the effect of strengthening authoritarian regimes and perpetuating bad practices that other commercial or development partners are eager to change for the better. China has routinely been criticised for its support of human rights-abusing regimes, in exchange for resources. China's foreign and development policies are characterised by non-interference and non-conditionality, although non-interference in practice means little more than interference to the benefit of the ruling elites.[5] In the past, this has allowed China to deepen its ties with authoritarian governments and ignore (western) concerns that its policies harm the populations in states from which it imports its raw materials. The lack of transparency in business and political contacts with China — justified by non-interference — make the country just yet another power that exploits the continent.[6]

> "China will deal with anyone, and "pariah" states are a gap in the market. Despite US concerns, China treats these countries as it wishes to be treated itself: be they corrupt, inept, or genocidal, it doesn't get involved."[7]

Chinese companies adapt to the context in which they are operating.[8] Dealing with pariah regimes used to be acceptable under the banner of non-intervention and provided welcome support for regimes such as Angola, Sudan and Zimbabwe.[9] China's relations with raw-materials exporting countries are opportunistic, and there is no absolute preference for weak states — or as Burgos et al. would have it "resource-rich and governance-

[3] Denis Tull, "China's Engagement in Africa: Scope, Significance, and Consequences", *Journal of Modern African Studies*, 44(3):459–479, 2006, p. 460.

[4] Bayart, *Africa in the World, op. cit.*; Alden, *China in Africa, op. cit.*, p. 90.

[5] Ali Askouri, *China's Investment in Sudan: Displacing Villages and Destroying Communities*, in: Firoze Manji and Stephen Marks, (eds.), *African Perspectives on China in Africa*, pp. 71–86. Fahamu, Cape Town, 2007, p. 73.

[6] Alden et al., *Harmony and Discord in China's Africa Strategy, op. cit.*, p. 569.

[7] Gabriel Rozenberg, "Africa is not going to rock to Bono's tune", *The Times (London)*, 4 July 2006.

[8] González-Vicente, *Development Dynamics of Chinese Resource-Based Investment, op. cit.*

[9] Alden, *China in Africa, op. cit.*, p. 60.

poor countries", and Chinese investors, too, prefer stability and the rule of law.[10] CARMODY AND TAYLOR even find that in Sudan, Chinese presence has had a moderating effect.[11]

China's policy does prefer the status quo. During the wave of democratisation in the late 1980s early 1990s, China was critical of the process.[12] Obviously, being an authoritarian regime, China is not going to demand democracy — and has at times even been outspoken against democracy which it argues is unsuited for Africa.[13] The reliance on rulers in host countries makes investment dependent on the ruling elites staying in power. The cooperation with such regimes might backfire in the event of a regime change.[14] China does not see merits in democratisation or good governance, if it is not accompanied by development.[15] HOLSLAG argues that it is not so much the status quo (or the overturning of it) that worries the Chinese government: changes in government might open up new opportunities for business and economic relations, and in the past China has shown to be quick to embrace the coup-leaders as new governments.[16]

China's non-interference policy is somewhat eroded by the fact that its involvement in other countries is becoming more complex.[17] China's foreign policy is guided by the "five principles of mutual coexistence", formulated in 1955: territorial integrity, non-aggression, non interference, equality and mutual benefit ("win-win") and peaceful co-existence.[18] Parts of China's non-interference policy comes from having been a victim of interference and imperialism. Sovereignty is paramount, because China did not have it and is concerned about its "territorial integrity".[19] In its dealings with badly governed resource-rich states, China's insistence on non-interference has become a focal point of

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[10] BURGOS CÁCERES ET AL., *The Geopolitics of China's Global Resources Quest, op. cit.*, p. 63. Political risk would deter most investors, but as OWEN AND MELVILLE argue Chinese state-owned enterprises are directed by their government to take these risks (see Chapter 6 on the relationship between the government and its companies for a counter-argument). OLLY OWEN AND CHRIS MELVILLE, "China and Africa: a new era of 'south–south' cooperation", *opendemocracy*, 7 July 2005.

[11] CARMODY ET AL., *Flexigemony and Force in China's Resource Diplomacy in Africa, op. cit.*

[12] IAN TAYLOR, "Sino-African Relations and the Problem of Human Rights", *African Affairs*, 107(426):63–87, 2008, p. 69.

[13] BRÄUTIGAM, *The Dragon's Gift, op. cit.*, p. 286.

[14] TAYLOR, *Sino-African Relations and the Problem of Human Rights, op. cit.*, p. 75; ALDEN ET AL., *Harmony and Discord in China's Africa Strategy, op. cit.*, p. 569; CHRISTOPHER CLAPHAM, *Fitting China In*, in: CHRIS ALDEN, DANIEL LARGE AND RICARDO SOARES DE OLIVEIRA, (eds.), *China Returns to Africa*, chapter 19, pp. 361–369. Hurst, London, 2008.

[15] HOLSLAG, *China and the Coups, op. cit.*, p. 16.

[16] *ibid.*, p. 14.

[17] LARGE, *China & the Contradictions of 'Non-interference' in Sudan, op. cit.*, p. 93.

[18] PEOPLE'S REPUBLIC OF CHINA, *China's African Policy*, Ministry of Foreign Affairs, January 2006.

[19] ALDEN ET AL., *Harmony and Discord in China's Africa Strategy, op. cit.*, p. 568.

international criticism. Arguably, in the context of economic cooperation with human rights-abusing regimes, non-interference is something China — no stranger to egregious human rights violations itself — likes to hide behind. Yet, as a policy principle, non-interference is not set in stone, as China's threat to cut economic and diplomatic ties with Zambia should presidential candidate and China-critic SATA have won the 2006 elections demonstrates (see Chapter 9).[20] While China itself is very cautious to portray itself as a responsible and non-threatening power and emphasises its peaceful rise, the de-coupling of political and economic interests is not always successful.[21] DOWNS notes that initially there was an expectation in China that the going out strategy pursued by its companies would not be political.[22] In practice however, this proved more difficult as foreign companies are bound to "become entangled in political developments in host countries."[23]

Broad strategies and development goals for China's relationship with African countries are determined in the Forum on China–Africa Cooperation (FOCAC). FOCAC meetings have resulted in action plans to foster cooperation between Aftican countries and China in politics, education, security, industrial and agricultural development and debt relief.[24] POWER ET AL. note that from an initial focus on debt relief and infrastructure, FOCAC action plans have more recently included governance issues, mainly in the field of the environment. They argue that this can be seen "as a move towards the 'norms' of international development cooperation and a recognition after half a decade or more 'in the field' that African capacity is key to the success of Chinese investments [...]".[25]

China's foreign policy is (diffusely) mercantilist and that the government adapts to political realities in partner countries in order not to endanger its economic presence.[26] CARMODY AND TAYLOR contrast US/neo-liberal model with "flexigemony" which does not seek to impose domestic models abroad but tries to work with existing models, which makes Chinese investment very welcome for elites which operate in systems of neopatrimonialism as it presents no challenge of the status quo.[27] Ruling elites see China's interest in the continent as a means to improve their position vis-à-vis Western donors.[28] Dealing

[20] MAWDSLEY, *Fu Manchu versus Dr Livingstone in the Dark Continent?, op. cit.*

[21] HOLSLAG, *China and the Coups, op. cit.*, p. 2.

[22] DOWNS, *China's Energy Rise, op. cit.*, p. 177.

[23] *ibid.*

[24] POWER ET AL., *China's Resource Diplomacy in Africa, op. cit.*, chapter 3.

[25] *ibid.*, p. 68.

[26] HOLSLAG, *China and the Coups, op. cit.*

[27] CARMODY ET AL., *Flexigemony and Force in China's Resource Diplomacy in Africa, op. cit.*, p. 499f.

[28] ALDEN ET AL., *Harmony and Discord in China's Africa Strategy, op. cit.*, p. 569; TAYLOR, *Sino-African Relations and the Problem of Human Rights, op. cit.*, p. 71, GILES MOHAN AND MARCUS POWER,

with China provides resource-producing states with an alternative. Chinese, or other non-traditional investors, offer political leaders in resource-rich countries the opportunity to appear less pro-American.[29] For instance, Saudi Arabia has found a partner in China that allows the country to counter criticism that it is a client state of the US.[30] Iran, on the other hand, has benefited less from its relations with China. Chinese foreign policy took precedence over the desire to tap the country's resources. Following the downscaling of operations by western oil companies — after pressure from their respective home governments — the country did not get much diplomatic support from the Chinese government despite the involvement of Chinese companies in its petroleum sector. The Chinese government supported UN resolutions against Iran.[31]

HUMAN RIGHTS

China's emphasis on non-interference has frustrated many efforts to improve governance and human rights in autocratic of conflict-affected countries. By prioritising business ties (often in the natural resource sector) over political concerns, China has helped to protect human rights abusing or genocidal regimes.[32] Barma and Ratner warn that

> "[t]he spreading of Chinese illiberalism could set scores of developing nations away from the path of liberal democracy, creating a community of countries that reject Western views of human rights and accepted standards of national governance. In the rise of China, what is really at stake is not American competitiveness or power, but the future of the liberal international order."[33]

Given its own abysmal human rights record, it stands to reason that even if the country does not export human rights abuses in exchange for raw materials, its Government and companies would certainly not see human rights concerns as a central issue to diplomacy or corporate practice.

"Africa, China and the 'new' economic geography of development", *Singapore Journal of Tropical Geography*, 30(1):24–28, 2009.

[29] Shankleman, *Going Global, op. cit.*, p. 29.

[30] Downs, *China's Energy Rise, op. cit.*, p. 178.

[31] *ibid.*, p. 178. Although it watered them down.

[32] Joshua Eisenman, Eric Heginbotham and Derek Mitchell, *Introduction*, in: Joshua Eisenman, Eric Heginbotham and Derek Mitchell, (eds.), *China and the Developing World: Beijing's Strategy for the twenty-first century*, pp. xiii–xxiii. M.E. Sharpe, Armonk, New York, 2007, p. xvi.

[33] Nazneen Barma and Eli Ratner, "Chinese illiberalism", *Democracy*, 2:22–34, 2006, p. 23.

The Chinese concept of Human Rights differs from its Western interpretation to the extent in their Chinese interpretation human rights are barely recognisable. Whereas China's discourse on the issue is more about society and is somewhat more collectivist than its western, individualistic interpretation. Economic rights are an integral part of Chinese interpretation of human rights, in fact economic development trumps political liberties.[34] Thus, there is a tension between the economic and the political, between the collective and the individual in Chinese and Western readings of human rights. Ian TAYLOR points out the contradiction that support of human rights is in itself a violation of human rights, when the Beijing Declaration of the Forum on China–Africa Cooperation states:

> "... the politicisation of human rights and the imposition of human rights conditionalities on economic assistance should be vigorously opposed to as they constitute a violation of human rights."[35]

The different concepts of what constitute human rights should not mask the fact that China's policy of non-interference has allowed the Chinese government to deflect accusations of indirectly supporting human-rights abusing regimes such as in Sudan or Zimbabwe. To some extent, China — weary of being called out for its own human rights abuses — is hiding behind its own foreign policy principles and in doing so, it may inadvertently stall economic development, by supporting non-developmental governments. China's non-interference is not specific to Africa, but its ignorance of human rights and its interests converge with those of leaders in Africa's neo-patrimonial regimes.[36]

In recent years however, there have been subtle shifts in China's application of the principle of non-intervention, arguably because closer economic and political ties do require more substantive engagement, as China moves from opening up markets to the protection of its investments.[37] MOHAN notes that while China's presence may support authoritarian rules (such as Sudan or Zimbabwe), there are limits to its tolerance.[38] With respect to Human Rights issues, China's approach appears to change around 2007, as it did with Sudan.[39] TAYLOR notes that to some extent, "China has become socialized into the inter-

[34] TAYLOR, *Sino-African Relations and the Problem of Human Rights, op. cit.*

[35] PEOPLE'S REPUBLIC OF CHINA, *Beijing Declaration of the Forum on China-Africa Cooperation*, Ministry of Foreign Affairs, 2006, TAYLOR, *Sino-African Relations and the Problem of Human Rights, op. cit.*, p. 82.

[36] *ibid.*, p. 84.

[37] LARGE, *China & the Contradictions of 'Non-interference' in Sudan, op. cit.*, p. 104.

[38] MOHAN, *China in Africa, op. cit.*, p. 161.

[39] TAYLOR, *Sino-African Relations and the Problem of Human Rights, op. cit.*, p. 76.

national human rights regime [...]"[40], as the country faced the consequences of a large public outcry over its role in Sudan. Since then, China is becoming more focused on its "soft power".[41]

Beyond China's policy of non-interference, it is worth asking whether there is or was a systematic preference of Chinese investors for investment in countries with poor human rights records and weak institutions as some critics would argue. While China's continued support for such regimes — or its reluctance to sanction them — is often framed as part of a strategy to gain access to natural resources, the two appear to be unrelated, however. Accounting for the fact that resource-rich countries tend to be governed worse than others (see Chapter 2) and keeping in mind that Chinese companies are late entrants to the industry (see Chapter 6), Chinese investment, and the financial support that directly or indirectly accompanies it, China is not more likely to invest in states with a bad track-record on human rights (see below).[42]

Whether foreign direct investment (FDI) direct investment is determined by the human rights situation in a country, or if investment and natural resource exports to China were correlated with a deterioration of human rights, can be tested statistically. The hypothesised link between Chinese economic activity and human rights or governance can be operationalised in two ways, depending on the causal mechanism assumed to be at play. Either Chinese companies seek investment in low human rights countries (for instance because those are the only investment opportunities available), in which case countries that fare badly on human rights indices (independent variable) should attract more FDI from China. Conversely, Chinese investment might cause human rights records to deteriorate (for instance because it allows a human-rights abusing regime to stay in power), in which case countries should exhibit lower human rights for higher past levels of Chinese investment (independent variable).

Initially, I use the flow of FDI since 2000 as reported by the Chinese Bureau of Statistics as dependent variable.[43] There are a number of human rights indices, and I use the CIRI *Physical Integrity Index*, Freedom House's *Freedom in the World* dataset and the

[40] *ibid.*, p. 66.

[41] Joshua Kurlantzick, *Charm Offensive: How China's Soft Power is Transforming the World*, Yale University Press, New Haven, 2007, Rosen et al., *China Energy, op. cit.*, p. 31.

[42] Though Kolstad and Wiig find that natural resources trump governance, i.e. that poor institutions are not a deterrent of investment if that country is resource-rich. Ivar Kolstad and Arne Wiig, "What determines Chinese outward FDI?", *Journal of World Business*, 47(1):26–36, January 2012.

[43] People's Republic of China, *China Statistical Yearbook, op. cit.*

Political Terror Scale[44], which is based on assessment of the human rights made by the US Department of State and Amnesty International. To assess whether the human rights and governance-related variables have an independent effect on the choice of destination, I include an interaction effect with resource wealth (which, as Chapter 2 has shown, itself is likely to drive those variables to some extent). I also control for the size of the economy, which is an important determinant of FDI in its own right[45] the distance of the country from China[46], and its resource wealth, measured by resource exports per capita.[47]

First, I estimate a model similar to that of KOLSTAD AND WIIG, who assessed drivers of China's FDI. All variables as well as the interaction effect between Governance and resource wealth are significant. The results of Model 1 are largely consistent with KOLSTAD AND WIIG's observations: Chinese FDI is attracted to large, open economies that are close to China. The Rule of Law coefficient from the World Bank's governance indicators[48], is positive, indicating that Chinese FDI is attracted to better-ruled countries. Interestingly, resource wealth as a share of GDP is not a driver of Chinese FDI, a greater share of resource wealth appears to deter investment, given its negative coefficient. However, the interaction effect between governance and resource wealth is also significant and shows that given bad institutions (in which case the index is negative) resource wealth does attract investment (or, a more theoretically appealing explanation than KOLSTAD ET AL.'s, that in resource-rich countries, lower governance scores do not deter investment). I then add the variables of interest, Physical Integrity, Political Rights and Political Terror.[49] The less parsimonious model has clear results regarding the effect of human rights on China's investment decision. The coefficient for Physical Integrity is statistically significant and positive, i.e. countries with a better score attract more Chinese FDI. Conversely, the coefficients for Political Rights and Political Terror are negative (and significant), meaning that countries that score higher on these indices (i.e. substantively worse), attract less investment. Model 2 would support the hypothesis that China's FDI is attracted to better governed countries rather than human rights abusers. I add an interaction effect between resource wealth and the human rights variables (Model 3), and only the effect between

[44] CINGRANELLI ET AL., *The Cingranelli-Richards (*CIRI*) Human Rights Dataset, op. cit.*, FREEDOM HOUSE, *Freedom in the World, op. cit.*, GIBNEY ET AL., *Political Terror Scale 1976–2011, op. cit.*

[45] KOLSTAD ET AL., *What determines Chinese outward* FDI*?, op. cit.*

[46] THIERRY MAYER AND SOLEDAD ZIGNAGO, *GeoDist Database*, CEPII, 2011.

[47] WORLD BANK, *World Development Indicators*, The World Bank, 2013.

[48] KAUFMANN ET AL., *Governance Matters* VIII, *op. cit.*

[49] The indices are as follows: Physical Integrity ranges from 0 to 8 (worst to best); Political Rights from 1 to 7 (best to worst) and Political Terror (where I use the average of the Amnesty and State Department assessments), form 1 to 5 (best to worst).

political rights and resource wealth is significant. While countries that fare worse on the Freedom House index are, on average, less attractive for Chinese FDI, this effect is reversed the more resource-rich a country is. To test whether there has been a change in Chinese FDI over time, extend Model 3 and create a dummy variable that splits the data in two groups, before 2007 and 2007 onwards. The results are not particularly strong, partly because of the smaller number of observations in each subset (848 and 407, respectively). The sign of human-rights coefficients remains unchanged, save for Physical Integrity, whose coefficient before 2007 is negative (and not significant at conventional levels) but becomes positive and statistically significant for the period including and after 2007 (see Table A.25 for the summary of the 2 models). This would indicate that Chinese investment after 2007 is more attracted to countries with better physical integrity, though of course it could also mean that the scores of countries with which China had continuing investment ties have improved. However, across the two sub-samples, mean scores have decreased over time, which gives a (weak) indication, that China's investment is seeking better governed targets as it used to. This would also be consistent with a diversification away from purely resource-seeking investments (which are often located in badly governed countries) or a simple business case for investing in countries with greater security and stability.

Table 2: Model Summary — Chinese Investment and Human Rights

	Dependent variable:		
	log(FDI)		
	(1)	(2)	(3)
log(GDP)	0.470***	0.724***	0.701***
	(0.031)	(0.032)	(0.032)
log(Trade)	0.532***	0.540***	0.576***
	(0.061)	(0.058)	(0.058)
log(Distance)	−0.860***	−0.710***	−0.710***
	(0.128)	(0.126)	(0.125)
Rule of Law	1.416***		
	(0.083)		
Resource Exports (% GDP)	−0.027***	−0.022***	−0.125***
	(0.005)	(0.005)	(0.037)
Rule of Law * Resource Exports	−0.021***		
	(0.005)		
Physical Integrity		0.096*	0.047
		(0.056)	(0.067)
Political Rights		−0.220***	−0.351***
		(0.045)	(0.053)
Political Terror		−0.369***	−0.496***
		(0.115)	(0.134)
Physical Integrity * Resources			0.001
			(0.004)
Political Rights * Resources			0.015***
			(0.003)
Political Terror * Resources			0.009
			(0.007)
Intercept	13.836***	7.504***	9.217***
	(1.442)	(1.591)	(1.629)
Observations	1,129	1,254	1,254
R^2	0.514	0.475	0.491
Adjusted R^2	0.511	0.472	0.487
Residual Std. Error	2.104 (df = 1122)	2.124 (df = 1246)	2.094 (df = 1243)
F statistic	197.676*** (df = 6; 1122)	161.136*** (df = 7; 1246)	120.009*** (df = 10; 1243)
Note:			*p<0.1; **p<0.05; ***p<0.01

I also perform robustness checks (Table A.1 in the appendix), by exchanging the FDI variable for the data provided by the Ministry of Commerce for the years 2004–2010.[50] I also estimate a model with the number of Chinese extractive companies operating in the country from the *Minerals Yearbook* as the independent variable. Being a count variable, I use a zero-inflated negative binomial distribution, rather than OLS as in the previous regression models. Model 5 excludes distance as an independent variable from the model, because now only extractive and hence location-specific FDI is taken into account. The results in Models 4 and 5 are only partly consistent with those in Model 3: the Political Rights coefficient becomes positive, indicating that low rights countries attract more investment. However, the coefficient for the Political Terror scale is also negative, which would imply that the effect of low human rights on the alternative measure of investment is negative. In sum, this would indicate that there is no systematic effect of human rights on Chinese investment, which is also indicated by the lower fit (R^2) of the Models that include human rights indicators. I also assess the reverse claim, namely that Chinese investment leads to a deterioration of governance. A *Granger* causality test reveals that neither of the investment variables, if lagged, help explain changes in either of the human rights variables better than past versions of the human rights variables alone.[51] This is not necessarily surprising and it would amount to overestimating the influence of one single actor. CURTIS notes with reference to the DRC that: "[...] patterns of political authority and networks are notoriously resilient and there are no signs that Chinese involvement is going to have a transformative impact on the nature of the Congolese state"[52]

ROGUE AID?

Donors who deliver aid outside the established framework of the OECD DAC, which counts traditional donors as its members, have become increasingly important. The activities of these "emerging donors", i.e. countries such as Brazil, India, South Korea, Venezuela and most importantly, China, are often described as linked to these countries' desire to

[50] The robustness check relies on data triangualtion: the data measure the same concept, but differently, which allows to address uncertainty about measurement and measurement error. THOMAS PLÜMPER AND ERIC NEUMAYER, *Model Uncertainty and Robustness Tests: Towards a New Logic of Statistical Inference*, 2010.

[51] ACHIM ZEILEIS AND TORSTEN HOTHORN, "Diagnostic Checking in Regression Relationships", *R News*, 2(3):7–10, 2002. The test yields an F-statistic at 0.87, which is not statistically significant.

[52] DEVON CURTIS, *Chinese Engagement with the Democratic Republic of the Congo*, in: KWEKU AMPIAH AND SANUSHA NAIDU, (eds.), *Crouching Tiger, Hidden Dragon? Africa and China*. University of KwaZulu-Natal Press, Scottsville, 2008, p. 101.

open up new business or trade opportunities, political support and the access to raw materials.[53]

As shown in the introduction to this thesis, it is commonly claimed that China's success in gaining access to natural resources in developing countries is due to development aid it provides. This, like commercial investments, is often seen to result in keeping authoritarian governments in power and as blunting Western donors' tools aimed at improving governance in developing countries. Emerging donors are being blamed for undermining existing aid organisations such as the World Bank and an existing regime which puts conditionality of aid at its centre.[54] They are blamed for supporting authoritarian regimes, e.g. the Sudan, increasing the indebtedness of recipient countries by giving aid on inappropriate or non-existent conditions or prolonging recipients' underdevelopment by attaching little or no conditions on aid.[55] Established donors have long attached conditions to their aid: the Washington consensus imposed a set of economic policies on recipients, with questionable results. Even though this has been abandoned, monitoring by and consultation with donors, place heavy burdens on recipients and entail policies and priorities which are not aligned with recipients' priorities. Western aid is not homogeneous either, and international organisations differ in their approaches to development.[56]

This section will assess China's aid regime. It will show that while China's aid is indeed different from that of other donors, China's development assistance is not part of a grand strategy to gain access to resources and does not necessarily lead to deterioration of governance. There does not appear to be a substantively or statistically significant link between Chinese aid (official, mixed or military) and resource wealth. China's aid may not be up to what has come to be seen as best practice, it is by no means as toxic as many observers would have it. While China's aid (passively) challenges the status quo in terms of aid conditionality and modes of delivery; the successes of that very status quo are themselves questionable.

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[53] Ngaire Woods, "Whose aid? Whose influence? China, emerging donors and the silent revolution in development assistance", *International Affairs*, 84(6):1205–1221, 2008, p. 1205. These donors are not necessarily new to giving aid, but the scale of their development assistance has increased. China has had an aid programme since the 1950s. Then, too, its aid had political motives, and was in support of the PRC's recognition in the United Nations. Carol Lancaster, *The Chinese Aid System*, Center for Global Development, 2007.

[54] Kurlantzick, *Beijing's Safari: China's Move into Africa and Its Implications for Aid, Development, and Governance*, Carnegie Endowment for International Peace, Washington, D.C., 2006

[55] Alden et al., *Harmony and Discord in China's Africa Strategy, op. cit.*, p. 583.

[56] Dane Rowlands, *Emerging Donors in International Development Assistance: A Synthesis Report*, IDRC, January 2008, p. 4.

Many argue that aid primarily driven by access to resources, and that this, paired with the fact that China offers an alternative to donors that make their aid conditional on good governance, will hamper development.[57] The emergence of China as a donor can also be seen as empowering African governments, by allowing them to what POWER ET AL. call triangulate between donors. This is not just a choice between western aid and Chinese economic cooperation.[58] A diplomatic cable released by *Wikileaks* notes that African governments are wary of the prospect of cooperation and coordination between Western donors and the Chinese, because it would decrease the recipients' leverage and focus on good governance and capacity development would possibly result in fewer tangible, "turn-key" projects being implemented.[59] China's activities as a provider of aid has intensified in recent years, concurrently with its economic clout. From the 1970s to the 2000s China's foreign aid policy was dominated by the desire to isolate Taiwan,[60] now it has moved towards economic influence. China, being a successful developing country itself, can argue that unlike Western donors, it is more attuned to the needs of developing countries and provides a model for development, which is not based on the Washington consensus.[61]

While alternative sources of financing may prop up foreign potentates, this option is available from other sources as well, as the various investments of major western oil and mining companies in Equatorial Guinea and elsewhere show.[62] While China Development Bank has become lender of last resort for many countries which do not have an alternative source of funding, large producers do not need Western or Chinese aid and are thus not easily pressured, such as Angola.[63] Also, Chinese activities strengthen developing countries as it gives resource producers more choice of investors[64] and ultimately more revenues, though as I elaborate in Chapter 2, this is a mixed blessing. China has become an important provider of foreign aid, and some observers have reduced its aid pro-

[57]THOMAS LUM, *China's Assistance and Government-Sponsored Investment Activities in Africa, Latin America, and Southeast Asia*, Congressional Research Service Report R40940, 2009.

[58]POWER ET AL., *China's Resource Diplomacy in Africa, op. cit.*, p. 158.

[59]US EMBASSY BEIJING, "African Embassies suspicious of US–China Development Cooperation in Africa", 11 February 2010.

[60]KURLANTZICK, *Beijing's Safari, op. cit.*, p. 2.

[61]JING GU, JOHN HUMPHREY AND DIRK MESSNER, "Global Governance and Developing Countries: The Implications of the Rise of China", *World Development*, 36(2):274–292, 2008, p. 285 POWER ET AL., *China's Resource Diplomacy in Africa, op. cit.*, p. 124f.

[62]BRÄUTIGAM, *The Dragon's Gift, op. cit.*, p. 285.

[63]DOWNS, *The Fact and Fiction of Sino-African Energy Relations, op. cit.*, p. 57. ERICA DOWNS, *Inside China, Inc: China Development Bank's Cross-Border Energy Deals*, John L. Thornton China Center at Brookings, Washington, D.C., 2011, p. 93.

[64]PEGG, *Social Responsibility and Resource Extraction, op. cit.*, p. 7.

gramme to a means to gain access to resources, which in BRÄUTIGAM's words "is at best a partial and misleading answer."[65] Some western aid agencies and intellectuals maintain that Chinese forays into development assistance will allow recipient countries to put off much-needed economic and political reforms. The critique of China is often related to the way Chinese companies gain access to resources assets in an anti-competitive manner in which aid is not undertaken for social or economic reasons, but rather directed at energy rich countries.[66] The fact that much of China's aid takes the form of loans is alternatively blamed for increasing indebtedness[67], or in the case of resource-backed loans, as a means to ensure a steady supply of oil.[68]

Moisés NAÍM goes so far as to consider aid by emerging donors as "toxic", because aid packages offered by countries such as China are more generous and less onerous in terms of conditions for political or economic reform.[69] Emerging donors, he claims, offer better conditions in term of interest rates, but support projects that are harmful to society or the environment. While he concedes that western aid-giving also had an economic and geopolitical rationale, he claims this situation is improving and that donors are now subject to much more scrutiny. Emerging donors leave established ones with a much diminished leverage but, he claims, they are not interested in development per se and merely aim to advance their ideological and economic agenda.[70]

In contrast to China, the story goes, other donors such as the US support universal human rights and democracy "even when it might be easier or more profitable to look the other way to keep the resources flowing."[71] According to HUMAN RIGHTS WATCH, "[...] China's growing foreign aid program creates new options for dictators who were previously dependent on those who insisted on human rights progress [...] But they can hardly be expected to improve if other governments' commitment to human rights is so cheaply sold for energy contracts or investment opportunities."[72] Some African leaders

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[65] BRÄUTIGAM, *The Dragon's Gift, op. cit.*, p. 17.

[66] PETER EVANS AND ERICA DOWNS, "Untangling China's Quest for Oil through State-backed Financial Deals", *Brookings Institution Policy Brief*, (154), 2006.

[67] CHRIS MCGEAL, "Chinese aid to Africa may do more harm than good, warns Benn", *The Guardian*, 8 February 2007; FRANÇOISE CROUIGNEAU AND RICHARD HIAULT, "Wolfowitz slams China banks on Africa lending", FT.*com*, 26 October 2006.

[68] VIVIAN FOSTER, WILLIAM BUTTERFIELD, CHUAN CHEN AND NATALIYA PUSHAK, *Building Bridges: China's Growing Role as Infrastructure Financier for Sub-Saharan Africa*, The World Bank, Washington, D.C., 2009, p. 56.

[69] MOISÉS NAÍM, "Rogue Aid", *Foreign Policy*, 159:95–96, March/April 2007.

[70] *ibid*.

[71] HILLARY CLINTON, "Remarks on Building Sustainable Partnerships in Africa", August, 1 2012.

[72] HUMAN RIGHTS WATCH, *World Report 2007*, Human Rights Watch, New York, 2007, p. 3.

have explicitly welcomed cooperation with China as a means to evade western aid conditionality.[73]

Financial Support for Host Governments

Chinese aid does differ from that of established donors. Most of the aid provided by China (and other emerging donors) is delivered outside the aid regimes established by the members of the OECD's Development Assistance Committee (DAC).[74] China focuses on commercially viable projects rather than grants.[75] BRÄUTIGAM argues that aid-for-infrastructure and resource-backed loans are more about generating business.[76] Most Chinese aid programmes are tied, meaning that the recipient is obliged to contract services with the supplier of aid.[77] Chinese aid focuses on the provision of infrastructure (rather than, say, human rights, environmental policy or "good governance"), and is mainly delivered through concessional loans.[78] Chinese aid is often part of larger deals that include private investment or non-concessional loans and aid volume — as per the DAC criteria — is therefore not easily distinguishable from commercial activities. To LANCASTER, Chinese aid giving is more ad hoc and focuses on individual projects whose outcomes are easily observable. Strategic plans — both in relation to the development of a country aid-strategy, as well as in terms of an overall strategy and focal areas for China's aid programmes do not appear to exist.[79]

China's interpretation of what constitutes foreign aid does show some similarities with the definition of traditional donors.[80] Although much of its "development assistance" involves commercial entities, and trade and aid move hand-in-hand (see Figure 5). China

[73] TAYLOR, *Sino-African Relations and the Problem of Human Rights, op. cit.*, MAWDSLEY, *Fu Manchu versus Dr Livingstone in the Dark Continent?, op. cit.*

[74] AUSTIN STRANGE, BRADLEY PARKS, MICHAEL TIERNEY, ANDREAS FUCHS, AXEL DREHER AND VIJAYA RAMACHANDRAN, *China's Development Finance to Africa: A Media-Based Approach to Data Collection*, Center for Global Development Working Paper 323, April 2013, p. 1. At the Busan meeting on Aid Effectiveness, non-DAC donors emphasised that their aid is South–South cooperation and thus different from traditional aid. *ibid.*, p. 2.

[75] HOWARD FRENCH, "The Next Empire", *The Atlantic*, 13 April 2010.

[76] BRÄUTIGAM, *The Dragon's Gift, op. cit.*, p. 279.

[77] SHANKLEMAN, *Going Global, op. cit.*, p. 72f. ROWLANDS, *Emerging Donors in International Development Assistance, op. cit.*

[78] LANCASTER, *The Chinese Aid System, op. cit.*, p. 1.

[79] *ibid.* Though, in 2011, the Chinese Government published a White Paper on its foreign aid: PEOPLE'S REPUBLIC OF CHINA, *China's Foreign Aid*, Information Office of the State Council, April 2011.

[80] MARTYN DAVIES, *How China Delivers Development Assistance to Africa*, Centre fo Chinese Studies, University of Stellenbosch, February 2008, p. 1.

delivers its aid in an ad hoc fashion and there is no central aid agency. China's aid giving is fragmented, and no central authority (comparable to, for instance, DFID) exists: MOFCOM's Department of Foreign Aid, Ministry of Foreign Affairs — which formally hosts FOCAC — and the Ministry of Finance as well China ExIm Bank and China Development Bank are all involved.[81] This fragmentation makes it even less convincing that resource investments and aid-giving are part of the same coordinated strategy. China's aid programme is decided in the government and the party. The Department of Aid to Foreign Countries within Ministry of Commerce leads China's aid programme. Much of its aid is provided through the Ministry of Commerce (MOFCOM), which means it might be linked more to trade and investment simply because of the institution coordinating most of it.[82] The Chinese Communist Party's central committee (International Liaison Office) provides "strategic oversight".[83] The fact that the Ministry of Commerce leads foreign aid indicates that aid often goes hand-in-hand with trade.

The commercial nature of aid is also shown by the fact that many aid projects are funded or implemented via companies. The *Aiddata* project lists 203 aid projects between 1998 and 2012 in Africa where Chinese oil or mining companies are implementing or funding agencies. For 118 of these projects, the amount spent is available and companies spent about $87bn on these projects. The projects themselves are often commercial in character and include the constuction of refineries, pipelines or transport infrastructure. However, 42 out of the 203 projects are classed as Corporate Aid with State Involvement, i.e. projects funded and implemented by SOEs that have no immediate commercial purpose.[84] These include the construction or upgrading of hospitals and schools, disaster relief and food donations or training of oil workers. For 32 of these projects, costs are available: between 1998 and 2012, companies spent 40.31 million USD on social projects.[85] Table 3 shows the commingling of commercial and government funds in China's overseas cooperation projects.

[81] Bräutigam, *The Dragon's Gift, op. cit.*, Strange et al., *China's Development Finance to Africa, op. cit.*

[82] Kurlantzick, *Beijing's Safari, op. cit.*, p. 7.

[83] Rowlands, *Emerging Donors in International Development Assistance, op. cit.*, p. 10.

[84] Strange et al., *Aid Data's Media-Based Data Collection Methodology, op. cit.*

[85] This figure excludes a 1.5bn loan from the Chinese Development Bank to Sudan, which was underwritten by CNPC.

Table 3: Overseas Assistance in Africa with SOE involvement, 1998–2012 (millions of USD)

Country	Projects	Total	Corporate Aid + Gov't	FDI + Gov't	JV + Gov't	ODA-like	OOF-like	Other
Angola	7	13560.000		5060.0	5900.00		2600	0.00
Chad	3	248.250		247.5	0.75			0.00
Cote d'Ivoire	1	37.820						37.82
Egypt	3	974.000		938.0	18.00		18	0.00
Gabon	1	7240.000						7240.00
Ghana	3	9000.000				3000.0	6000	0.00
Guinea	5	3614.200		1414.2			1350	850.00
Kenya	1	26.000		26.0				0.00
Mauritania	3	3144.600		8.6		136.0		3000.00
Mozambique	1	145.000						145.00
Niger	5	12969.000		99.0	5000.00		70	7800.00
Nigeria	12	17260.600		7710.6	2270.00		4770	2510.00
Somalia	1	0.100				0.1		0.00
South Africa	2	9006.500		9006.5				0.00
South Sudan	1	0.700	0.700					0.00
Sudan	40	3390.961	1538.861	371.3	640.00	0.8	690	150.00
Tanzania	1	0.500						0.50
Uganda	4	2939.050	0.050	1467.0		5.0	1467	0.00
Zambia	23	4028.600	0.400	3125.6		200.0	695	7.60

Source: Aiddata.org

Since 2009, Chinese banks are also increasingly involved in oil-for-loans deals, in order to increase domestic security of supply. These deals are attractive to oil-rich states' governments but are often frowned upon, because they can leave countries indebted should commodity prices fall.[86] The resources-for-loans model was pioneered by Japan.[87] Japanese firms would identify aid projects which the recipient government would then request from the donor, who then tasked the firm with the implementation of the project.[88] Note that this is not very different from aid-giving amongst other western aid agencies.

Often, loans to governments, made in exchange for long-term supply contracts or entitlements of natural resources are made to develop those resources in the first place, and are more commercial in character. In other cases, loans go towards the financing of (Chinese-implemented) infrastructure projects. Formally, the loans do not entitle China to a share of oil, but loans are repaid using the proceeds of oil sales to Chinese companies in the context of long-term supply agreements which are part of the loan agreements.[89]

CDB's loans do limit the competitiveness of other firms.[90] Although not officially part of the loans' conditions, increasingly the Bank is worried about sound economic management, to ensure the loans can be repaid, but generally CDB does not place great importance on social or environmental soundness of projects it finances.[91] Loans do not always help Chinese companies to gain access to licences. While they were key to acquiring projects in Venezuela and Angola[92], China's loan to Petrobras — to enable the company to fi-

[86]KONG, *Institutional Insecurity, op. cit.*, p. 69. By September 2009, the banks had given loans for a total of 54bn USD. China is currently outside international arrangements regarding export credits or tied aid. These are the International Energy Agency (IEA) the World Trade Organization (WTO) and the Arrangement on Guidelines for Officially Supported Export Credit. The IEA is a rather weak institution and while its "Shared Goals" Document states that distortions to energy trade and investment should be avoided" its regulatory role is limited — not least by the fact that neither India nor China are members. The WTO's *Agreement on Subsidies and Countervailing Measures* stipulate that export credits should not finance long-term costs and not come at premium rates, but in practice challenges and complaints are not likely to be successful under current WTO Rules. The OECD Export credit arrangement seeks to control subsidies and sets floors on interest rates. Again, China and India are not members. EVANS AND DOWNS note that Chinas below-market finance has also created tensions with India and South Korea who feel they need to offer deals similar to those struck by the Chinese. However, there is an upside: while this type of competition drives up prices for the buyers of natural resources, the sellers win. EVANS ET AL., *Untangling China's Quest for Oil, op. cit.*, p. 4ff; IEA, *Shared Goals*, http://www.iea.org/aboutus/whatwedo/sharedgoals/; WTO, *Agreement on Subsidies and Countervailing Measures*, http://www.wto.org/english/docs_e/legal_e/24-scm_01_e.htm.

[87]STRANGE ET AL., *China's Development Finance to Africa, op. cit.*, p. 3.

[88]LANCASTER, *The Chinese Aid System, op. cit.*, p. 4.

[89]DOWNS, *Inside China, Inc, op. cit.*, p. 39. DOWNS cites Rosneft's renegotiation of a loan agreement with CDB to show that long-term supply agreements do not ensure energy security.

[90]*ibid.*

[91]*ibid.*, p. 52, 89: CDB placed conditions on the use of the loan on the Venezuelan government. CDB is member of the UNEP Finance Initiative for sustainable project finance.

[92]*ibid.*, p. 98.

nance exploration and production off the Brazilian coast — was an attempt to gain a foothold in the Brazilian oil sector and partner with Petrobras to develop their expertise in deep-water operations. However, renewed "resource nationalism" in Brazil meant that the private sector was sidelined.[93] The loan to Brazil stipulated that equipment had to be procured from China, which hampered the Brazilian government's efforts to support the domestic oil industry.[94]

The granting of loans by CDB is due to coordination between the Bank, the Chinese government and companies, though it is not government-directed. Like the oil companies' investments abroad, it is not the result of a monolithic strategy of the government to gain access to natural resources.[95] Energy security is only one motive amongst many for these loans.[96] When CNOOC was unsuccessful in its bid of US major Unocal, the company's chairman lamented the failure of the Chinese government to support the company and pressure the US authorities to allow the deal to go through.[97]

The lines between commercial activities and development assistance are blurry, and China's policy is to link "loans for infrastructure development to acreage access for Chinese companies (as well as to long-term oil supply agreements)."[98] The Chinese government has granted loans to foreign governments to facilitate overseas acquisitions (often below market rate, e.g. to Angola and Nigeria[99]), be it more directly through investment in a host country's infrastructure development.[100] The latter deal is seen to have tipped the Angolan government in favour of Sinopec's investment at the expense of ONGC's purchase of Shell's stake in Block 18.[101] This approach is often paired with generous aid-giving, although much of China's aid is in the form of loans (rather than grants) which has been attributed to the desire to get "leverage over recipient nations."[102] The attractive-

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[93] Sinopec eventually acquired a share in Brazil in 2010 through a farm-in agreement with Repsol YPF. Santiago Perez, Simon Hall and Bernd Radowitz, "Repsol to Sell Brazil Stake to Sinopec for $ 7.1 Billion", *Wall Street Journal*, 1 October 2010.

[94] Downs, *Inside China, Inc, op. cit.*, p. 48.

[95] *ibid.*, p. 80. Not all loan-for-oil agreements are initiated by the State Council.

[96] *ibid.*, p. 3, 60ff. The motives also vary across actors: inter alia, companies and banks seek profitability and larger overseas portfolios, while the government aims at energy access, foreign exchange reserves and internationalisation of Chinese corporations.

[97] *ibid.*, p. 59.

[98] Bjørn Brandtszæg, He Wenping, Chibuzo Nwoke, Anna Eriksson and Osita Agbu, *Common Cause Different Approaches: China and Norway in Nigeria*, Econ, Oslo, 2008.

[99] Downs, *The Fact and Fiction of Sino-African Energy Relations, op. cit.*, p. 53. Rosen and Hauser note that IOCs have benefited from similar support, although home governments have since at least officially moved away from these approaches. Rosen et al., *China Energy, op. cit.*p. 32.

[100] Downs, *The Fact and Fiction of Sino-African Energy Relations, op. cit.*, p. 53.

[101] *ibid.*, p. 53.

[102] Kurlantzick, *Beijing's Safari, op. cit.*, p. 3.

ness of these loans are in fact that they are usually unconditional on governance reforms as opposed to those provided by IFIs. This has led Western donors musing about lowering their own social and environmental standards, as Chinese banks "snatch projects" from established lenders.[103] Besides that, often-voiced criticisms are that the projects that are "potentially useless"[104] or never materialise and few jobs are created for Africans.[105]

Its loans are often managed such that there is little opportunity for graft on the recipients' side, meaning that it is supplied through Chinese providers rather than just as cash with which recipients can procure services.[106] Chinese actors are careful that their loans are not controlled by the recipient and BRÄUTIGAM notes that these tend to be managed by the donor, so there are fewer opportunities for corrupton.[107] Infrastructure may be implemented by Chinese companies (which might not be ideal in development terms). The mode of delivery is also telling about China's concerns of corruption: in the DRC, the China Railway Engineering Company (CREC) and Sinohydro formed the Sicomines joint venture with state-owned miner Gécamines. The company will develop copper nickel and cobalt mines, and will provide at least 10m tonnes of copper to China. To redevelop the Kolwezi Copper mine, China's ExIm Bank provided a $9bn loan which is needed to build roads and railway and other infrastructure (the consortium will also buid hospitals, universities, airports and dams). The loan — which was eventually limited to $6bn after the IMF voiced concerns — will be repaid with the profits of copper and cobalt mines.[108] The ExIm Bank's loans bypass the Congolese Government and go directly to CREC and Sinhydro.

Ownership, i.e. demand-based aid, is something that China follows closely (not least to be consistent with its emphasis on sovereignty) and "China's aid programs are derived primarily from recipients' requests. As a result Beijing often finds itself constructing prestige objects at the request of a friendly President, such as a new stadium or government building".[109] Even though China is seen as a threat to Western donors' policies[110], in-

[103] GEORGE PARKER AND ALAN BEATTIE, "EIB accuses China of unscrupulous loans", FT.*com*, 28 November 2006. Amidst increased competition between lenders, Philippe Maystadt, then head of the European Investment Bank, advocated lowering the "excessive" conditionality the bank imposed on its loans.

[104] KURLANTZICK, *Beijing's Safari, op. cit.*, p. 5. JEAN-CHRISTOPHE SERVANT, "China's trade safari in Africa", *Le Monde Diplomatique (English edition)*, May 2005.

[105] ROSEN ET AL., *China Energy, op. cit.*, p. 32.

[106] ALDEN ET AL., *Harmony and Discord in China's Africa Strategy, op. cit.*, p. 566.

[107] BRÄUTIGAM, *The Dragon's Gift, op. cit.*, p. 293.

[108] MORAN, *China's Strategy to Secure Natural Resources, op. cit.*, p. 20.

[109] JAMES REILLY, "A Norm-Taker of a Norm-Maker? Chinese Aid in Southeast Asia", *Journal of Contemporary China*, 21(73):71–91, 2012, p. 74.

[110] GU ET AL., *Global Governance and Developing Countries, op. cit.*, p. 286.

creasingly Chinese are cooperating with other donors.[111] Officially, China is opposed to aid conditionality other than the requirement not to have diplomatic relations with Taiwan[112], though its "win-win" strategy, in practice the Chinese government does make sure it benefits from aid-giving. China's aid is not unconditional either.

Standards by which emerging donors are judged take western development programmes and initiatives aimed at harmonisation and the donors' alignment with recipient countries' preferences as benchmarks. Emerging donors emphasise different aspects of development cooperation such as "mutual benefits" and South–South cooperation between equal partners and tend to be more strategic and commercial.[113] While there is no evidence that the rhetoric is adhered to, the western aid paradigm appears to suffer the same fate: WOODS notes that Chinese aid is measured against a western standard, one that however, does not reflect aid practice but is a mere aspiration of donors and the critique of China lowering standards overestimates the change followed by DAC conditionality.[114] REILLY assesses whether the process of China's socialisation into international norms also holds for the delivery of aid, noting that ODA in itself is hardly structured around a robust consensus. While official definitions exist, the reality of major donors' aid delivery often differs greatly from the practice.[115] WOODS terms it as a *silent* revolution of aid, "because emerging donors are not overtly attempting to overturn rules or replace them. Rather, by quietly offering alternatives to aid-receiving countries, they are introducing competitive pressures into the existing system."[116]

Chinese banks provide financing for infrastructure projects abroad. Infrastructure loans have to be executed using 50% Chinese inputs and have resources as collateral. Loans focus on infrastructure, which other donors shy away from, but also training and cultural exchange.[117] EVANS AND DOWNS note China's USD 2bn soft loan to Angola as being "extraordinarily generous" at an interest rate of 1.5 per cent over 17 years and note that this offer most likely persuaded the Angolan authorities to reject Shell's sale of its interest in Block 18 to the Indian ONGC and award it to Sinopec instead.[118] The infamous

[111] BURGOS CÁCERES ET AL., *The Geopolitics of China's Global Resources Quest, op. cit.*, p. 67.

[112] PEOPLE'S REPUBLIC OF CHINA, *China's Foreign Aid, op. cit.*

[113] ROWLANDS, *Emerging Donors in International Development Assistance, op. cit.*

[114] WOODS, *Whose aid? Whose influence?, op. cit.*, p. 1206; ROWLANDS, *Emerging Donors in International Development Assistance, op. cit.* WOODS notes that emerging donors are not actively undermining the existing aid regime, rather their activities increase competitiveness into the existing system.

[115] REILLY, *A Norm-Taker of a Norm-Maker? Chinese Aid in Southeast Asia, op. cit.*, p. 71.

[116] WOODS, *Whose aid? Whose influence?, op. cit.*, p. 1221.

[117] KURLANTZICK, *Beijing's Safari, op. cit.*, p. 3.

[118] EVANS ET AL., *Untangling China's Quest for Oil, op. cit.*, p. 3. SHANKLEMAN points out that rates are better than those offered by private sector lenders, but worse than OECD ODA.

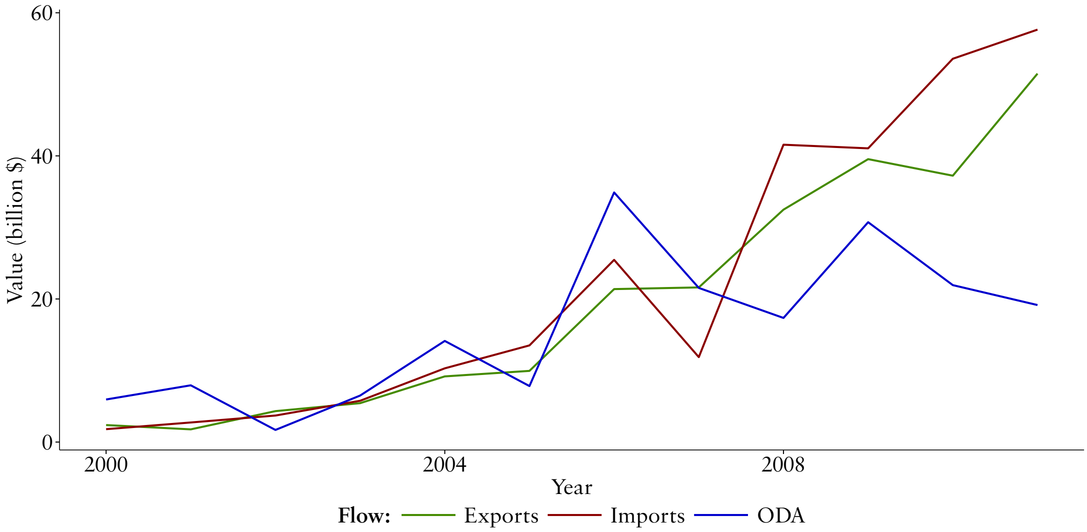
Angola loan is said to have enable the Angolan government to snub the IMF — whose loan would have been conditional on governance reforms. But BRÄUTIGAM points out that Angola had a history of taking out resource-backed loans (which are common in the industry) and that, while the loan was immediately followed by others from Western banks, "only the Chinese loans make headlines."[119] Despite financial generosity of the Chinese, during Angola's 2006 licensing round, licences were awarded to Sinopec, these ended up being smaller than originally sought by the company as the Angolan side did not think the company had the capacity to exploit the resources.[120] EVANS AND DOWNS note that projects such as the building of dams, roads power plants or government buildings are not undertaken only to gain access to oil and minerals[121], although some will create "goodwill" or are repaid in oil.[122]

China's Aid Programme

Chinese aid is nothing new — the country has been providing development aid since the 1960s. Then, there were three main reasons for aid, South–South relations, the isolation of Taiwan and strengthening the non-aligned movement. Later, commercial interests began to take hold.[123] China's aid is guided by the "Eight Principles for Economic Aid and Technical Assistance to Other Countries", formulated in 1964. The principles are centred on sovereignty, self-reliance and quick impacts.[124] China does emphasise aid projects that link aid, trade and investment in what it calls win-win cooperation. China's aid, like that of other donors, is linked to its political and strategic interests. In the Chinese case, this mainly amounts to gaining diplomatic support in the UN and isolating Taiwan.[125] Since the 2000s, Chinese aid-giving has come to be viewed as a tool to facilitate the country's need for access to raw materials. Chinese aid does emphasise infrastructure and is accompanied by investment and trade programmes.[126] It is focused mostly on Asia but

[119] BRÄUTIGAM, *The Dragon's Gift, op. cit.*, p. 298.
[120] DOWNS, *The Fact and Fiction of Sino-African Energy Relations, op. cit.*, p. 47.
[121] EVANS ET AL., *Untangling China's Quest for Oil, op. cit.*, p. 4.
[122] This also points to another dimension of Chinese influence — dams or roads may be built even though standards on best environmental practice might preclude western or multilateral donors not to undertake a given project.
[123] ROWLANDS, *Emerging Donors in International Development Assistance, op. cit.*, p. 6.
[124] PEOPLE'S REPUBLIC OF CHINA, *China's Foreign Aid, op. cit.*
[125] LANCASTER, *The Chinese Aid System, op. cit.*, p. 1; TULL, *Die Afrikapolitik der Volksrepublik China, op. cit.*; ALDEN, *China in Africa, op. cit.*
[126] WOODS, *Whose aid? Whose influence?, op. cit.*, p. 1015; ALDEN, *China in Africa, op. cit.*

Figure 2: Trade and Aid Flows between China and Africa, 2000–2011



Source: United Nations, UN *Commodity Trade Statistics Database, op. cit.*, http://china.aiddata.org/.

also towards large oil-producing states in Africa[127] though the focus is more likely to be a reflection of the fact that the larger oil producers are also the largest economies (see below).

The trade-bias should also serve as a reminder that as China's economic rise continues, raw materials are becoming one aspect of many. The OECD notes that the country's extractive industry FDI, while large, is not the largest part of its FDI (see Table 4), indicating that China's foreign direct investment is becoming much more diversified. The country's investment in Africa is "not particularly biased towards the natural resources extraction sector in international comparison".[128] China's economy is simply expanding abroad on all fronts. The intensification and diversification of China's FDI also has important consequences for policy-making — the country's extractive industries are by no means the only important players and with much deepened economic ties, China's diplomacy becomes much more than just "oil diplomacy". Chapter 9 will show that intensified economic ties with Sudan contributed to a reversal of China's policy of non-interference, which was necessary to protect its (broad) business interests in Sudan. Even though in absolute terms of value or production, the operations and holdings of Chinese resource companies are not on the scale of established — mostly western — companies, their growth is remarkable.

[127] Rowlands, *Emerging Donors in International Development Assistance, op. cit.*, p. 7.
[128] OECD, OECD *Investment Policy Reviews: China 2008*, OECD, 2008, p. 110.

Table 4: China's outward FDI Stock by Industry (millions of USD)

Industry	2004		2005		2006		2007		2008		2009		2010	
	Amount	%	Amount	%	Amount	%	Amount	%	Amount	%	Amount	%	Amount	%
Mining	5,951	*13.29*	5,552	*10.26*	17,902	*19.75*	15,014	*12.73*	22,555	*12.28*	40,580	*16.51*	44,661	*14.08*
Manufacturing	4,538	*10.13*	5,770	*10.66*	7,530	*8.31*	9,544	*8.09*	9,662	*5.26*	13,592	*5.53*	17,802	*5.61*
Transport, Storage and Post	4,581	*10.23*	7,083	*13.09*	7,568	*8.35*	12,059	*10.23*	14,520	*7.91*	16,631	*6.77*	23,188	*7.31*
Wholesale and Retail Trade	7,843	*17.52*	11,418	*21.10*	12,955	*14.29*	20,233	*17.16*	29,859	*16.26*	35,695	*14.52*	42,006	*13.24*
Banking					15,605	*17.22*	16,720	*14.18*	36,694	*19.98*	45,994	*18.72*	55,253	*17.42*
Real Estate	203	*0.45*	1,495	*2.76*	2,019	*2.23*	4,514	*3.83*	4,098	*2.23*	5,343	*2.17*	7,266	*2.29*
Leasing and Business Services	16,428	*36.69*	16,554	*30.60*	19,464	*21.48*	30,515	*25.88*	54,583	*29.72*	72,949	*29.68*	97,246	*30.66*
Other	5,233	*11.69*	6,234	*11.52*	7,589	*8.37*	9,312	*7.90*	11,687	*6.36*	14,971	*6.09*	29,788	*9.39*
Total	44,777	*100.00*	54,106	*100.00*	90,631	*100.00*	117,910	*100.00*	183,658	*100.00*	245,755	*100.00*	317,210	*100.00*

Source: PEOPLE'S REPUBLIC OF CHINA, *2010 Statistical Bulletin of China's Outward Foreign Direct Investments, op. cit.*, Author's calculations.

Table 5: Ten Largest Recipients of ODA to Africa 2000–2011, by Donor

	Country	China	Country	DAC
1	Nigeria	16,430,282,663	Nigeria	22,080,550,000
2	Ghana	13,959,171,871	Congo, DR	18,774,420,000
3	Sudan	6,118,188,188	Tanzania	14,418,130,000
4	Zimbabwe	5,590,738,624	Ethiopia	14,318,010,000
5	Ethiopia	5,557,116,811	Mozambique	12,913,200,000
6	Angola	4,649,977,007	Sudan	12,194,810,000
7	Mauritania	4,634,471,834	Egypt	9,455,910,000
8	Mozambique	4,234,653,711	Uganda	9,399,650,000
9	Equatorial Guinea	3,770,392,371	Kenya	8,663,530,000
10	Egypt	3,261,032,990	Ghana	7,846,690,000

Source: Aiddata.org, OECD

Aid for Resources?

In contrast to the discourse on Chinese aid amongst policy-makers and some donors, some scholars point to the shortcomings of the assumption that aid and trade is a tool to gain access to resources or undermines the existing aid regime. Available data help corroborate the fact that China does not systematically prefer resource-rich countries as partners for its development aid. China has provided aid to every country in Africa that does not recognise Taiwan.[129]

The analysis of China's aid is fraught with problems as there is no clear distinction between trade and aid. Reporting about aid and resource deals does not necessarily follow through and many deals fail to materialise. Its focus on the provision of infrastructure and commerciality, and the lack of official data makes it difficult to assess the amount of aid (or the concessional component of a given aid project). WOODS notes that "while newspaper reports speak of billions of dollars' worth of aid from China to Africa, many such reports confuse investment and other external flows, such as export credits, with "aid" as defined by the OECD DAC."[130] China has become slightly more transparent regarding its aid policy and published a White Paper on the subject.[131] However, the government does not publish official data on aid flows. Given the dearth of data from China, it has to date often been

[129]STRANGE ET AL., *China's Development Finance to Africa, op. cit.*
[130]WOODS, *Whose aid? Whose influence?, op. cit.*, p. 1214.
[131]PEOPLE'S REPUBLIC OF CHINA, *China's Foreign Aid, op. cit.*

excluded from quantitative analyses of aid-giving.[132] Dreher and Fuchs find that China does give aid for political reasons, but not more so than established donors.[133] Literature on the reasons for aid-giving notes that established donors, too, give aid for political reasons.[134]

Dreher and Fuchs, using data from 528 Chinese aid projects between 1959 to 2009, find that there is no evidence that China's aid is conditional upon resource wealth.[135] They contrast this result with the "good donors" Japan and Korea, which appear to target their aid much more on resource-rich countries.[136] Nevertheless, Dreher et al. find that emerging donors do not take need into account to the extent that established donors do.[137] They also find that commercial interests are not as strong a determinant of aid-giving for neither established or emerging donors.[138] New donors are not specifically seeking out recipients with worse track-records of human rights or corruption.[139]

More data have recently become available allowing to test statistically whether China's provision of aid is contingent upon access to natural resources. The *Aiddata* project[140] has collected reports of Chinese cooperation projects in Africa.[141] These data can be used to show that there is no relationship between aid-giving and access to resources, either in the form of China's resource imports, its investment in the resource sector or the country's resource export dependence.

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[132] Axel Dreher and Andreas Fuchs, "Rogue Aid? The Determinants of China's Aid Allocation", *CESifo Working Paper Series No. 3581*, 2011, p. 2.

[133] *ibid.*, e.g. China's aid is contingent upon UN General Assembly support or the non-recognition of Taiwan.

[134] Power et al., *China's Resource Diplomacy in Africa, op. cit.*, p. 137. Alberto Alesina and Beatrice Weder, "Do Corrupt Governments Receive Less Foreign Aid?", *American Economic Review*, 92(4):1126–1137, 2002 who note corrupt governments do not receive less aid, although democracies are preferred: Alberto Alesina and David Dollar, "Who Gives Foreign Aid to Whom and Why?", *Journal of Economic Growth*, 5:33–63, 2000; Eric Neumayer, "Is the Allocation of Food Aid Free from Donor Interest Bias?", *Journal of Development Studies*, 41(3):394–411, 2005; Eric Neumayer, "Do Human Rights Matter in Bilateral Aid Allocation? A Quantitative Analysis of 21 Donor Countries", *Social Science Quarterly*, 84(3):650–666, September 2003.

[135] Dreher et al., *Rogue Aid? The Determinants of China's Aid Allocation, op. cit.*, p. 26f.

[136] See also Lancaster, *The Chinese Aid System, op. cit.*, p. 4.

[137] Axel Dreher, Peter Nunnenkamp and Rainer Thiele, "Are 'New' Donors Different? Comparing the Allocation of Bilateral Aid Between non-DAC and DAC Donor Countries", *World Development*, 39(11):1950–1968, 2011.

[138] *ibid.*

[139] This does not hold for food aid: "It finds some evidence for donor interest bias, particularly in the form of preferential treatment of geographically close countries. However, neither military-strategic nor export interests seem to matter.

[140] The project is a "partnership between Brigham Young University, the College of William and Mary, and a non-profit development organisation, Development Gateway." http://aiddata.org, accessed 30 April 2013.

[141] Strange et al., *China's Development Finance to Africa, op. cit.*

In fact, the blurriness of lines between Chinese ODA and business is evidenced by the fact that while there is no statistically significant relationship between the resource exports of a country or its (resource) exports to China and the amount of development assistance that country receives, there is a relationship between trade and investment in the natural resources sectors and ODA. That is, while China may support its businesses' investments abroad (which happen to be mostly resource-related) with aid (and some investments may be counted as aid, further weakening the correlation), it does not give more support to those countries from which it imports most resources. To test this, I estimate an OLS model using FDI flows as reported by the National Bureau of Statistics, GDP per capita, total trade with China, the number of Chinese extractive companies present, and population size as independent variables.

I find that there is a positive relationship between trade or investment and ODA (Model 1, Table 6). African countries (which are the only ones for which ODA data are available), tend to receive more aid the lower their GDP per capita is, the greater their population, the more they trade with China and the more attractive they are to Chinese investment. I also account for the recipient counties' resource wealth by including resource exports as share of GDP in the analysis (Model 2) and find that resource export dependence is not statistically significant. Next I add China's resource imports to the equation, which might be considered a better predictor of China's aid as this variable — unlike the general measure of resource wealth — is clearly related to China's demand.[142] However, I find that fuel and ore exports to China are not a predictor of Chinese aid (Model 3). The same holds if the Resource Exports to China are lagged by two years in either direction, indicating that China's ODA to African countries is neither incentive nor reward for resource exports (Model 4 shows that past exports of resource to China have a negative effect on ODA, though this is hardly robust, as a lag by one year has no statistically significant effect).

[142] UNITED NATIONS, UN *Commodity Trade Statistics Database, op. cit.*

Table 6: Model Summary — Resources and ODA

	Dependent variable:			
	log(ODA)			
	(1)	(2)	(3)	(4)
log(GDP per capita)	−0.329*	−0.686**	−1.134	−2.618*
	(0.196)	(0.300)	(0.777)	(1.331)
log(Population)	0.364**	0.202	−0.882	−2.803**
	(0.165)	(0.287)	(0.779)	(1.281)
log(Trade with China)	0.341**	0.370*	1.737*	3.726**
	(0.133)	(0.223)	(0.970)	(1.401)
log(Chinese FDI)	0.151**	0.221**	0.494*	0.673**
	(0.074)	(0.094)	(0.273)	(0.320)
Chinese Companies	0.360*	0.139	1.700*	3.314**
	(0.193)	(0.347)	(0.903)	(1.312)
Resources (% GDP)		0.027	−0.067	−0.117
		(0.025)	(0.060)	(0.085)
log(Resource Exports to China)			−0.687	
			(0.460)	
log(Resource Exports (t−2))				−1.561**
				(0.593)
Intercept	6.255***	9.788***	11.288	24.782
	(2.336)	(3.408)	(10.278)	(15.784)
Observations	208	153	39	29
R^2	0.273	0.253	0.415	0.504
Adjusted R^2	0.255	0.222	0.283	0.339
Residual Std. Error	2.174 (df = 202)	2.253 (df = 146)	2.172 (df = 31)	2.176 (df = 21)
F statistic	15.145*** (df = 5; 202)	8.247*** (df = 6; 146)	3.142** (df = 7; 31)	3.054** (df = 7; 21)
Note:			*p<0.1; **p<0.05; ***p<0.01	

CONCLUSION

By now I have shown that the domestic context of resource wealth matters in that it affects institutional quality, extended the analysis by the state-firm relationship and have illustrated that home governments also can play a role in perpetuating underdevelopment and authoritarianism in resource rich countries. This has revealed that negative effects of resource extraction are either independent of who extracts resources or at least that even though Chinese policies and Chinese company behaviour has at times been detrimental, the Chinese are not alone in doing so.

With the rise of non-traditional investors, and the resulting increased competition for access to raw materials, power is shifting towards host governments, who suddenly find themselves in a position to chose between investors, donors and development models. China's investment and aid policies are not primarily driven by institutional quality in resource-rich countries, nor is there systematic evidence that its trade and investment in raw materials are the main drivers of the country's aid-giving. In terms of foreign aid China does not appear to be particularly picky. There are aid flows to every country in Sub-Saharan Africa that supports the one China policy, and there appears to be no relation regarding whether a country is resource-rich or not.[143] China's business and foreign policy ties are broadening and claims that China's drive to gain access to resource weakens the international aid regime or systematically supports human rights abusing regimes cannot be maintained.

So far, this thesis has mainly assessed the extent to which Chinese foreign investment in the extractive industries is different from that of established investors, and found that the differences are minimal or hardly systematic (anymore). The remainder of this thesis will address why this is the case. The next Chapter will address how Chinese companies relate to their home government and that by virtue of their organisational structure even those state-owned companies are not merely an arm of their government that implements a master plan to gain access to natural resources abroad. The importance of access to raw materials and heightened competition for them might also induce home governments to avoid more stringent regulation for corporations lest they be at a competitive disadvantage. Chapter 8 will address this issue and note the emergence of norms

[143] Bräutigam, *The Dragon's Gift, op. cit.*, p. 279.

and increasing regulation in the extractive industries whose design captures companies regardless of their origin or degree of home country cooperation.

6

CHINESE COMPANIES

INTRODUCTION

Often, the actions of Chinese companies are explained by referring to the fact that the companies are state-owned and that they behave like an arm of the government. China's foreign and economic policy and the actions of Chinese state-owned companies are often described as part of a master-plan to gain access to natural resources. Whereas western actors rely on market-based access to raw materials, Chinese companies bring in their parent government to facilitate their foreign operations:

> "While venturing into foreign lands, Chinese companies enjoy unconditional support from their government and from a coordinated foreign policy that promotes, mainly through national oil and mining companies and sovereign wealth funds, the securing of resources in the international energy market."[1]

Chinese National Oil Companies (NOCs) have been criticised for benefiting from home-government support, both in terms of financial support as well as political or diplomatic incentives.[2] China's resource industries are said to be largely unregulated at home and that self-regulation is alien to these enterprises. Much of their advantage is said to stem from their privileged relationship with their home government. China is said to be a competitive threat, not only in terms of business, but also access to raw materials and, more generally, political leverage and hitherto western-dominated donor-recipient relationships. The closeness of Chinese enterprises to the government allows them to outcompete western actors. Companies do receive support in the form of export credit insurance or concessional finance for these projects as well as — to some extent — diplomatic support for the largest projects, though this is by no means specific to China only.[3] Next to diplomatic support, Chinese companies' investments are said to be facilitated by easy

[1] Burgos Cáceres et al., *The Geopolitics of China's Global Resources Quest*, *op. cit.*, p. 70.

[2] Trevor Houser, "The Roots of Chinese Oil Investment Abroad", *Asia Policy*, (5):141–166, January 2008, p. 158.

[3] Shankleman, *Going Global, op. cit.*, p. 27. *Interview*, Mining company representative..

access to finance from the government. Even more than their privileged access to finance, Chinese companies can be more competitive because they have not adopted the same, costly, standards ensuring the protection of the environment, labour and safety regulations or transparency (see Chapter 8). They are also seen to benefit from the fact that the government tries to sway host countries with generous (even though harmful) packaged of aid.

These claims do however ignore that the Chinese (and other) companies as well as their home governments have changed over time and by now there is a great deal of convergence between Chinese SOEs and IOCs as Chinese companies become more market-oriented, even though their increasingly commercial considerations do not mean that they do not consider political or financial incentives provided by their parent government. This chapter will show that the criticism levelled at Chinese investors may have had some resonance at the beginning of their international operations, but that over the past decade or so, traditional and non-traditional actors' practices have converged. This is the result of companies aspiring to become more like IOCs[4] and the changing regulatory and incentive structure (see Chapter 8). To make this argument, I assess the way Chinese oil companies are run and the companies' relationship with the home government against the background of most commonly voiced criticism of Chinese investment abroad.

Do non-traditional investors really base their success on support from their home-governments? Business-government relationships are complex (as outlined in Chapter 4) and that holds true even for state-owned companies where these relationships are often considered one with straight lines of authority,[5] as profitability and shareholder value can be sacrificed for political goals. Government-owned does not mean government-run and the relationship between Chinese national oil companies and the central government is far from straightforward. Although they are organised in a different manner, corporate interests of state-owned companies and western private ones have however converged. The interests of Chinese government and its oil companies often diverge. Although Chinese companies do get support from the government, corporate decisions are largely and in-

[4] Binbin Jiang, *China National Petroleum Corporation (CNPC): a balancing act between enterprise and government*, in: David Victor, David Hults and Mark Thurber, (eds.), *Oil and Governance. State-Owned Enterprises and the World Energy Supply*, chapter 9, pp. 379–417. Cambridge University Press, 2012.

[5] Gibbs, *The Political Economy of Third World Intervention, op. cit.*; David Hults, *Hybrid governance: state management of national oil companies*, in: David Victor, David Hults and Mark Thurber, (eds.), *Oil and Governance. State-Owned Enterprises and the World Energy Supply*, chapter 3, pp. 62–120. Cambridge University Press, 2012.

creasingly based on commercial, rather than policy decisions. This is important for two reasons: First it challenges the notion that there is a concerted effort or a grand strategy of the Chinese government to gain access to resources at all costs. Second, and despite the fact that they are state-owned, they are commercially-oriented, which in turn means that they become dependent on the market, respond to the same market incentives as IOCs and become subject to regulations that govern these markets.

Understanding the behaviour of oil companies requires knowledge not only about their operations abroad but also about their relationship with home government. This helps explain attitudes/regulation and investment decisions.[6] The previous chapters have already outlined the context in which China's natural resource investments take place and the most common misconceptions relating to the rise of China. These related to how companies might benefit from a foreign policy environment, created by the Chinese government, to further their commercial aims. Access to raw materials is surely important for the government and companies, and the government's and the oil companies' strategies to get access to raw materials are congruent. Investment in natural resource extraction that the country is lacking is encouraged by the Government (and a necessity for the companies).[7] One of the aims of this Chapter is to show that even though the aims of government and companies may coincide, companies are by no means driven by the government.

National oil companies are changing. They are "transforming themselves from state-dominated and bureaucratic entities [...] to at least partly private-owned entities [...]"[8] Consequently, as MOHAN puts it, the "discourse of some Beijing-based puppeteer orchestrating a coherent 'Africa Policy' says more about the paranoia of western commentators than the realities of the situation".[9] This chapter will argue that the fact that NOCs are state-owned alone does not distinguish them from their established competitors. The conventional claims are mistaken for two related reasons. These alleged problems are overblown, and this is the case precisely because the structure and operations of Chinese NOCs are not like one would expect from state companies: they are not run by the state and increasingly operate to commercial principles and respond to commercial incentives and market or consumer pressure, not unlike their western counterparts. China is not a monolithic actor, and in the relationship between the Chinese government and the com-

[6] GOLDSTEIN, *New Multinationals from Emerging Asia, op. cit.*, p. 28.
[7] SHANKLEMAN, *Going Global, op. cit.*, p. 26f.
[8] GOLDSTEIN, *New Multinationals from Emerging Asia, op. cit.*, p. 30.
[9] MOHAN, *China in Africa, op. cit.*, p. 162.

panies there are multiple principals and agents.[10] What holds for individual companies, also holds for Chinese companies as a group: indeed there is a great deal of variation between Chinese companies[11] not only according to sectors and sizes but also as a result of their individual histories and business strategies (see Chapters 1 and 3).

CHINA'S STATE-OWNED ENTERPRISES

Even though the internationalisation of Chinese companies in the extractive industries is a smaller phenomenon than commonly assumed (see following section), there are dozens of extractive companies in China. This thesis is concerned with the large Chinese state-owned oil and mining companies of which only a few could be described as "global players". The central government administers 117 large enterprises, 17 of which are engaged in the extractive industries, though not all have mining operations abroad. Many of the companies are conglomerates and not all of them are primarily engaged in mining or petroleum production. For instance, the China Railway Construction Corporation (CRCC) and the China Railway Engineering Corporation/China Railway Group (CREC) have ventured into mining development. CREC is part of the massive and controversial resources-for infrastructure deal in the DR Congo. The Sicomines project entails a 3 billion dollar copper mining investment and another 3 billion resource-backed infrastructure loan. Besides the centrally-owned enterprises, there are a number of provincially-owned mining companies with foreign operations, such as the Shougang Corporation, Jianxi Copper or Tongling Nonferrous Metals. Table 7 provides a list of the China's major extractive companies with operations abroad.

Since the 1990s, and even more intensely since 2003, the three major NOCs have been pursuing (with government support) an expansion strategy to develop and acquire a project or gain access to equity stakes abroad.[12] While the government wants the companies to become globally competitive.[13] and the internationalisation of Chinese oil companies and their modernisation was state-mandated, it was implemented by commercial means:

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[10] WU NA AND JAMES REILLY, *China's Corporate Engagement in Africa*, in: MARCEL KITISSOU, (ed.), *Africa in China's Global Strategy*. Adonis & Abbey, London, 2007.

[11] GONZÁLEZ-VICENTE, *Development Dynamics of Chinese Resource-Based Investment, op. cit.*

[12] LIEBERTHAL ET AL., *China's Search for Energy Security, op. cit.*, p. 13.

[13] SHANKLEMAN, *Going Global, op. cit.*, p. 50. At the same time expansion abroad enhances Chinese NOCs' competitiveness. DOWNS, *Inside China, Inc, op. cit.*, p. 75.

Table 7: Main Chinese Oil and Mining Companies with Overseas Operations

Company	Foreign Presence (number of Countries)	Sector(s)	Centrally Controlled
China National Petroleum Corporation (CNPC/PetroChina)	26	Oil and Gas	Yes
China Petrochemical Corporation (Sinopec)	21	Oil and Gas	Yes
China National Offshore Oil Corporation (CNOOC)	16	Oil and Gas	Yes
Aluminum Corporation of China (Chinalco)	13	Aluminium, Copper	Yes
Sinochem Group	10	Oil, Gas Chemicals	Yes
China Nonferrous Metal Mining (Group) Co., Ltd. (CMNC)	6	Mining, Construction Engineering	Yes
Jinchuan Group	6	Nickel, Cobalt	No
Sinosteel Corporation	5	Steel and Mining	Yes
China Metallurgical Group Corporation (MCC)	5	Metalurgical Engineering	Yes
Wuhan Iron and Steel (Group) Corporation (WISCO)	4	Steel	Yes
China Minmetals Corporation	4	Metals and Minerals Trading	Yes
Tongling Nonferrous Metals	4	Non-ferrous Metals Mining and Processing	No
China National Machinery Industry Corporation/CMEC	2	Construction, Engineering, Power	Yes
CITIC	2	Investment	No
Jianxi Copper	2	Metals and Mining (Copper)	No
Anshan Iron and Steel Group Corporation	1	Iron and Steel	Yes
Baosteel Group Corporation	1	Iron and Steel	Yes
CRCC	1	Construction, Engineering	Yes
China Railway Group	1	Construction, Engineering	Yes
Shougang	1	Metals, Mining and Engineering	No

Sources: AA.VV, USGS *Minerals Yearbook*, vol. III Area Reports — International, *op. cit.*, PEOPLE'S REPUBLIC OF CHINA, *Central* SOEs, *op. cit.*, Companies' Websites. Foreign presence is limited to mining or oil operations.

acquisition of licences, shares in oil and mining concessions or the outright take-over of companies.[14]

[14] SHANKLEMAN, *Going Global, op. cit.*, p. 77. This strategy has also been adopted by other countries, but not on the same scale, and is part of greater internationalisation of the extractive industries.

This section will show that Chinese companies are becoming more and more like their international peers in that they are increasingly independent of their home government. This growing independence (and market-orientation) also means that the view that China's companies are protected from regulatory pressures by their home government and operate outside an existing regulatory regime is outdated. In the following, I provide a brief overview of the structure of the Chinese oil and mining industry. I will show that state-owned does not mean state-run and that the Chinese oil companies respond to commercial rather than home-government incentives.

The move overseas of National Oil Companies (NOCs) and mining enterprises is part of a wider phenomenon in which emerging economies enter the world economy and globally growing FDI flows.[15] China became dependent on foreign oil in 1993, and since then overseas expansion of its oil companies became necessary.[16] Going out was formalised as a strategy in the 10th five-year-plan in 2001[17], some time after the first forays abroad of Chinese companies. Before the formalisation of the going out strategy, overseas investment by Chinese companies had been rather small, but, as POWER ET AL. note, this had already helped Chinese companies to gain experience and partnerships abroad upon which they could base their further acquisition.[18] China will support companies' foreign investment if it fulfils the objective of resource security[19], though BUCKLEY ET AL. argue that Chinese OFDI is not systematically resource-seeking.[20] Chinese NOCs' going out strategy is not singular — many NOCs of other countries have been doing the same as domestic resources deplete.[21]

The move abroad has been accompanied by structural changes of the Chinese petroleum sector. Chinese domestic oil production used to be in the hands of the Ministry of Petroleum Industry and the Ministry of Chemical Industry. In the 1980s these were converted into state-owned enterprises: The three major Chinese petroleum companies

[15] KEUN-WOOK PAIK, VALERIE MARCEL, LAHN GLANDA, JOHN MITCHELL AND ERKIN ADYLOV, *Trends in Asian* NOC *Investment Abroad*, Working Background Paper. The Royal Institute of International Affairs, March 2007, p. 4. SAUVANT ET AL., *Foreign Direct Investment by Emerging Market Multinational Enterprises, the Impact of the Financial Crisis and Recession, and Challenges Ahead, op. cit.*, p. 3.

[16] XIAOJIE XU, *Chinese* NOCs*' Overseas Strategies: Background, Comparisons and Remarks*, The James A. Baker III Institute for Public Policy, 2007, p. 3.

[17] PETER BUCKLEY, JEREMY CLEGG, ADAM CROSS, XIN LIU, HINRICH VOSS AND PING ZHENG, "The determinants of Chinese outward foreign direct investment", *Journal of International Business Studies*, 38(3):499–518, 2007.

[18] POWER ET AL., *China's Resource Diplomacy in Africa, op. cit.*, p. 100.

[19] The others are: technology transfer, market entry and the promotion of research and development.

[20] BUCKLEY ET AL., *The determinants of Chinese outward foreign direct investment, op. cit.*

[21] XU, *Chinese* NOCs*' Overseas Strategies, op. cit.*, p. 3.

— CNPC, Sinopec, and CNOOC — have their origin in the Ministry of Petroleum Industry (and Chemical Industry).[22] From 1998 onwards, the Chinese oil industry has undergone further structural changes: the separation between upstream and downstream companies was abolished.[23] The vertical integration of their business also meant that increasingly, companies are in competition against each other.[24] The companies have attained autonomy from the government for product pricing and capital investment.[25] Despite all these changes, ZHANG notes that the organisational structure of Chinese oil companies still differs from that of western oil majors.[26] The parent companies still largely control their listed subsidiaries and depend on their dividend payments. Still there are also overlaps between board membership in parents and "child" companies.[27]

While the three large Chinese NOCs have their roots in Government — having been Ministries in the past — they have now largely been corporatised and regulatory oversight is provided by the National Development and Reform Commisson (NDRC).[28] Parts of their operations have been privatised with the flotation of subsidiaries in Hong Kong and New York while the parent companies still take on public functions at home. The companies flotation on capital markets is even more relevant in the context of this thesis: in 2000 Sinopec and CNPC created subsidiaries (Sinopec Corp. and Petro China Ltd.) which were traded in Hong Kong and New York. CNOOC's private subsidiary (CNOOC Ltd.) followed a year later.[29] The importance of this cannot be overemphasised, because the fact that parts of these holding companies — which also run some operations abroad — are traded at international stock exchanges means that they are entering a different regulatory space. Even though the group companies are controlling shareholders — CNPC holds 86.35% in PetroChina, Sinopec 76.28% in Sinopec Corp. and CNOOC 64.45% in

[22] JIANG ET AL., *Overseas Investments by Chinese Oil Companies, op. cit.*, p. 9. The latter was tasked with the management of offshore assets and started cooperation with foreign oil companies to explore and exploit the deposits of the Chinese coast. Sinopec initially was only active in downstream (i.e. refining, transport and marketing), while CNPC had control of the onshore fields. HOUSER, *The Roots of Chinese Oil Investment Abroad, op. cit.*, p. 145.

[23] PAIK ET AL., *Trends in Asian* NOC *Investment Abroad, op. cit.*, p. 9.

[24] STEVEN LEWIS, *Chinese* NOC*s and World Energy Markets:* CNPC*, Sinopec and* CNOOC, The James A. Baker III Institute for Public Policy, 2007, p. 4; SHANKLEMAN, *Going Global, op. cit.*, p. 21. In Sudan, CNPC and Sinopec competed against each other over a project to build a pipeline (ultimately lowering returns for the winner) but Chinese diplomats unsuccessfully tried to discourage Sinopec for underbidding CNPC: DOWNS, *The Fact and Fiction of Sino-African Energy Relations, op. cit.*, p. 50.

[25] JIN ZHANG, *Catch-Up and Competitiveness in China: The Chase of Large Firms in the Oil Industry*, RoutledgeCurzon, London, 2004, p. 137.

[26] *ibid.*, p. 183.

[27] *ibid.*, p. 184.

[28] XU, *Chinese* NOC*s' Overseas Strategies, op. cit.*, p. 20.

[29] HOUSER, *The Roots of Chinese Oil Investment Abroad, op. cit.*, p. 146.

CNOOC Ltd. — scrutiny occurs not only through what would be minority investors but is also the result of regulation in these capital markets. While formally their subsidiaries are different companies, analytically they can still be treated as the same entities, given that there is significant overlap in management, corporate identity and cross-shareholding.[30] Still, for legal and reputational reasons, the subsidiaries emphasise their independence and the groups keep the most controversial endeavours with the parent holdings rather than the publicly traded subsidiaries which would be subject to greater reporting requirements and therefore scrutiny.[31] As the state-owned parents are major shareholders, it can be argued that the reputational concerns voiced against subsidiaries are relevant for the parents' operations as well. The companies have the same public face (even though they might be legally different). More importantly, sub-standard performance of one part of a company and a subsequent loss of social licence to operate or diminished reputation in the eyes of "significant others" (see Chapter 1) can have implications for the whole company's business, including its share price, or access to other markets. In CNPC's case the emphasis on the subsidiaries' independence — and the fact that the only one of CNPC's foreign assets which is not held by PetroChina are those in Sudan[32] — is also the result of US sanctions and the company's subsidiary PetroChina explains:

> "CNPC, our controlling shareholder, may choose to undertake, without our involvement, overseas investments and operations. [...] CNPC's overseas asset portfolio includes oil and gas development projects in Iran, Sudan, Cuba and Syria, which are on the sanction list [...] of the U.S. Department of Treasury. Certain U.S.-based investors may not wish to invest, and have proposed or adopted divestment or similar initiatives regarding investments, in companies that do business with countries on OFACs sanction list."[33]

[30]For instance, the general managers of the group companies also serve as chairmen of the subsidiaries. Erica Downs, *Business Interest Groups in Chinese Politics: The Case of the Oil Companies*, in: Cheng Li, (ed.), *China's Changing Political Landscape. Prospects for Democracy*, pp. 121–141. Brookings, Washington, D.C., 2007, p. 123; Sudan Divestment Task Force, *PetroChina,* CNPC*, and Sudan: Perpetuating Genocide*, Genocide Intervention Network, Washington, D.C., 15 April 2007.

[31]Rosen et al., *China Energy, op. cit.*, p. 31; Houser, *The Roots of Chinese Oil Investment Abroad, op. cit.*, p. 157 Lieberthal et al., *China's Search for Energy Security, op. cit.*, p. 18.

[32]CNPC's foreign assets were initially held in CNODC then transferred to a new company which both CNPC and PetroChina hold 50%. Mitchell et al., *Oil for Asia, op. cit.*, p. 4. CNOOC too, transferred its foreign assets to its subsidiary in order for the listed company to become more attractive for investors. Downs, *Business Interest Groups in Chinese Politics, op. cit.*

[33]PetroChina Company Limited, "Form 20-F Annual Report Pursuant To Section 13 Or 15(d) Of The Securities Exchange Act Of 1934", 2010.

Before the foreign investment of Chinese oil companies caught the eye of international observers, there had already been a first wave of international expansion by Chinese oil companies between 1992 and 1997.[34] However, investments in this period were small in volume and focused on the acquisition of proven deposits rather than greenfield investments. A second stage went on from 1997 to 2000, with expansion to Venezuela, Kazakhstan and Iraq. These investments were much larger than before. Moreover, the acquisitions were made in competition with western or established oil companies.[35] After 2001, Sinopec joined CNPC and CNOOC in the overseas markets by investing in Iran and Yemen and smaller Chinese companies followed suit. This period also saw Chinese companies investing in more risky exploration, e.g. in Chad, Mauritania, Algeria, the Joint Development Zone between São Tomé and Príncipe and Nigeria, and Niger. By then technological capacities were developed such that Chinese companies could also invest in offshore exploration in Libya, Myanmar, Angola, Côte d'Ivoire and Congo (Brazzaville). Since 2009, the three Chinese majors have further increased their investments, and taken on major projects, e.g. in Iraq.[36]

One of the first companies to venture abroad was Shougang, which invested in Peru's newly privatised Hierro Peru in 1992.[37] CNPC also signed a service contract for the Talara Oil field in Peru in 1993. CNOOC started in 1994 in Indonesia and Sinopec's first venture abroad was in Algeria in 2002 but international expansion really only got under way in 2003. Mining companies have also started to go abroad and their activities also increased around the turn of the century. They are much less internationalised than oil companies (see Table 8, where the only Chinese mining company is China Minmetals).

Much of the internationalisation of Chinese companies has been — to a great degree, wrongly — attributed to the government's concerns about energy and raw materials security. In order to continue to provide the basis of China's economic growth, so the story goes, Chinese enterprises venture abroad as domestic resources deplete. Chinese officials believe that — in the case of a crisis — the international markets will not always make oil available to the highest bidders and that therefore it is best if Chinese national oil compa-

[34] KONG, *China's International Petroleum Policy, op. cit.*, p 81. XU, *Chinese NOCs' Overseas Strategies, op. cit.*, p. 6. Five countries, Canada, Papua New Guinea, Peru, Thailand and Sudan were the first ventures of CNPC, whereas CNOOC's investment was limited to Indonesia.

[35] KONG, *China's International Petroleum Policy, op. cit.*, p. 82f.

[36] JIANG ET AL., *Overseas Investments by Chinese Oil Companies, op. cit.*, p. 10; XU, *Chinese NOCs' Overseas Strategies, op. cit.*, p. 14.

[37] GONZÁLEZ-VICENTE, *Development Dynamics of Chinese Resource-Based Investment, op. cit.*, p. 51.

nies play a role in ensuring the country's energy security.[38] To LIEBERTHAL AND HERBERG, China's mercantilist approach to energy security is the result of a distrust in energy markets, which is aggravated by the fact that they are perceived to be dominated by the US.[39] While there are energy security concerns in the Chinese leadership[40] the "going abroad" strategy is also linked to the companies' commercial interest which provides incentives to invest abroad. Rather than being driven by government, Trevor HOUSER notes that NOCs use the energy security discourse within China to convince the Government to support them in their international endeavours, thus driving the government rather than being driven by it.[41]

MITCHELL AND LAHN point out that given the little extra energy security from equity, the real motivations of going abroad are profits and company growth — as FDI theory would predict — which in turn improves the companies' position relative to the government and the status of the management. Given depleting deposits at home, growth abroad is the only commercial option.[42] KONG notes four commercial reasons for going abroad: First, the likelihood of finding oil was much higher abroad than in China, second, the production costs were lower[43], third the costs for exploration and production were lower abroad and fourth, by the end of the 1990s CNPC had succeeded in becoming competitive.[44]

The strategies to mitigate energy security concerns and commercial interests of companies are complementary. In light of declining natural resource production, CNPC had to seek solutions both in China and abroad. Following the shift of decision-making away from the government towards national oil companies, these decisions were taken out of commercial necessity. Rather than the government pushing them, it is the companies who are — for commercial reasons and given their limited domestic resource base — forced to go abroad.[45] In doing so, companies have been able to get the government's political clout, access to finance and development assistance to help them implement infrastructure projects. LEWIS notes that while the Chinese NOCs are motivated by commercial goals and that their success in going abroad is partly due to the fact that this goal is identical

[38] DOWNS, *China's Energy Rise, op. cit.*, p. 188.

[39] LIEBERTHAL ET AL., *China's Search for Energy Security, op. cit.*, p. 14, 16.

[40] ERICA DOWNS, "The Chinese Energy Security Debate", *The China Quarterly*, 177:21–41, 2004.

[41] HOUSER, *The Roots of Chinese Oil Investment Abroad, op. cit.*

[42] MITCHELL ET AL., *Oil for Asia, op. cit.*, p. 4.

[43] 3–5 USD per barrel compared to 15 USD in China. Also, it was expensive to ship from China's western regions to the east coast.

[44] KONG, *China's International Petroleum Policy, op. cit.*, p. 39ff.

[45] ROSEN ET AL., *China Energy, op. cit.*, p. 22.

with Chinese policy.[46] Thus it was the oil companies rather than Chinese central government who were the driving force behind the internationalisation of Chinese petroleum production.[47] At a later stage, however, the government made the companies' strategy of internationalisation their own, and internationalisation became part of the national policy agenda once the country's petroleum deficiency was perceived to be a matter of national security.[48] For companies it was less the need to secure energy supplies for the Chinese economy, but the securing of their own supplies — the companies' own domestic supplies had been decreasing.[49]

THE INTERNATIONAL OPERATIONS OF CHINESE ENTERPRISES

The international operations of Chinese enterprises in the extractive industries receive considerable attention, and China's "thirst for oil" makes the headlines regularly. Chinese companies are large (and growing) (see Figures 6 and 6) but they are still focused on in China. While this gives them considerable political clout in their relationship with their home government, in terms of their ownership of foreign oil and mineral assets, let alone their operations, China is still a comparatively small player. Figure 6 shows Chinese oil companies' annual production of Oil and Gas in comparison to their western peer group. Only CNPC's production matches that of IOCs (in terms of crude oil alone, the company surpassed Exxon in 2011; in 2012 it produced 916 million barrels of oil. Sinopec and CNOOC).[50] Much of the Chinese companies' production and reserves is located at home in China, and that even the largest IOCs are comparatively small in relation to those NOCs that control resources in the Middle East but do not operate abroad. For instance, PetroChina holds less than 1% of world's petroleum resources compared to Saudi Aramco's 20% (see Table 1 in Chapter 4).

Chinese companies do not have a huge international presence, the companies do not feature high amongst the largest transnational corporations. In its *World Investment Reports*, the United Nations Conference on Trade and Development provides data on the degree of internationalisation of the largest transnational corporations. The transnation-

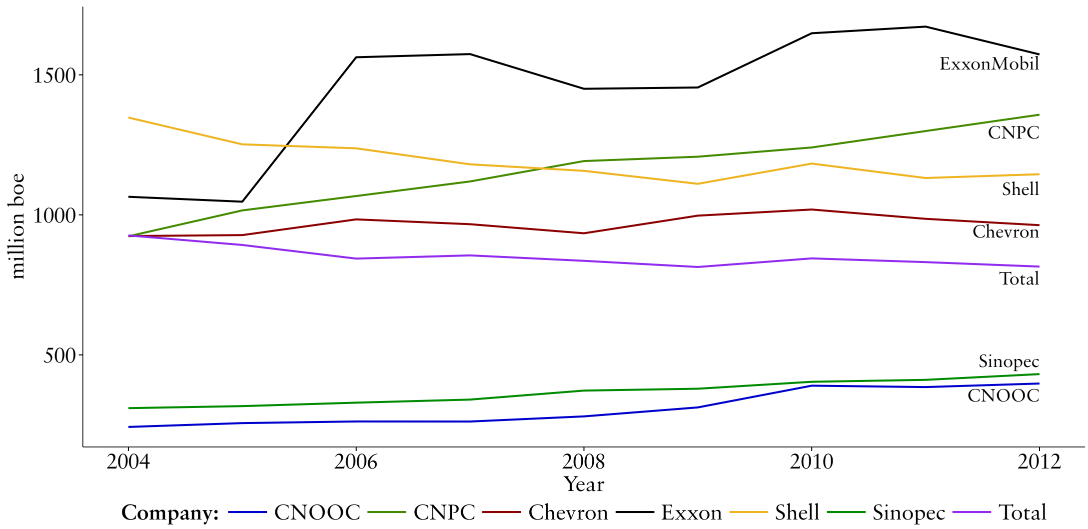
[46] LEWIS, *Chinese NOCs and World Energy Markets, op. cit.*, p. 6, 55.
[47] KONG, *China's International Petroleum Policy, op. cit.*, p. 30.
[48] *ibid.*, p. 30.
[49] JIANG ET AL., *Overseas Investments by Chinese Oil Companies, op. cit.*, p. 10.
[50] For comparison, in 2012 China consumed about 10.2 million barrels of oil daily, and had a daily production of 4.15 million barrels. BP, *Statistical Review of World Energy, op. cit.*

Table 8: Large Extractive Companies, Ranked by Foreign Assets in 2011

Corporation	Country	TNI 2003	TNI 2011	Total Assets 2003	Total Assets 2011	Foreign Assets 2003	Foreign Assets 2011
Royal Dutch Shell	UK	72	76.4	168,091	345,257	112,587	296,449
BP	UK	82	83.8	177,572	293,068	141,551	263,577
ExxonMobil	United States	66	66.0	174,278	331,052	116,853	214,231
Total	France	74	77.7	100,989	228,036	87,840	211,314
Chevron	United States	59	58.8	81,470	209,474	50,806	139,816
Eni	Italy	50	62.8	85,042	198,700	43,967	122,081
ArcelorMittal	Luxembourg		90.5		121,880		117,023
ConocoPhillips	United States	38	39.9	82,402	153,230	36,510	82,683
Xstrata	Switzerland		93.5		74,832		71,771
Anglo American	UK	62	93.9	43,105	72,442	21,623	68,036
Rio Tinto	Australia	78	67.3	24,015	119,545	15,419	65,723
Statoil	Norway	34	36.9	33,174	128,315	12,721	65,556
Repsol YPF	Spain	48	56.2	48,034	98,634	27,933	58,336
BG Group	UK		78.6		61,382		52,623
Lafarge	France	81	87.3	31,365	56,601	28,127	52,244
Vale	Brazil	40	47.1	11,434	128,728	3,155	48,045
Barrick	Canada		87.7		48,884		46,605
BHP Billiton	Australia	70	63.2	36,675	102,891	24,254	41,158
Petronas	Malaysia	26	35.1	53,457	150,435	16,114	38,907
Cemex	Mexico	69	79.5	16,021	39,191	11,054	34,601
Schlumberger Ltd	United States		64.3		55,201		34,493
OMV	Austria		75.5		39,496		32,447
Alcoa	United States	46	61.5	31,711	40,120	12,931	30,671
CNOOC	China	14	18.7	14,479	112,887	1,467	29,802
Lukoil OAO	Russia		42.9		91,192		29,159
PdVSA	Venezuela		18.9		182,154		24,403
Petrobras	Brazil	16	8.3	53,612	322,332	7,827	19,604
Tata Steel Ltd	India		60.1		28,396		17,079
CNPC	China	5	2.7	97,653	475,700	4,060	16,954
Gazprom	Russia		22.4		394,727		15,789
Gerdau	Brazil	39	53.1	4,770	26,992	2,056	15,415
Sinochem	China		42.2		40,563		13,112
ONGC	India	11	17.8	15,249	44,675	2,328	12,110
China Resources Enterprises Ltd	Hong Kong		88.8		14,635		11,606
POSCO	Korea		17.2		68,075		9,626
Evraz Group SA	Russia		43.4		16,975		8,281
Severstal	Russia		23.2		17,910		7,638
Ternium SA	Argentina		62.5		10,747		7,037
Gold Fields Ltd	South Africa		43.4		10,077		6,709
Mechel OAO	Russia		33.2		19,306		6,363
Sinopec	China		8.5		179,813		5,568
Rusal	Russia		35.7		25,345		4,610
Shenzhen International	Hong Kong		92.0		5,138		4,525
China Minmetals	China	63	11.3	5,352	36,227	1,150	4,512
CRCC	China		6.1		66,453		3,076
Alcan	Canada	84		31,957		25,275	
Holcim	Switzerland	75		20,091		12,808	
Sasol	South Africa	37		10,536		4,226	

Source: United Nations Conference on Trade and Development, *World Investment Report [Various], op. cit.*

Figure 3: Annual Hydrocarbons Production in Barrels of Oil Equivalent



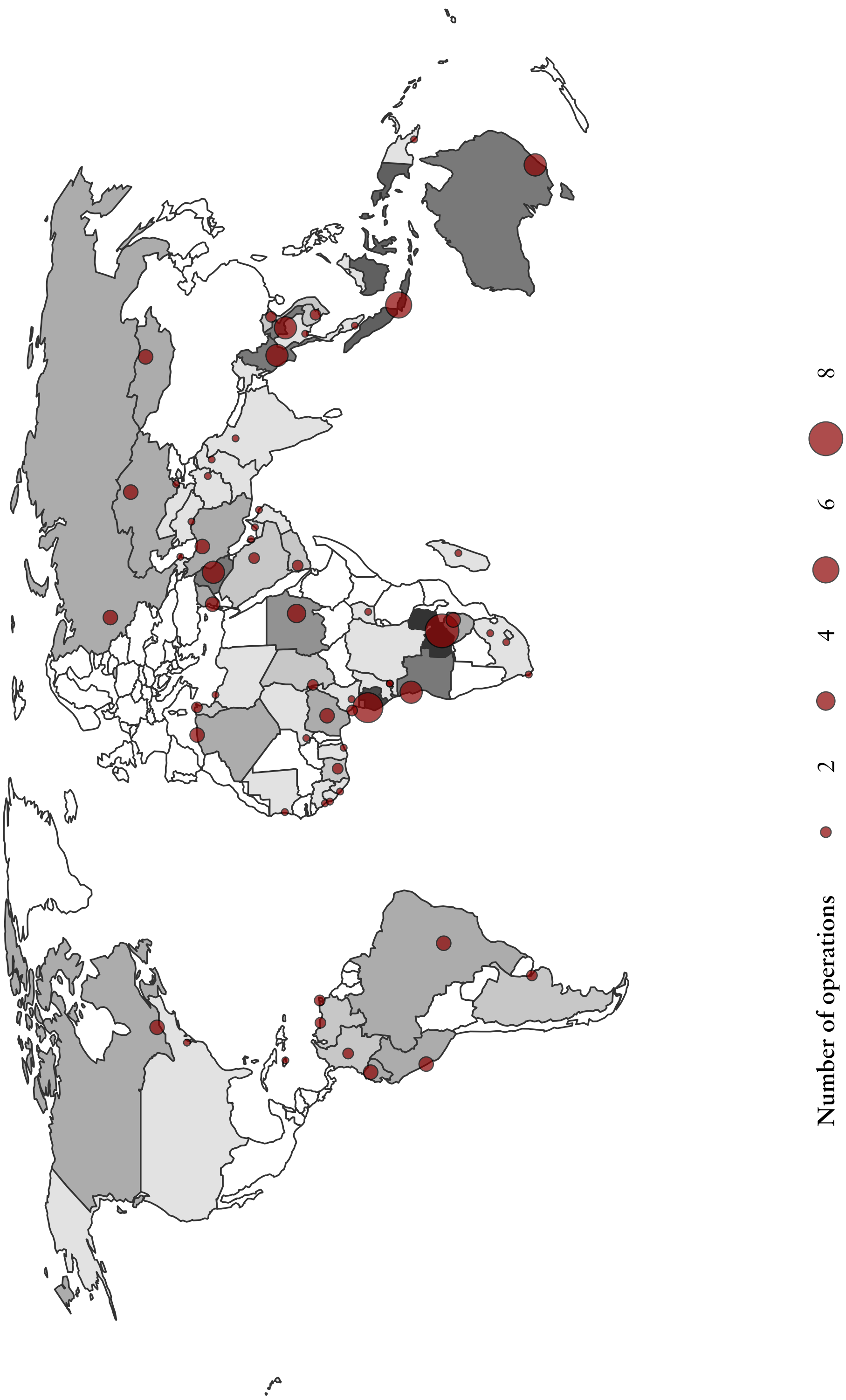
Source: Company Annual Reports. Author's calculations. Note that the figure includes both liquid and gas production.

ality index (TNI) is calculated from the average of the ratio of total and foreign assets, total and foreign employment and total and foreign sales, respectively (see Table 8).

But there has been a wave of acquisitions (see Table 9), which itself has caused concern amongst established actors. Though the numbers are impressive, it is worth keeping in mind that many takeover attempts have ultimately failed, not least because of worries amongst Governments in the US, Canada and Australia that state-owned Chinese companies might acquire interests in strategic industries (see Chapter 4). Between 2005 and 2012, Chinese companies and investment funds acquired stakes in extractive projects worth about 177 billion USD. During the same period, planned investments and takeovers worth approximately 75 billion USD (i.e. 30%) failed.[51] Amongst the most prominent of these failures are CNOOC's botched attempt to take over US oil firm Unocal: CNOOC had offered 18.5 bn USD for Unocal but rescinded the offer after it encountered political difficulties in the US and because of insufficient political support from its parent government.[52] The hostility towards the takeover is cited as one reason for the Chinese view that established players are trying to keep resources out of Chinese hands. In 2005, China Minmetals attempted to acquire Canadian miner Noranda[53] and Chinalco (initially) failed to

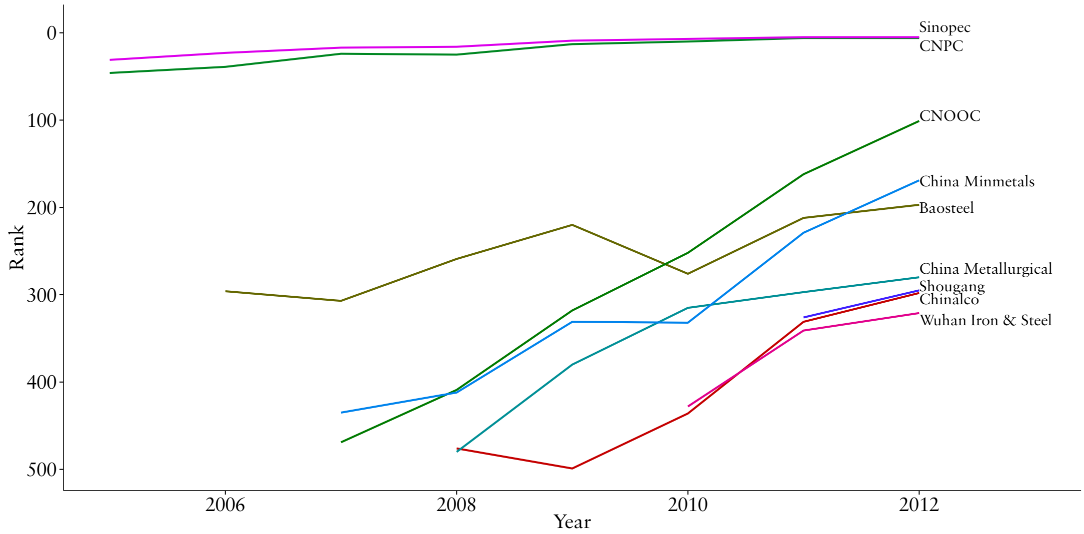
[51] SCISSORS, *China Investment Tracker, op. cit.*
[52] DOWNS, *Business Interest Groups in Chinese Politics, op. cit.*, p. 125.
[53] IAN AUSTEN, "Noranda spurns China and buys up Falconbridge", *The New York Times*, 11 March 2005.

Figure 4: Operations of Chinese Mining Companies Abroad



Source: AA.VV, USGS *Minerals Yearbook*, vol. III Area Reports — International, *op. cit.*, Company Websites

Figure 5: Ranks of Chinese Oil and Mining Companies in Fortune Global 500



Source: Fortune, *Global 500 — The World's Biggest Companies*, CNN, 2005–2012

acquire a 18% stake in Rio Tinto. These episodes show China's entry into foreign markets is met with anxiety, and account for the fact that Chinese officials and companies do perceive themselves to operate in a largely hostile environment.[54] The situation has since improved for Chinese investors, and CNOOC has been able to take over Canadian oil firm Nexen and PetroChina gained a 49.9 per cent stake in a joint venture Encana to exploit Alberta's oil sands.[55]

Table 9: Acquisitions (valued over 1 billion USD) in the Extractive Industries

Investor	Target	Country	Volume (million $)	% of Shares	Sector	Year
CNOOC	Nexen	Canada	15,100		Oil	2012
Chinalco	Rio Tinto	Australia	12,800	11	Aluminum	2008
Sinopec	Addax Petroleum	Switzerland	7,200		Oil	2009
Sinopec	Repsol	Brazil	7,100	40	Oil	2010
Sinopec	ConocoPhillips	Canada	4,650	9	Oil	2010
CNPC	PetroKazakhstan Inc	United Kingdom	4,100		Oil and Gas	2005

(Continued)

[54] Jakobson et al., *China and the Worldwide Seach for Oil Security, op. cit.*, p. 64.

[55] Reuters, CNOOC *closes $ 15.1 billion acquisition of Canada's Nexen*, 25 February 2013; Rebecca Penty, *Encanas PetroChina Partnership May Be First of Many*, University of Alberta China Institute, Edmonton, 17 December 2012. However, at the time of writing, there were proposals to reform the Canadian Investment Canada Act to put limits on ownership of foreign state-owned companies in Canada's natural resource industries.

Investor	Target	Country	Volume (millions $)	% of Shares	Sector	Year
Sinopec	SABC	Saudi Arabia	3,300	38	Oil	2011
CNOOC	Bridas Corp	Argentina	3,100	50	Oil and Gas	2010
Sinochem Group	Peregrino Project, Campos Basin	Brazil	3,100	40	Oil and Gas	2011
Sinochem	Statoil	Brazil	3,070	40	Oil	2010
Yanzhou Coal	Felix Resources	Australia	2,950		Coal	2009
CNOOC	NNPC-OML 130	Nigeria	2,700		Oil and Gas	2006
CNPC	MangistauMunaiGas	Kazakhstan	2,600	50	Gas	2009
Sinopec	Occidental Argentina	Argentina	2,500	100	Oil and Gas	2011
Sinopec	Total	Nigeria	2,500	20	Oil	2012
CNOOC	Awilco Offshore	Norway	2,490		Oil	2008
Sinopec	Occidental Petroleum	Argentina	2,470		Oil	2010
Sinopec	Devon Energy	United States	2,440	33	Gas	2012
China Railway Construction and Tongling Nonferrous	Corriente Resources	Ecuador	2,370		Copper	2009
CNOOC	Chesapeake Energy	United States	2,370	33	Gas	2010
CNOOC	South African Petroleum	Nigeria	2,270	45	Oil	2006
CNPC	National Iranian Oil	Iran	2,250	70	Oil	2009
Yanzhou Coal	Gloucester	Australia	2,210	77	Coal	2011
CNPC	Encana	Canada	2,180	49	Gas	2012
Sinopec	Daylight Energy Ltd	Canada	2,100	100	Oil and Gas	2011
CNOOC	Opti Canada	Canada	2,040		Oil	2011
Sinopec	National Iranian Oil	Iran	2,010	51	Oil	2007
Sinopec	Tanganyika Oil	Syria	1,990		Oil	2008
Sinopec	Australia Pacific LNG Pty Ltd	Australia	1,800	15	Oil and Gas	2011
CNPC	Athabasca Oil Sands	Canada	1,740	60	Oil	2009
CNPC	BHP	Australia	1,630		Gas	2012
CNPC	Arrow Energy	Australia	1,580	50	Gas	2010
Sinopec	Origin Energy–ConocoPhillips	Australia	1,520	15	Gas	2011
Chinalco	Rio Tinto	Australia	1,500	1	Aluminum	2009
Sinopec	Talisman Energy	Canada	1,500	49	Oil	2012
CNPC	Shell	Syria	1,480	35	Oil	2010
CNOOC	Tullow	Uganda	1,450	33	Oil	2011
Andes Petroleum (CNPC and Sinopec)	EnCana Corp–Ecuador Assets	Ecuador	1,400		Oil and Gas	2006
Jinchuan	Metorex	South Africa	1,360		Copper	2011
Minmetals	Anvil Mining	DR Congo	1,280		Copper	2011
Bosai Minerals	Ghana Bauxite	Ghana	1,200	80	Aluminum	2010
Chinalco	Binladin, MMC	Saudi Arabia	1,200	40	Aluminum	2007
China Railway Engineering	Congo Simco	DR Congo	1,190	28	Copper	2008

(Continued)

Investor	Target	Country	Volume (millions $)	% of Shares	Sector	Year
CNPC	Singapore Petroleum	Singapore	1,160	96	Oil	2009
CNPC	Shell	Canada	1,030	20	Gas	2012
Shenhua	Mitsui and Peabody	Mongolia	1,010	21	Coal	2011

Source: United Nations Conference on Trade and Development, *World Investment Report [Various], op. cit.*, Scissors, *China Investment Tracker, op. cit.* Portfolio Investment by investment funds (CIC, SAFE, CITIC) and deals valued at less than USD 1bn have been excluded.

Competitive Threat

Uncompetitive behaviour is not only the result of a lack of standards and dubious business practices, but may also stem from advantages companies gain in form of financial or political support from their home government. This section will serve to assess two dimensions of competition, first the one between the international oil companies, IOCs, and Chinese NOCs, and second, in a broader understanding, between traditional and non-traditional actors, that is "China vs. the rest". I will argue that Chinese NOCs increasingly behave competitively, to a degree similar to that of international oil companies.

The dichotomy Chinese NOC/IOC is increasingly misleading. Not only because, as I will argue later, the government is quite removed from operational decisions, but also because NOCs aspire to become like IOCs.[56] The relations between Chinese and western oil companies are not exclusively characterised by confrontation. Chinese SOEs have been cooperating with Western companies since 1979.[57] Cooperation between NOCs and IOCs is increasingly common, and while competition between companies is alive and well, there is no clear adversarial relationship between NOCs and IOCs.[58] There are many joint ventures of Chinese oil companies with western partners in third countries, e.g. during the 2009 Iraq licensing round. Until recently, Chinese and western oil companies did not compete directly. Mitchell and Lahn point out that the only country where Chinese companies operate and western ones do not, is Sudan.[59] Also, there is increasing cooperation, if mostly in the oil industry. Initially at least Chinese companies did not compete

[56]This does also apply to NOCs in other countries, such as Brazil, Malaysia or, to some degree, Angola. Other NOCs however, serve merely as a regulator of business and providers of patronage for ruling elites.

[57]Shankleman, *Going Global, op. cit.*, p. 26.

[58]Goldstein, *New Multinationals from Emerging Asia, op. cit.*, p. 27.

[59]Mitchell et al., *Oil for Asia, op. cit.*, p. 10.

for the same type of assets, as established supermajors prefer very large easy-to-access reserves. Chinese companies, who were still learning, focused on smaller and higher risk exploration and production — IOCs would often not consider a deposit yielding 20,000 bbl/d. In the meantime this is changing, and Chinese companies have gained access to "super-giant" oilfields with more than 10 bn barrel of reserves. These projects tend to be very large, and in order to operate these, Chinese companies partner with established IOCs.[60] In turn, IOCs such as Conoco or Shell hold licences in China.[61] Chinese NOCs do emphasise the need for partnerships with other oil companies, such as Gazprom, Rosneft, Total or Statoil, with the aim of increasing their own technological expertise.[62] Technical cooperation is often a condition for western companies to gain market access in China.[63] This inward internationalisation (see Chapter 1, in turn later facilitates the NOCs' foreign strategies. According to JIANG, for Chinese companies, this means less risk, technology transfer and the opportunity to counter accusations of diverting resources away from other actors.[64]

Figure shows cooperation between Chinese and non-Chinese companies abroad, recorded in the *Minerals Yearbook* over the past decade. The network diagram shows that oil companies are much more likely to cooperate with others than mining companies, and the three major Chinese oil companies, all have (or have had in the past 10 years) operated, developed or co-owned projects with the major IOCs. While mining companies are isolates, oil companies are more likely to cooperate: CNPC had 16 partners, Sinopec 17 and CNOOC 5 partners, including the majors Shell, Chevron, BP and Total. Conceivably, their exposure in international operations to established IOCs not only serves as a transfer of technology, but also accounts for a certain degree of mimicking business practices, including CSR. In 2007, when Chinalco the company took over the Toromocho copper mine from Peru Copper, it kept the company's management team.[65] This exposure is a fairly recent phenomenon: for comparison, Figure A.1 in the Appendix shows the links between Chinese and non-Chinese companies abroad up until 2006, when there were only seven

[60] For instance, in Southern Iraq, CNPC partnered with Exxon to operate the Rumaila fields and with Total and Petronas to operate the Halfaya field, while CNOOC operates the Missan fields with Turkish Petroleum. CHINA DAILY, *Cnooc bags oil field deal in Iraq*, 18 May 2010.

[61] LEWIS, *Chinese NOCs and World Energy Markets, op. cit.*, p. 20.

[62] XU, *Chinese NOCs' Overseas Strategies, op. cit.*, p. 16.

[63] JIANG, *China National Petroleum Corporation (CNPC), op. cit.*, p. 15f.

[64] JIANG ET AL., *Overseas Investments by Chinese Oil Companies, op. cit.*, p. 14.

[65] AMOS IRWIN AND KEVIN GALLAGHER, "Chinese Mining in Latin America: A Comparative Perspective", *Journal of Environment Development*, 22(2):207–234, 2013, p. 227. Minmetals followed the same strategy when the company bought the Canadian miner Northern Peru Copper.

companies with mining or oil operations abroad who, apart from CNPC (who cooperated with 7 companies, none of whom IOCs) did not cooperate with others abroad (the companies do however have a history of cooperation with IOCs in China). Figure A.2 shows the contact with other companies in context of the global oil and mining industries.

Financial Support for Companies

There are a number of means by which China may get access to resources, beyond greenfield investment in new exploration licences. Chinese companies have bought shares in existing ventures (see Table 9), bought companies outright or struck long-term supply agreement in return for loans. In doing so, Chinese companies — and other enterprises from emerging economies — have government-backed liquidity and can therefore be more competitive than IOCs who need to use debt to finance expansion.[66] Although the Chinese NOCs may benefit from financial government aid, they often do not compete directly with established western majors. The government provides financial assistance because they feel that NOCs are at a disadvantage because they are entering a mature industry.[67]

Chinese companies are said to have easy access to finance, allowing them to make riskier acquisitions and outbid competitors. This is referred to as "predatory financing", whereby Chinese companies have access to credit from the China Development Bank (CDB) or the China ExIm Bank (CEIB) well below market terms.[68] Financing includes blanket arrangements for exploration abroad or credit lines directly related to specific projects.[69] Next to concessional loans, export credit insurance and tax exemptions are available to finance their acquisitions.[70] While Chinese NOCs have greatly benefited from support of state-owned banks, their profits alone also provide them with financial muscle. The profits of CNPC stood at USD 24bn in 2006, which drastically reduced the necessity to get access to external financing. In contrast to western oil companies, Chinese state-owned enterprises until 2008 were not required to pay dividends.[71] Therefore,

[66] GOLDSTEIN, *New Multinationals from Emerging Asia, op. cit.*

[67] DOWNS, *The Fact and Fiction of Sino-African Energy Relations, op. cit.*, p. 51f.

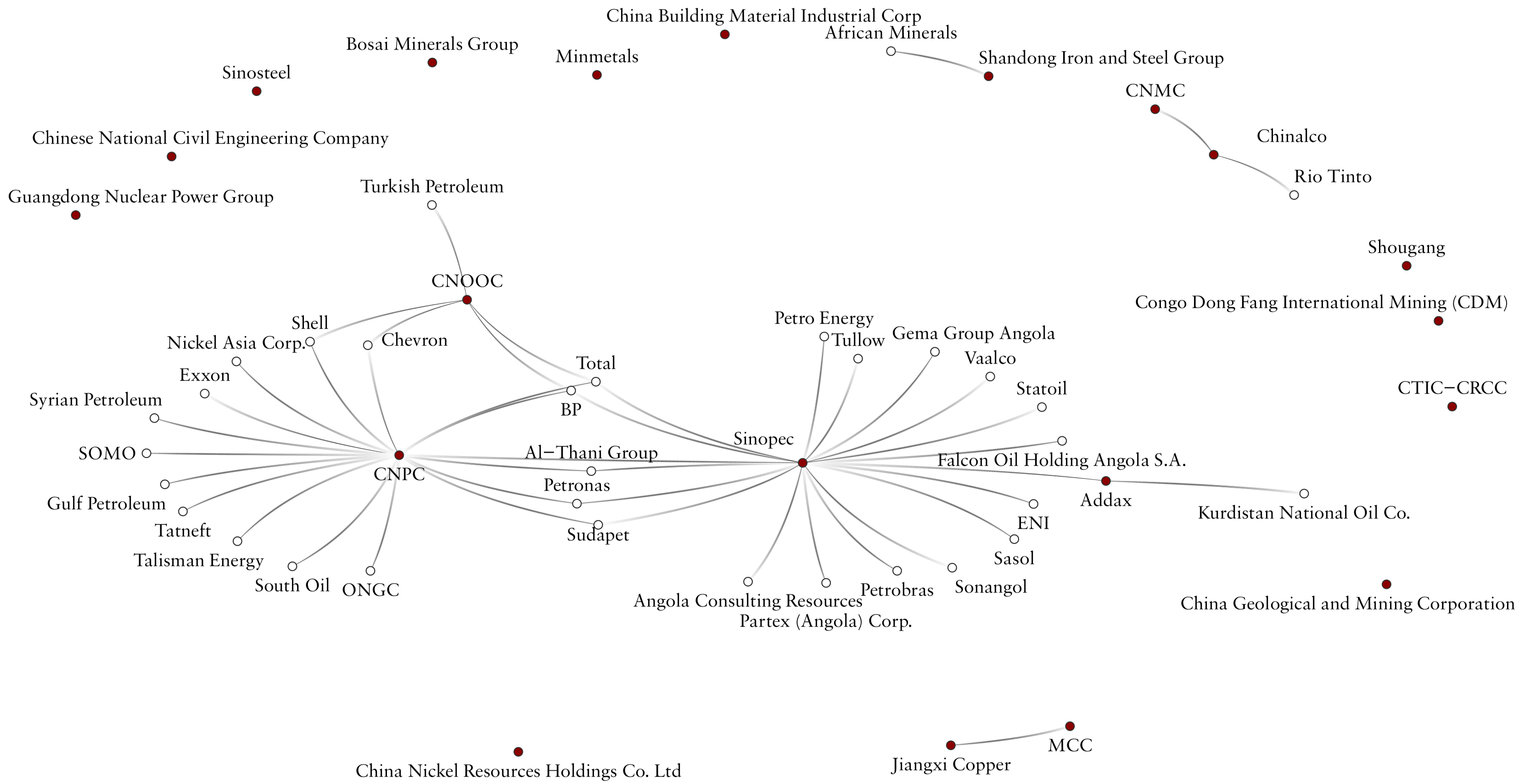
[68] EVANS ET AL., *Untangling China's Quest for Oil, op. cit.*, p. 3.

[69] *ibid.*, p. 3.

[70] SHANKLEMAN, *Going Global, op. cit.*, p. 27. HAGLUND notes that once operational the companies do not receive financial support.

[71] Now, NOCs pay 10 per cent of their earnings to the Government. JIANG ET AL., *Overseas Investments by Chinese Oil Companies, op. cit.*, p. 26.

Figure 6: Cooperation Involving Chinese Mining Companies



Chinese companies are marked with red dots. *Source:* AA.VV, USGS *Minerals Yearbook*, vol. III Area Reports — International, *op. cit.*, Companies' websites.

they faced lower hurdles for investment[72] as the companies could invest in opportunities which provide a far lower return than IOCs which are controlled by their shareholders.

As the Chinese government was initially sceptical about the oil companies foreign investment, support to Chinese ventures abroad was limited. For instance, KONG notes that when CNPC entered Sudan in 1995, the firm could only obtain loans from ExIm bank after intense lobbying. Until CNPC's success in Sudan, the strategy of going abroad was not supported by the State Council.[73] The late entry of CNOOC into international markets can also be ascribed to the company not getting access to loans. By 2003, once the Chinese government had made the going out strategy part of its petroleum policy, borrowing money became easier for the oil companies.[74]

Still, Chinese state-owned banks have played an important role in financing the oil companies' strategy of going abroad.[75] Chinese NOCs get support from Chinese state-owned banks (China Development Bank and China Export Import Bank) for their expansions. Even though these are state-owned, they are following commercial objectives with their support of the NOCs rather than reflect government policy.[76] Easy access to finance has allowed companies to pay above market-price for licenses.[77] Assessment of overbidding is difficult as it would require knowledge of the production value of the resources. Overbidding might also not be deliberate.[78] PAIK ET AL. note that CNPC is likely to have overpaid for its first acquisitions in Kazakhstan and Venezuela in 1997–1998[79], whereas KONG and JIANG maintain that overbidding occurred, if at all, only on very few occasions.[80] The overpayment for access to oil in Venezuela and Kazakhstan in 1997 led to a period of more caution regarding international investment.[81] Moreover, with respect to this thesis

[72] ROSEN ET AL., *China Energy, op. cit.*, p. 32. If the publicly traded traditional oil companies did not pay dividends, investors might have less incentives to hold stock.

[73] GOLDSTEIN, *New Multinationals from Emerging Asia, op. cit.*, p. 43.

[74] KONG, *Institutional Insecurity, op. cit.*, p. 68. He also notes that Chinese Banks had high cash reserves and little worthwhile domestic investment opportunities, which also may have pushed the banks to support loans for overseas investment.

[75] *ibid.*, p. 67.

[76] JIANG ET AL., *Overseas Investments by Chinese Oil Companies, op. cit.*, p. 16 and XU, *Chinese NOCs' Overseas Strategies, op. cit.*

[77] For instance in Kazakhstan and Nigeria. Not least this is the result of entering a mature industry. Since then, however companies have learned and acquired more "high quality assets" in Nigeria, Angola, Ghana and Equatorial Guinea. HERBERG, *Asia's National Oil Companies, op. cit.*p. 35.

[78] GOLDSTEIN also notes that if companies pay generously, that would benefit host countries (p. 47). This however would only be the case if revenues were well-managed (see Chapter 2).

[79] PAIK ET AL., *Trends in Asian NOC Investment Abroad, op. cit.*, p. 11.

[80] JIANG ET AL., *Overseas Investments by Chinese Oil Companies, op. cit.*, p. 17 and KONG, *China's International Petroleum Policy, op. cit.*, p. 92.

[81] GOLDSTEIN, *New Multinationals from Emerging Asia, op. cit.*, p. 39.

which assesses the potentially negative impacts of companies that play by different rules in host countries, competition for access to natural resources is — at least in financial terms — beneficial for the sellers, i.e. the host countries.[82]

GOVERNMENT—COMPANY RELATIONSHIP

This section will serve to contextualise their operations and help to show that they underwent an evolution within the space of 15 years not dissimilar to that of western resource businesses during the twentieth century.[83] More importantly, the history and the evolution of oil and mining companies, can serve to show that much of the criticism is overblown (even if there is some truth to it). This is especially true for the oversimplification of the relationship between companies and the home government.

The change in strategy and increasing similarity of companies and IOCs is reflected in the changes of their structure over time. Enterprise reform and competition between companies have helped China's petroleum industry to become more like established IOCs. On the other hand, the fact that the regulator is the owner of companies makes the relationship between company and home government blurry.[84] Over time, the relationship has reversed: in the beginning, NOCs' overseas investments were decided by the state — now the companies are in the drivers' seat and they shape policy. Their advantages are not so much from the support they receive through the government, but by the fact that as late entrants they are less risk-averse (given that they are used to operating in an uncertain environment at home)[85] and because they are "born global", in the sense that their creation or growth post-dates globalisation.[86]

Despite the fact that they are state-owned, the large Chinese SOEs have considerable autonomy from the government. During the mid-1980s, a "contract responsibility system" was introduced in order to separate management from the control of the Chinese

[82] In an alternative version to overpaying, it is assumed that China is snapping up resources at bargain prices, effectively undermining development by getting deals which do not contribute significantly to government revenues (see Chapter 3 on bargaining).

[83] Daniel Litvin, *Empires of Profit. Commerce, Conquest and Corporate Responsibility*, Texere, New York, 2003; Yergin, *The Prize, op. cit.*; Penrose, *The Large International Firm in Developing Countries, op. cit.*; Hartshorn, *Oil Companies and Governments, op. cit.*

[84] Houser, *The Roots of Chinese Oil Investment Abroad, op. cit.*, p. 143.

[85] *ibid.*, p. 144 and Chapter 1.

[86] Sauvant et al., *Foreign Direct Investment by Emerging Market Multinational Enterprises, the Impact of the Financial Crisis and Recession, and Challenges Ahead, op. cit.*, pp. 16, 18.

Communist Party.[87] Selected companies could retain profits above a certain level but the companies assumed responsibility of social and capital expenditure. The system increased the financial pressure on companies, but made them largely autonomous from the Goverment.[88]

There is the perception that Chinese companies — and state-owned companies in the extractive industries in general — can count on the unwavering support of their home governments, thereby making them players very different from traditional investors. Rather than being the puppet of the masters in government, Chinese companies, by virtue of their history and organisational structure, are very much in control. There is, however, considerable overlap in the interests between companies and governments, but this is more the result of the government making corporate interests its own (albeit as a result of lobbying) than a consequence of a situation where companies are merely the implementers of a Chinese grand strategy.

Companies are not monolithic, and in their relationship with the government there are multiple principals and agents.[89] Chinese companies themselves are rather fragmented: They typically consist of a number of subsidiaries (some of which listed) under the umbrella of a group company, which is ultimately controlled by SASAC. Individual parts of companies may behave differently, especially if they, or rather their publicly listed subsidiaries, are internationally operating.

Chinese forays abroad have been linked to the support for authoritarian regimes, in that most raw materials ventures that became more widely known were in states with questionable human rights records or those where the corruption (even beyond the extractive industries) is rampant. Indeed, Chinese investment first took off in the 1990s in states such as Sudan, Peru, Kazakhstan and Indonesia. While many of the early observers framed this as causation, it is merely a correlation, one that can be explain by a number of other factors. China's overseas investment in oil exploration and production reflects opportunities — investment is driven by economic considerations — once home government policy has enabled FDI to happen in the first place.[90] As noted above, technological expertise, political risk and competition from IOCs guide the investment deci-

[87] ZHANG, *Catch-Up and Competitiveness in China, op. cit.*, p. 22.

[88] PETER NOLAN, *Indigenous Large Firms in China's Economic Reform: The Case of the Shougang Iron and Steel Corporation*, Contemporary China Institute, School of Oriental and African Studies, London, 1998, p. 25ff.

[89] NA ET AL., *China's Corporate Engagement in Africa, op. cit.*

[90] SAUVANT ET AL., *Foreign Direct Investment by Emerging Market Multinational Enterprises, the Impact of the Financial Crisis and Recession, and Challenges Ahead, op. cit.*, p. 12.

sions of Chinese companies.[91] Non-traditional investors are constrained in their choices of investment by many factors: prospectivity, technology and opportunity appear to be the most important. In the early years of internationalisation China entered a saturated market with few investment opportunities. Technologically, the country lagged (and continues to lag) behind, the most challenging deep-water developments are out of reach for Chinese companies.

The newcomers had to go for the leftovers, i.e. those investments that other could or would not make, be it because of the political or security situation in these countries or because the potential gains from investment were not interesting enough for established oil majors. Often, IOCs do not invest directly if potential oil fields are too small, leaving the job to smaller companies, who upon success would then eventually sell (parts of) their assets to the majors. MITCHELL AND LAHN point out that they needed to seek higher risk/higher cost projects, rather than large volumes (as IOCs do) both because no such opportunities were available, but also because the companies' technological capacities were not very well developed and they were still learning.[92] There appears to have been a case of adverse selection: newcomers were forced to invest in those states. There are numerous investments in authoritarian states, for which China provides an alternative to the West (see also Chapter 4). The choice of destination is also made for commercial reasons.[93] States like Sudan which had been under a US embargo, provide better commercial opportunities, because there is less competition. Political risk does not appear a major problem for Chinese investors — not least because they have not yet experienced these problems e.g. in terms of nationalisation of assets. On the other hand however, foreign policy-makers in China are critical and keen not to damage newly won soft power.[94]

A significant constraint on the investment decisions is the technological capacity of Chinese enterprises. China has a long history as oil producer (it is the 4^{th} largest producer outside the Middle east after Russia, the US and Mexico).[95] Hence there are significant capacities within the sector when it comes to on-shore exploration and production. Chinese companies possess the expertise to explore and produce in areas which exhibit similar geological structures to those found in China. But others, such as deep water off-shore deposits are more challenging to Chinese investors. All this drives them to places such

[91] ROSEN ET AL., *China Energy, op. cit.*, p. 30.

[92] MITCHELL ET AL., *Oil for Asia, op. cit.*, p. 7.

[93] LIEBERTHAL ET AL., *China's Search for Energy Security, op. cit.*, p. 22.

[94] ROSEN ET AL., *China Energy, op. cit.*, p. 31, POWER ET AL., *China's Resource Diplomacy in Africa, op. cit.*, 242ff.

[95] ROSEN ET AL., *China Energy, op. cit.*, p. 20.

as Sudan or Iran where IOCs (which would be at an advantage elsewhere) cannot easily venture for reputational or political risk.[96] Where to invest depended initially on refinery capabilities[97], whether other investors are already present and present competition and the political or security risk.[98] Now they are limited regarding their technical abilities for areas where they are unfamiliar the geology. Companies are catching up, however, and have increased expenditure on research and development.[99] While they have caught up during the past decade or so, NOCs are behind when it comes to deep-water exploration and development, and natural gas production.[100]

This section will emphasise that the oil companies, while being state-owned, are not state-run.[101] This section will argue that these interests are not necessarily aligned, but that in some respects, the Chinese Government has made the concerns of the Companies its own. The oil companies, rather than the government are in the driver's seat and "oil security offers Chinese NOCs a banner to rally support from the central government for their overseas expansion."[102] This, in turn, lead to a situation where the strategies (e.g. the government's foreign policy or aid-giving) appear to be highly coordinated. JIANG AND SINTON argue that behind the facade of streamlined policy between the State, the Party and the NOCs there is a "complex system of hidden divisions and decentralisation."[103] While NOCs are state-owned, they are not state-run and given their size, history and capacities (and party affiliation of top managers) they often have more power, let alone capacity, than the government agencies. The government may own the enterprises but "is removed from day-to-day management."[104]

The government's lack of full control over companies reflects the structure of Chinese authoritarianism, which LIEBERTHAL classifies as "fragmented authoritarianism" according to which "authority below the very peak of the Chinese political system is fragmented and disjointed" and no single actor has exclusive authority over others.[105] For this thesis

[96] *ibid.*, p. 31.

[97] For lack of adequate refining capabilities, Chinese companies preferred to invest in so-called sweet and light oil deposits, leading to an initial focus of investments in Sudan and Angola. *ibid.*, p. 30.

[98] HOUSER, *The Roots of Chinese Oil Investment Abroad, op. cit.*, p. 155.

[99] GOLDSTEIN, *New Multinationals from Emerging Asia, op. cit.*, p. 32.

[100] HERBERG, *Asia's National Oil Companies, op. cit.*, p. 34f.

[101] JIANG ET AL., *Overseas Investments by Chinese Oil Companies, op. cit.*, p. 25.

[102] KONG, *China's International Petroleum Policy, op. cit.*, p. 89.

[103] JIANG ET AL., *Overseas Investments by Chinese Oil Companies, op. cit.*, p. 25.

[104] SHANKLEMAN, *Going Global, op. cit.*, p. 20.

[105] KENNETH LIEBERTHAL, *Introduction: The 'Fragmented Authoritarianism' Model and Its Limitations*, in: KENNETH LIEBERTHAL AND DAVID LAMPTON, (eds.), *Bureaucracy, Politics, and Decision-Making in Post-Mao China*, pp. 1–30. University of California Press, 1992, p. 8.

this is relevant insofar as it argues that there is no single petroleum-foreign-policy strategy which the national oil companies merely implement. LIEBERTHAL contrasts this with a "rationality model" i.e. the assumption that China's leaders can easily impose their policy preferences on the bureaucracy.[106] The latter view appears to have taken hold in much of the literature addressing China's energy policy.

That there are no clear lines of authority between the government and its companies is not to say that there are no links between the Government and the state-owned oil companies. The State Assets Supervision and Administration Commission (SASAC) was established under the State Council in 2003 and it defines the relationship between the Government and the large state-owned enterprises (SOEs). SASAC controls 117 centrally owned SOEs and though it does not select the chief executives, it appoints high-level managers of the oil and most mining companies.[107] Previously state-owned (oil) companies were separate ministries, and the establishment of SASAC puts them all under closer government supervision.[108] Although the lines of authority are not necessarily clear-cut: While SASAC formally owns and directs businesses, officials in the larger SOEs may be higher ranking than SASAC — e.g. Sinopec and CNPC still rank as ministries — the NOCs' chairpersons have the rank of vice ministers.[109] In addition, much of the regulation is not formalised but comes in the form of suggestions and guidelines which are then (often eagerly) followed by the companies.

The restructuring of the oil industry left the administration with a shortage of expertise in the sector. China's bureaucracy regarding the energy sector is fragmented[110] and renders it weaker compared to the big oil companies. Even though Chinese resource investments abroad are considered to be part of a grand strategy, the Ministry of Foreign Affairs has no control over the companies.[111] KONG notes that "the Chinese state has

[106] *ibid.*, p. 10.

[107] PEOPLE'S REPUBLIC OF CHINA, *Main Functions and Responsibilities of* SASAC, State-owned Assets Supervision and Administration Commission of the State Council; DOWNS, *Business Interest Groups in Chinese Politics, op. cit.*, p. 123.

[108] MIKAEL MATTLIN, "Chinese Strategic State-Owned Enterprises and Ownership Control", BICCS *Asia Papers*, 6(6):1–28, 2009, p. 8. PEOPLE'S REPUBLIC OF CHINA, *Main Functions and Responsibilities of* SASAC, *op. cit.*

[109] DAN HAGLUND, "In it for the Long Term? Governance and Learning among Chinese Investors in Zambia's Copper Sector", *The China Quarterly*, 199:627–646, 2009, p. 632; BATES GILL AND JAMES REILLY, "The Tenuous Hold of China Inc. in Africa", *The Washington Quarterly*, 30(3):37–52, 2007.

[110] QIUZHI XUE AND BINGJIE HAN, *The Role of Government Policies in Promoting Outward Foreign Direct Investment from Emerging Markets: China's Experience*, in: KARL SAUVANT, WOLFGANG MASCHEK AND GERALDINE MCALLISTER, (eds.), *Foreign Direct Investments from Emerging Markets. The Challenges Ahead*, chapter 15, pp. 305–323. Palgrave Macmillan, New York, 2010.

[111] DOWNS, *The Fact and Fiction of Sino-African Energy Relations, op. cit.*, p. 49.

exhibited a relatively weak capacity in preventing the pursuit of oil interests from causing collateral damage to the country's broader foreign policy interests."[112] The relative capacities are, thus, with the companies: When the ministries became firms, this left the state apparatus with a dearth of capacity in the sector and weak institutions. In terms of capacity, the institutions in China's energy sector are characterised by strong firms and weak government authorities.[113] Energy policy not driven by administration but corporations, because ministries where previously expertise was concentrated were converted into state-owned companies.[114] On the government side decision-making and organisations are fragmented, whereas firms possess considerable expertise and resources. Corporate interests are not necessarily aligned with those of the government.[115]

Oil and petrochemical industries are considered strategic industries, mining is considered a "pillar" industry in which the government will also maintain full ownership.[116] Most companies are umbrella organisations with a plethora of subsidiaries over which SASAC has limited control.[117] Chinese NOCs are largely autonomous[118], and with the withdrawal of the Government from most of the Chinese NOC's petroleum operations decision-making shifted away from political to commercial actors.[119] This does not mean that companies are entirely independent of the government. The latter has a number of ways to control the companies — firstly via the Communist Party (CCP) and "party groups" within the company and ensure that policy lines are implemented.[120] While SASAC watches over companies assets and has a say in major investment decisions, Chinese Communist Party decides on the most important positions and executives need to cater for party interests if they want to advance their political careers.[121] Still, as profitability is important, the chairmen needs to have some merits and experience in the industry. Despite the fact that China's energy policy is centered on companies, state actors do wield influence.[122]

[112] KONG, *China's International Petroleum Policy, op. cit.*, p. 3.

[113] MITCHELL ET AL., *Oil for Asia, op. cit.*, p. 5.

[114] ROSEN ET AL., *China Energy, op. cit.*, p. 18. DOWNS, *The Fact and Fiction of Sino-African Energy Relations, op. cit.*; ANDREWS-SPEED ET AL., *The Strategic Implications of China's Energy Needs, op. cit.*

[115] DOWNS, *China's Energy Rise, op. cit.*, p. 182. This division, however, applies to energy institutions and policies in general (i.e. including fuel pricing, consumption, resource conservation and environmental issues) not only foreign energy policy and security of supply.

[116] MATTLIN, *Chinese Strategic State-Owned Enterprises, op. cit.*, p. 14.

[117] *ibid.*, p. 14.

[118] LEWIS, *Chinese NOCs and World Energy Markets, op. cit.*, p. 55.

[119] KONG, *China's International Petroleum Policy, op. cit.*, p. 1f. This shift however was not a full one and Chinese companies remain both regulators and competitors in the domestic market.

[120] *ibid.*, p. 25.

[121] HOUSER, *The Roots of Chinese Oil Investment Abroad, op. cit.*, p. 151; DOWNS, *Business Interest Groups in Chinese Politics, op. cit.*, p. 123.

[122] ROSEN ET AL., *China Energy, op. cit.*, p. 19.

The Ministry of Personnel appoints the senior executives of the companies and is "aligned with the interest and politics of the Communist Party"[123] Although most of the staff selected are energy professionals rather than party officials, these company leaders often view their positions as a "stepping stone" for future careers in the administration and therefore have to weigh party and commercial interests.[124] The closeness between companies and the government does not mean that the relationship is cosy: JIANG Jiemin, a former General Manager of CNPC and Chairman of PetroChina went on to become head of SASAC in March 2013. He was removed from his post in September 2013, as the Government launched a corruption investigation against him and four other CNPC officials.[125]

In terms of corporate governance, China's standards are influenced by those common in OECD countries. In 2001, the China Securities Regulatory Commission published a *Code of Corporate Governance for Listed Companies in China*, which is largely based on the OECD Principles of Corporate Governance of 1999.[126] Listed parts of SOEs Companies must comply with the *Code of Corporate Governance For Listed Companies in China* of 2001, whose development was partly a reaction to a series of corporate scandals and fraudulent reporting by some companies.[127] Besides guidelines on the role of the companies' boards and shareholders' rights, the Code also addresses stakeholder concerns: "While ... maximising the benefits of shareholders, the company shall be concerned wit the welfare, environmental protection and public interests of the community in which it resides and shall pay attention to the company's social responsibilities".[128]

In terms of organisation, domestically, the industry is regulated by the Ministry of Land and Resources, the NDRC, and the Ministry of Environmental Protection (until 2008 the State Environmental Protection Agency). The holding companies are property of the "people"[129] via the SASAC, which however, does little to control investments or management positions. The private subsidiaries of the three majors focus on valuable assets

[123] *ibid.*, p. 19.

[124] GOLDSTEIN, *New Multinationals from Emerging Asia, op. cit.*, p. 32. The companies' executives are chosen by SASAC, rather than the companies' boards.

[125] Likewise, ZHOU Yongkang, a retired politburo member, who had also been a senior manager at CNPC, was the subject of a corruption investigation. CHRIS BUCKLEY AND JONATHAN ANSFIELD, "Senior Chinese Official Falls Under Scrutiny as Some Point to Larger Inquiry", *The New York Times*, 2 September 2013; SOUTH CHINA MORNING POST, *Zhou Yongkang, former security tsar linked to Bo Xilai, faces corruption probe*, 30 August 2013.

[126] MALLIN, *Corporate Governance, op. cit.*, p. 42.

[127] *ibid.*, p. 318.

[128] CHINA SECURITIES REGULATORY COMMISSION, *Code of Corporate Governance for Listed Companies in China*, CSRC, State Economic and Trade Commission, January 7, 2001.

[129] HOUSER, *The Roots of Chinese Oil Investment Abroad, op. cit.*, p. 149.

whereas the holding companies retain responsibilities over pensions and other social obligations. The subsidiaries' profits are paid to the holding companies (via dividends) and used to offset losses elsewhere, which gives the companies the freedom to take more risks and pursue more aggressive overseas expansions.[130] LIEBERTHAL AND HERBERG emphasise that Chinese NOCs are not exclusively driven by their government's financial support and diplomatic intervention. While they consider state interests, they increasingly respond to commercial pressures.[131] In fact, they have attempted to make their own interests those of the state.

At times corporate interests run counter those of the government. Sometimes, Chinese energy firms go ahead with foreign projects that are only accepted and supported by the central government at a later stage.[132] The companies' investments are far from being a foreign policy strategy, and MOFA sometimes does not even know where investments occur.[133] XU notes that companies went abroad without the express permission or even policy of the government and that their going abroad strategy (by now) merely coincides with the Government's objective of ensuring energy security.[134] Initially the companies' activities — such as those in Sudan but also CNOOC's failed takeover bid for Unocal did not sit well with the Chinese government.[135] The NOCs' initial investments abroad went ahead without government approval. Originally, CNPC had ventured abroad without the approval of the Chinese government by investing in Peru in 1992 and Sudan and Venezuela in 1996. The investment "went ahead without central government approval, at high risk to the company. CNPC justified the move by saying it needed to expand its resource base to remain competitive."[136] Only in 1999, when the Greater Nile Petroleum Operating Company became successful did the State Council become supportive of CNPC's "aggressive production buy-out strategy."[137] According to JIANG AND SINTON the Going Abroad strategy is merely the "ratification" of the companies' action by the government.[138] Expansion is a result of the companies' seeking of profitability, not to implement the Governments geopolitical objectives.[139] Their geopolitical impact is more a consequence of China's

[130] *ibid.*, p. 150.
[131] LIEBERTHAL ET AL., *China's Search for Energy Security, op. cit.*, p. 17.
[132] DOWNS, *China's Energy Rise, op. cit.*, p. 183.
[133] DOWNS, *The Fact and Fiction of Sino-African Energy Relations, op. cit.*, p. 49f.
[134] XU, *Chinese NOCs' Overseas Strategies, op. cit.*, p. 21.
[135] DOWNS, *The Fact and Fiction of Sino-African Energy Relations, op. cit.*, p. 51.
[136] INTERNATIONAL CRISIS GROUP, "China's Thirst for Oil", *Asia Report No. 153*, 2008, p. 10.
[137] PAIK ET AL., *Trends in Asian NOC Investment Abroad, op. cit.*, p. 11.
[138] JIANG ET AL., *Overseas Investments by Chinese Oil Companies, op. cit.*, p. 13.
[139] XU, *Chinese NOCs' Overseas Strategies, op. cit.*, p. 21f. DOWNS, *Inside China, Inc, op. cit.*, p. 75.

rise. KONG concludes that Chinese NOCs have so far avoided being the "puppet of their principal."[140] They are an instrument of China's going abroad strategy, but shape the way how this is implemented. When CNPC went abroad it was merely applying the Communist Party's strategy of opening up China and linking it to foreign markets,[141] but it was not doing so at the behest of the government.

At times, of course, the relationship is what one might conventionally expect: There are instances where NOCs had to pursue unprofitable investments for political reasons. CNPC took a stake in the Kaduna refinery in Nigeria following a visit of HU Jintao in April 2006.[142] In general, ROSEN AND HAUSER note, that when profit-making is threatened by political interests, the companies seek to influence the policy making.[143]

CONCLUSION

The actions of Chinese enterprises are often identified with the interests of the government. Being government-backed, in turn, would give them the opportunity to behave anti-competitively. This masks the fact that Chinese companies are powerful not because of the support of their home government but because they are important to the government at home and increasingly because they are becoming economically powerful players abroad. Despite being state-owned, Chinese NOCs are far from being fully under the control of the governments, and it is they who drive the agenda at home. The congruence of the government's energy security strategy and the companies' strategy to gain access to concessions does not mean one controls the other. Where there are links between the government and the oil companies, these are defined by the companies rather than the government: at times it appears as if it were the oil companies, rather than the state who drive Chinese investment abroad.

The commercial character of these enterprises help explaining the fact that they do not (anymore) behave in a way that would distort competition or rely disproportionately on government support for their commercial survival. That the Chinese government is far from having full control over the strategies of companies goes a long way in refuting some of the claims for the reasons of their behaviour. While operational and strategic control

[140] KONG, *China's International Petroleum Policy, op. cit.*, p. 94.
[141] *ibid.*, p. 38.
[142] EVANS ET AL., *Untangling China's Quest for Oil, op. cit.*, p. 3.
[143] ROSEN ET AL., *China Energy, op. cit.*, p. 21.

is lacking, legal control is not and as will be shown in Chapter 8, the Chinese government has "reined in" its companies and devised regulation that aims at improving corporate conduct and reputation of Chinese enterprises abroad. Financially, Chinese companies receive financial support from the government, but to a much smaller degree than commonly purported. They have privatised subsidiaries, which makes them more responsive to commercial considerations and market-driven. In fact, at times the investment decisions of companies have created headaches for the Chinese government.

This chapter has shown that given their late entry into the industry these companies had to focus on leftovers, and that they therefore were bound to operate in less well-governed states. Second, the governance of Chinese companies precludes — to a large extent — a unified strategy of foreign policy and energy. Chinese NOCs are becoming rather similar to traditional investors. Many of the criticisms directed at Chinese companies, their alleged freedom from public opinion and unconditional government support do not hold for enterprises that are mostly commercial. Their increasing commercial outlook as well as the resulting fact that they put under scrutiny similar to that of their IOC role models, goes a long way in explaining why they increasingly conduct their business according to the nascent global practices — large, visible and commercially-oriented companies with global aspirations cannot affort not to do so. This goes against arguments the foreign companies are only able to grow because of their home governments' support. Both companies and the government have learned and adopted to western standards when it comes to operations. Still, Chinese companies are different, not because they are just an arm of the government, but because China is not yet fully part of global governance arrangements, this is likely to change, though and Chapters 7 and 8 provide an account of the global embeddedness of large Chinese oil and mining companies.

7

CORPORATE SOCIAL RESPONSIBILITY

INTRODUCTION

Corporate Social Responsibility (CSR) has become a means by which resource-extracting companies increasingly engage with their immediate environment to mitigate their risks and address the negative impact of their operations. As John Ruggie observes, the principle "is taking hold that transnational firms, having created the new global economic space that is transforming how people live and work the world over, ought to be held accountable not only to their shareholders, but also to a broader community of stakeholders who are affected by their decisions and behavior."[1] Especially in the extractive industries, I argue, CSR is a response to NGO pressure which has brought issues of corporate conduct abroad back home and forced companies to make social and environmental concerns part of their strategies, if only to protect their reputation.

In principle, therefore, the private sector can also be a positive force in development. This chapter addresses the strategies companies in the extractive sector have pursued to mitigate their impact on host societies. However, the effectiveness of CSR and social reporting has been questioned and critics of CSR would argue that it remains superficial in substance and merely serves as a tool to improve a company's reputation. This chapter will outline what CSR is, why companies do it and how it addresses development and governance failures associated with resource extraction outlined in Chapters 2 and 3. As was outlined in Chapter 1, CSR, though voluntary in principle, is a reaction the demands of "significant others", be they consumers, NGOs, communities or other businesses. Alternatively, it can also be thought of as the result of a normative convictions held amongst managers of a firm. This chapter will also assess the extent to which CSR has taken hold amongst Chinese companies in the extractive industries, and point towards different approaches to and understandings of CSR within China.

[1] John Ruggie, "Reconstituting the Global Public Domain. Issues Actors and Practices", *European Journal of International Relations*, 10(4):499–531, 2004, p. 512.

CSR means many things to different people, and it is quite different from more formal approaches of regulation which will be addressed in Chapter 8. Some authors see CSR as the relationship between governments and companies whereas others see it as what companies do in the absence of regulation.[2]

Even though in China there are fewer concerns about the operations of Chinese enterprises abroad, Chinese companies' stance towards CSR has changed considerably over the last decade from the often-criticised behaviour that mimicked that of western oil companies up until the 1990s to paying greater attention to social and environmental issues in the countries of their operation (see below). Apart from a history of government-mandated provision of social welfare at home, Chinese companies are increasingly embracing CSR, both because companies increasingly need to cater for international markets but also because the Chinese government mandated companies to behave responsibly lest they damage the country's reputation. This take-up of — voluntary — CSR is indicative of both a norm shift in China and of the fact that in order be successful in the international oil and mining companies, Chinese companies have to embrace what has become expected of companies in the extractive industries. In terms of the theory outlined in Chapter 1, Chinese CSR is rooted in two developments. The first movers amongst Chinese companies adopted CSR as a response to pressures in the markets they were entering — either because CSR was something that was expected of companies or because of direct pressures to improve community relations. In any case, social, normative and economic motivations have driven the adoption of voluntary policies. While Chinese NOCs spearheaded this development, the bulk of CSR activities of resource extractive enterprises is a reaction to a government mandate. Ultimately, the transmission mechanism of government mandated CSR works similarly — i.e. though social/normative motivations which are held by the regulator rather than the firm, and the Chinese government essentially acts as an intermediary. The government does so, because it too is concerned about reputation and the image of China that Chinese companies transport:

> "... the Chinese government seems to be very aware of the fact that [...] a positive international perception of its global rise are important [which] makes

[2] JEREMY MOON AND DAVID VOGEL, *Corporate Social Responsibility, Government, and Civil Society*, in: DONALD SIEGEL, JEREMY MOON, DIRK MATTEN, ABAGAIL MCWILLIAMS AND ANDREW CRANE, (eds.), *The Oxford Handbook of Corporate Social Responsibility*, pp. 303–323. Oxford University Press, Oxford, 2008, p. 303.

> China sensitive for external criticism and amenable for a constructive engagement with Western countries.[3]

CSR

As resource rich countries are plagued with weak governance and inadequate provision of services, companies have increasingly stepped in to fill the gap. The concept of CSR has evolved considerably since the 1950s and since the mid-1990s, CSR has taken hold in the oil and mining industries. However, CSR still remains a somewhat murky concept. CSR means different things to different people across a variety of contexts. The types of activities carried out under the banner of CSR are virtually unlimited and generally address the externalities of corporate operations, development, humanitarian aid or philanthorpy. There is considerable debate what a CSR strategy should look like in practice.

In general, there are two stages of social responsibility, which Eilbirt and Parket capture with the analogy to good neighbourliness. Interestingly, this analogy also captures the focus of CSR strategies on the immediate host communities rather than wider society are macro-level governance. First, firms should not do anything that spoils the neighbourhood, second, they should assume the obligation to solve the neighbourhood problems.[4] For instance, whereas in the garment industry child labour is often a problem, the extractive industries are often more concerned with environment, human rights, transparency or the provision of infrastructure. The liberalisation of mining and petroleum regulatory regimes was accompanied by a "retreat of the state", with less institutional and political capacity to put a check on investors in the sectors. At the same time, investors cannot limit themselves to mere compliance and companies not governments face demands for service provision.[5] In Peru, service provision in remote and impoverished mining areas is limited and companies have become targets for demands of public services where the government failed to provide them.[6] For companies operating in areas with little presence of the state and its services — which is common in the extractive industries — CSR goes beyond mitigating the environmental or social impact of their operations.

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[3] Gu et al., *Global Governance and Developing Countries, op. cit.*, p. 289.

[4] Henry Eilbirt and Robert Parket, "The Current Status of Corporate Social Responsibility", *Business Horizons*, 16:5–14, August 1973, p. 7.

[5] Campbell, *Corporate Social Responsibility and development in Africa, op. cit.*, p. 140; see also Strange, *The Retreat of the State, op. cit.*

[6] Kotschwar et al., *Chinese Investment in Latin American Resources, op. cit.*, p. 18.

For many companies, CSR and community relations include the provision of development projects. Activities under the banner of CSR include health care programmes, capacity building, education and vocational training, environmental protection and labour standards, but also more philanthropic activities and ad hoc donations either in the form of financial contributions or infrastructure such as schools.[7]

Although CSR is often associated with corporate behaviour that is not exclusively linked to the bottom line[8], ultimately even CSR is, at root, a response to market forces, or worse, a "cynical marketing strategy."[9] A main feature of CSR is its voluntary character — i.e. responsible behaviour that goes beyond what is required by law.[10] The motivations to go "beyond compliance" might be rooted in reputational concerns, be due to what those devising CSR strategies see as just or, be the result of economic considerations and any combination thereof (see Chapter 1). In DAVIS's words "social responsibility begins where the law ends."[11] Managers of a socially responsible firm do not only look at profitability for its stockholders, they also take into account various stakeholders from employees, to suppliers, local communities and countries.[12] Another view of CSR focuses on social programmes that ultimately turn into a strategy for a firm to maximise its profits in the long-run. Projecting a good image also makes it easier for companies to gain access to markets or, in the case of the extractive industries, concessions.[13]

Companies may simply label activities that happen to be socially beneficial but would have occurred anyway, as corporate social responsibility.[14] Business expenditures may have many motivations and effects. In this regard, CARROLL notes that it is impossible to identify what is truly voluntary and what is a response to social norms.[15] Responsibility and profitability are not mutually exclusive, CSR activities may well be profitable.[16]

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[7] SHANKLEMAN, *Going Global, op. cit.*, p. 47.

[8] In CSR literature companies are assumed to operate according to a *triple bottom line* of environmental, social and economic sustainability. SIMON ZADEK, *The Civil Corporation*, Earthscan, London, 2nd edition, 2001, p. 105ff.

[9] PABLO IDAHOSA, "Business Ethics and Developments in Conflict (Zones): The Case of Talisman Oil", *Journal of Business Ethics*, 39:227–246, 2002, p. 239.

[10] ARCHIE CARROLL, "Corporate Social Responsibility. Evolution of a Definitional Construct", *Business and Society*, 38(3):268–295, September 1999.

[11] KEITH DAVIS, "The Case for and Against Business Assumption of Social Responsibilities", *The Academy of Management Journal*, 16(2):312–322, June 1973, p. 313.

[12] CARROLL, *Corporate Social Responsibility, op. cit.*

[13] ZADEK, *The Civil Corporation, op. cit.*, p. 52.

[14] DAVID VOGEL, *The Market for Virtue. The Potential and Limits of Corporate Social Responsibility*, Brookings Institution Press, Washington, D.C., 2005, p. 4.

[15] CARROLL, *Corporate Social Responsibility, op. cit.*, p. 276.

[16] Peter DRUCKER even argues that firms should attempt to create business opportunities out of their social responsibility; according to him a firm's social responsibilities need to be converted into self-interest.

There are numerous cases to be made for the adoption of CSR, many of which eventually boil down to long-run business interests. These include the company's public image, the availability of qualified labour or the company's licence to operate.[17] CSR in countries with weak governance can also serve as an alternative to formal regulation and companies might also engage in CSR to avoid formal regulation[18] or be the result of socio-cultural norms according to which a company operates.[19]

Why CSR?

Proponents of CSR have argued that social responsibility should be commensurate to the power a given firm wields.[20] In Paul SAMULESON's words "a large corporation these days not only may engage in social responsibility, it had damn well better try to do so."[21] On the other hand, it has been argued that a company should be responsible to its stockholders and that by taking social concerns into account, firms forgo profits, the generation of which is the sole responsibility a company has to society. In an extreme form of this position, Milton FRIEDMAN has argued that "few trends could so thoroughly undermine the very foundations of our free society as the acceptance by corporate officials of a social responsibility other than to make as much money for their stockholders as possible."[22] There are a number of reasons why companies engage in CSR. Broadly, these can be grouped in "pressures from below" — i.e. the companies' response to demands by activists and the necessity to maintain good relations with the communities in which they operate and the desire to show that they are leaders in the field of social responsibility, the latter possibly to preclude more formal regulation.[23]

Corporate social responsibility can hardly be imagined without activism. Although some of what is now considered CSR has a long history (early examples date from 19th century Britain), much of the current CSR activities are a reaction to protests and boycotts

PETER DRUCKER, "The New Meaning of Corporate Social Responsibility", *California Management Review*, 26(2):53–63, Winter 1984, p. 59.

[17] PETER UTTING AND KATE IVES, "The Politics of Corporate Social Responsibility", *St. Antony's International Review*, 2(1):11–34, May 2006, p. 15.

[18] MICHAEL BLOWFIELD AND JEDRZEJ GEORGE FRYNAS, "Setting New Agendas: Critical Perspectives on Corporate Social Responsibility in the Developing World", *International Affairs*, 81:499–513, 2005, p. 499.

[19] DAVIS, *The Case for and Against, op. cit.*

[20] CARROLL, *Corporate Social Responsibility, op. cit.*

[21] Paul SAMUELSON cited in DAVIS, *The Case for and Against, op. cit.*, p. 312.

[22] MILTON FRIEDMAN, *Capitalism and Freedom*, Chicago University Press, 1962, p. 133.

[23] UTTING ET AL., *The Politics of Corporate Social Responsibility, op. cit.*

by activists in the second half of the 20th century.[24] Companies care about their reputation and pressure by NGOs has led to an increased awareness of corporate misconduct amongst the public, which — especially in the case of the oil industry — has translated into changes of corporate behaviour. After the controversies around the execution of Nigerian activist Ken Saro Wiwa and the disposal of the *Brent Spar* platform, Shell revised its general business principles of 1996 to include human rights and sustainability. Subsequently the other oil majors followed.[25] As companies are susceptible to changes in consumer demand and pressure from NGOs or investors, they need to be seen as behaving as good corporate citizens. Consumers in home markets increasingly demand socially and environmentally sustainable products, and reputation is likely to directly influence a firm's share of the market. The degree to which a given company is susceptible to those pressures depends, inter alia, on the industry in which it operates, the size and the extent to which consumers or the public in home markets are sensitised to a company's behaviour (see Chapter 8). The degree to which a company is subject to reputational pressures is also a function of the countries in which it operates. Cooperation with unsavoury regimes abroad may hurt a company's standing in its home market and in countries with well-organised and easily mobilised activists. Conversely, loss of reputation might carry greater costs in countries with greater regulatory effectiveness and higher demands on corporate conduct. Reputation also has an impact on a company's capacity to access capital — socially responsible investment funds make their investment decision not only contingent upon the companies expected profits but also the extent to which their operations are deemed environmentally or socially sustainable. All else being equal, governments in resource rich countries are likely to prefer dealing with good performers. In 2002, Chevron announced partnerships between the company, USAID and UNDP, to spend $50m on agriculture and enterprise development as well as education and vocational training programmes in Angola. The announcement was timed to fall within the company's negotiation for a concession in Block 0, which it was granted some time later.[26] And, of course, reputation also helps to attract qualified personnel, not only in the countries of production but also in a company's origin, where potential employees prefer employment in responsible enterprises.[27] FRYNAS notes three main reasons for engaging

[24] VOGEL, *The Market for Virtue, op. cit.*, p. 6.

[25] ZADEK, *The Civil Corporation, op. cit.*, p. 56.

[26] CHEVRON, *50 Million 'Angola Partnership Initiative' Launched to Support Education, Training & Small Business Development*, Chevron Texaco Corp., 2002, JEDRZEJ GEORGE FRYNAS, "The false developmental Promise of Corporate Social Responsibility: Evidence from Multinational Oil Companies", *International Affairs*, 81(3):581–598, 2005.

[27] HUMPHREYS, *A Business Perspective on Community Relations in Mining, op. cit.*, p. 129.

in CSR activities. Companies have responsibility for the impact of their operations, they are responsible for the actions of those they do business with and they need to manage relations with stakeholders in society in general.[28]

Reputation does not only matter in a company's home markets. To ensure uninterrupted operations, companies need to maintain their so-called social licence to operate, i.e. the support of communities in which they operate.[29] Keith Davis maintains that businesses are only viable as long as they provide a service for society; "society gave business its charter to exist, and that charter could be amended or revoked at any time that business fails to live up to society's expectations."[30] David Humphreys points out that backing of local communities is essential for mining operations. The Bougainville mine in Papua New Guinea shut down in 1989 amidst local concerns about the company's environmental conduct and the fact that the mine's inadequate contribution to the island's economy. This conflict eventually resulted in a secessionist conflict between the Bougainville Revolutionary Army and the Government of Papua New Guinea that made continued operations of the mine unviable, despite the fact that legally, the company could have continued to operate.[31] There is also an industry-wide pressure to engage in CSR, both to gain approval of significant others in the industry but also because reputation is a collective issue — in an industry without credibility, a single firm will find it difficult to establish a good reputation for itself.[32]

Heledd Jenkins argues that the reasons for corporate engagement in social and environmental reporting or community relations programmes is rooted in legitimacy theory. Legitimacy theory holds that companies will adjust their practices and reporting in ways to meet the community's expectations. However, the community is important not for its intrinsic value but for continued operations: "the decision of companies to develop community strategies does not stem from a moral choice; it is as a strategic response to social

[28] Jedrzej George Frynas, "Corporate Social Responsibility in the Oil and Gas Sector", *Journal of World Energy Law & Business*, 2(2):178–195, 2009, p. 180. Stakeholders are those who have an interest in the company not vice versa, i.e. beyond suppliers, employees, investors and customers, "[t]hose groups without whose support the organisation would cease to exist", such as communities, governments, trade associations or political groups. Thomas Donaldson and Lee Preston, "The Stakeholder Theory of the Corporation: Concepts, Evidence, and Implications", *The Academy of Management Journal*, 20(1):65–91, 1995.

[29] Edmund Burke, *Corporate Community Relations. The Principle of the Neighbour of Choice*, Praeger, Westport, Conn. and London, 1999.

[30] Davis, *The Case for and Against, op. cit.*, p. 314.

[31] The conflict was not solely determined by environmental or economic grievances. Anthony Regan, "Causes and course of the Bougainville conflict", *The Journal of Pacific History*, 33(3):269–285, 1998; Humphreys, *A Business Perspective on Community Relations in Mining, op. cit.*, p. 128

[32] *ibid.*, p. 128f.

challenges that constantly shape the background of constraints in which the organization must operate. ... [I]n the meantime, community strategies are built on the neo-liberalist mining industry rationale that their presence in an area is essential for continues social and economic development [...]".[33]

In developing countries, corporations face very different environments than they would in their home countries. CSR is needed in weak regulatory environments to fill regulatory gaps. In many instances corporations take on a role in service delivery which is usually considered the responsibility — or prerogative — of the state. JENKINS notes a "false dependency" created by (some) CSR activities which allow "the company to position themselves as providers of much-needed resources [...] constantly undermining the strength and autonomy of the community by reinforcing their dependency on the company."[34] In this way, CSR programmes can become a way of controlling communities. Whereas stakeholders in developed countries are likely to be able to voice their criticism and can, in principle take legal action, these opportunities do not exist to the same extent in the developing world.

CSR in Practice

CSR comes in many forms, but for the extractive industries, issues of environment, development, governance and human rights are the most prominent. It is along these dimensions that present-day CSR differs from earlier forms which were predominantly concerned with worker's welfare and philanthropy.[35]

CSR activities and community relations have intensified. Whereas at first communities were kept at arm's length, since the 1990s, companies reacted to widespread protest over human rights abuses and environmental degradation and began to establish community relations programmes. Initially, these largely failed due to poor participation, sustainability and communities fighting over access to companies' community relations projects but

[33] HELEDD JENKINS, "Corporate Social Responsibility and the Mining Industry: Conflicts and Constructs", *Corporate Social Responsibility and Environmental Management*, 11:23–34, 2004, p. 32.

[34] *ibid.*, p. 26.

[35] FRYNAS, *Corporate Social Responsibility in the Oil and Gas Sector, op. cit.*, Incidentally, these issues are what Chinese companies focus on (see below).

now CSR has moved from purely philanthropic activities or gift-giving to more sophisticated community development strategies.[36]

In the petroleum and mining sectors, CSR activities comprise community development schemes, such as the construction of schools and hospitals, malaria-eradication programmes, or the electrification of villages. The success of community relations is based in engagement rather than the provision of donations.[37] CSR is particularly relevant for oil and gas companies because their activities — and potentially negative effects — are very visible and subject to public scrutiny.[38] Increasingly, extractive companies aim to mitigate the risk of conflict by establishing relations with their host communities. For instance, the mining company Newmont implements conflict management programmes aim at training employees in the companies' policies, dialogue and stakeholder engagement.[39] In Peru, where conflict between mining companies and local communities is very common, BHP Billiton convened a 'Dialogue Table' to resolve a long-standing conflict about inadequate compensation for expropriations around its Tintaya mine. The dialogue included company and community representatives as well as the NGOs Oxfam America and CooperAcción. The company agreed to a local development fund and facilitate the acquisition of land for the communities.[40] Apart from wider CSR measures such as environmental and labour standards, companies try to employ local staff, and make use of — often government-mandated — "local content", i.e. procure goods and services locally where possible. In its Sustainability Report 2012, Shell emphasises its contribution to the local economy by contracting goods and services from locally-owned companies. Between 2003 and 2012, the value of Shell's local procurement increased from 5 billion to 14 billion dollars.[41] However, the inadequate skill-set or quality of local suppliers may hinder companies to procure goods and services locally. In Azerbaijan and Mozambique BP and Mozal engage in private sector development to train local companies to meet their standards and become part of supply-chain.[42] Unlike in Africa, where Chinese investment

[36]Uwafiokun Idemudia, "Assessing Corporate-Community Involvement Strategies in the Nigerian Oil Industry: An Empirical Analysis", *Resources Policy*, 34:133–141, 2009.

[37]Humphreys, *A Business Perspective on Community Relations in Mining, op. cit.*

[38]Frynas, *Corporate Social Responsibility in the Oil and Gas Sector, op. cit.*, p. 181.

[39]Newmont Mining Corporation, *Beyond the Mine. Sustainability Report for 2012*, Newmont, 2012.

[40]ICMM, *Mapping in-country partnerships*, International Council on Mining & Metals, February 2010, p. 83. Julia Cuadros and Javier Aroca, *Learning from the impact of mining industry on Latin America and southern Africa. Tintaya Dialogue Round Table, Province of Espinar, Cusco Region, Peru*, Oxfam America and CooperAcción, September 2011.

[41]Shell, *Sustainability Report*, Royal Dutch Shell plc, [various].

[42]BP, *Host Communities and Societies*, http://www.bp.com/en/global/corporate/sustainability/society/host-communities-and-societies.html. EDTP, Enterprise Developement and Training Programme, http:

is often isolated from the local economy (in Zambia, CNMC operates its smelters and co-operates with service companies from China), in Peru, Chinalco is working with local enterprises in infrastructure development and ancillary activities.[43]

CSR includes the adherence to certain social and environmental standards, such as the avoidance of spills or the reduction of gas flaring. It is with relation to environmental issues that the business case for CSR can best be made since increasingly, environmental and business interests converge.[44] Gas flaring continues mainly because of a lack of infrastructure and local gas markets but many of the major IOCs are partners in the World Bank-led Global Gas Flaring Reduction Initiative (GGFR). In their sustainability reports Western companies emphasise their commitment to the reduction of flaring and oil spills. The prevention of spills is very much in the interest of companies, who have to face the loss of oil and clean-up costs. While virtually all IOCs have detection and response mechanisms in place, spills are inevitable. In the Niger Delta alone, there are about 120–180 spills per year, and while Shell emphasises frequently that the majority of these are due to sabotage and theft (about two thirds), the company vows to clean up all spills, regardless of their cause.[45] Activities such as company-wide reduction of emissions or increased energy efficiency are also often subsumed under CSR, especially amongst Chinese companies, but for the purpose of this argument these are not relevant as they do not specifically impact a particular country. Vogel defines CSR as "practices that improve the workplace and benefit society in ways that go above and beyond what companies are legally required to do." Note that this definition would include activities which are part of a company's business strategy (such as lower emissions or waste production, which might ultimately lower costs) as CSR activities.

Like the impacts of corporations are felt at the micro level of communities and macro-levels of a country's governance, CSR addresses development problems locally and nationally. CSR is often rather superficial and companies do not only have localised effects, therefore their CSR strategy should take into account wider societal and governance issues. It does help little if community relations are good, while at the same time a company has

//www.edtp.az/. Mozal Aluminium and IFC, *Developing SMEs through Business Linkages. A Manual for Practitioners Based on the MozLink Mentorship Experience in Mozambique*, Mozal and IFC, November 2008.

[43] González-Vicente, *Mapping Chinese Mining Investment in Latin America, op. cit.*, p. 54.

[44] Frynas, *Corporate Social Responsibility in the Oil and Gas Sector, op. cit.*, p. 826.

[45] Shell Petroleum Development Company of Nigeria, *Oil Spill Data*, http://www.shell.com.ng/environment-society/environment-tpkg/oil-spills.html. Regardless of the company's efforts to clean up, it is less forthcoming with compensation payments. John Vidal, "Shell to negotiate compensation for 2008 Nigeria oil spill", *The Guardian*, 5 September 2013.

corrupt relationship with the government. While CSR activities may take over some of the state's functions, their efforts might be undone by policies of the government.[46] A company's actions may contribute to the deterioration of governance and unfavourable social outcomes, e.g. contracts that are biased in favour of the investor or effects on a country's regulatory capacities or policies. Companies may also find themselves indirectly supporting authoritarian governments. They may even seek these as partners, as authoritarianism provides them with the necessary stability for their operations.[47] Or because the lack or unwillingness of the governments to hold them accountable or set adequate standards is limited. Often, companies perceive that their impact on wider society is beneficial, simply because they provide financial revenues to governments.[48]

Apart from minimising the social and environmental footprint of their operations, companies also engage with resource-rich countries' governments to address issues such as good governance and sector or development strategies. This can be a more problematic endeavour for private actors and there is considerable debate whether companies should actively try to improve governance or just focus on doing no harm. FRYNAS notes that while companies are still reluctant to be actively involved in governance in the countries of their operations, some companies such as Shell, BP and Statoil do recognise that they can contribute to strengthening governance.[49]

The distinction between governance and politics is blurry, and therefore company involvement in such matters is a sensitive issue.[50] Corporate involvement in this area is often mainly limited to partnerships with the host government, technical assistance to the government (e.g. in the field of oil revenue management and transparency), training of civil servants, and to a lesser extent, capacity building for civil society. For instance, in Peru, part of the revenues from mining activities are transferred back to the local governments, whose ability to manage these funds, design development plans and supervise expenditure projects is limited. The Antamina mining company, which has BHP Billiton and Xstrata as partners, provides technical assistance to ensure that the funds — alongside

[46] LARS GULBRANDSEN AND ARILD MOE, "BP in Azerbaijan: a test case of the potential and limits of the CSR agenda?", *Third World Quarterly*, 28(4):813–830, 2007.

[47] GILPIN, *The Political Economy of International Relations, op. cit.*, p. 257. This is not to say that companies prefer authoritarianism — not least because of a lack of rule of law or the potential souring of business relations after a regime change.

[48] JENKINS, *Corporate Social Responsibility and the Mining Industry, op. cit.*

[49] FRYNAS, *Corporate Social Responsibility in the Oil and Gas Sector, op. cit.*

[50] For instance, the Angolan government threatened BP with the termination of its licence after the company, following pressure from Global Witness promised to publish figure on its payments to the Angolan government. SHAXSON, *Poisoned Wells, op. cit.*, p. 216.

the voluntary contributions the company makes in its own social fund — are managed appropriately.[51] The western companies' assistance programmes were quickly mimicked by Chinese investors.[52]

Whereas a company's approach to CSR, access to a foreign country's natural resources and resulting diplomatic and bargaining relationships between firms, their parent governments and the host governments all fall into the realm of strategic decisions, a company's behaviour in the host country and its relationship with local communities is however part of day-to-day operational decisions.[53] While companies may state their social responsibility at the corporate level, implementation of CSR activities in the countries of operations often does not match corporate strategies, as expatriate staff or local employees might not necessarily internalise the headquarter-level corporate strategies.[54] This is also true in the converse: the nascent engagement of Chinese companies in local EITI-processes is very much a product of the local context and not mandated by their headquarters.[55] Wheeler et al. show that companies differ considerably in their ability to translate CSR discourse — often developed by external firms or separate division with in a company — into action.[56] Increasingly, Western companies partner with development agencies or NGOs to implement these programmes and gain additional legitimacy for their activities. Community development schemes have progressed from "ad hoc assistance to development partnerships with government agencies and NGOs."[57] There are different types of corporate-community involvement, in-house models and foundation models. Whereas the former is largely driven by corporations and CSR is implemented through own management structures, the foundation model entails the involvement of communities in decision-making and is done with the assistance of NGOs.[58] Idemudia notes that the foundation model keeps communities at arm's length and thus constitutes

[51]ICMM, *Mapping in-country partnerships, op. cit.*, p. 29. Compañia Minera Antamina, *Fondo Minero Antamina*, http://www.fondomineroantamina.org/contenido/programa/fortalecimiento-institucional.

[52]Kotschwar et al., *Chinese Investment in Latin American Resources, op. cit.*, p. 11.

[53]Cobbe, *Governments and Mining Companies in Developing Countries, op. cit.*, p. 53.

[54]See Chapter 1 and Wimbush et al., *Toward An Understanding of Ethical Climate, op. cit.*, Treviño et al., *Behavioural Ethics in Organizations, op. cit.*

[55] *Interview*, Francisco Paris.

[56]David Wheeler, Heike Fabig and Richard Boele, "Paradoxes and Dilemmas for Stakeholder Responsive Firms in the Extractive Sector: Lessons from the Case of Shell and the Ogoni", *Journal of Business Ethics*, 39:297–318, 2002, Andrew Rowell, James Marriott and Lorne Stockman, *The Next Gulf. London, Washington and oil conflict in Nigeria*, Constable & Robinson, London, 2005.

[57]Utting et al., *The Politics of Corporate Social Responsibility, op. cit.*, p. 20.

[58]Andreas Wenger and Daniel Möckli, *Conflict Prevention: The Untapped Potential of the Business Sector*, Lynne Rienner, Boulder, 2003, pp. 158f.

an obstacle for the integration of CSR into a company's day-to-day business. In the case of Nigeria, he finds that community satisfaction is much higher in the foundation model, because in-house CSR engages mainly with elites.[59]

The question whether these are effective measures goes beyond the scope of this thesis, but certainly problems of ownership, and sustainability arise. The latter result from the fact that once operations cease different ways to finance education and health-care programmes must be found. Thus, critics often dismiss CSR as rhetoric, which is unsurprising given the many failures of business to address social and environmental concerns in their operations beyond the stated aims in corporate sustainability reports.[60] There are also cases to be made against CSR: besides the shift of focus of business activities away from profit maximisation for shareholders, CSR is a costly activity that may drive out marginal companies in an industry. The mere publication of a CSR report or membership in an initiative says very little about corporate conduct — for instance, the shallowness of CSR and its character as a tool to avoid regulation is underlined by the fact that a company like Shell styles itself as a leader in transparency and the same time pushed for the relaxation of US and EU-mandated reporting requirements (see Chapter 8).[61] Today, criticism of CSR emphasises the fact that managers of businesses may not have the adequate skills to address social problems. As a consequence of their economic clout, businesses already have significant social power; addressing social problems would further move public policy decisions away from other institutions. FRYNAS notes that environmental issues are a fairly technical task, so improving the environmental footprint of a company is easily measurable and falls within its competence. This is not necessarily the case for social issues. Moreover, focusing on community relations may present problems for those implementing CSR strategies. Social issues are not as well bounded and quantified so that managers in companies might not be too comfortable with CSR activities in these areas, not least because failures and successes are note easily measurable.[62] In practice, this has often meant that community relations programmes and the like are often accounting for inputs, e.g. in terms of cash or man-hours, and outputs, e.g. in number of villages electrified, rather than looking at broader development outcomes.

[59] IDEMUDIA, *Assessing Corporate-Community Involvement Strategies, op. cit.*

[60] UTTING ET AL., *The Politics of Corporate Social Responsibility, op. cit.*, p. 15.

[61] GEORGE SOROS, *The Netherlands Must Support Strong Oil Transparency Laws*, Open Society Foundations, 6 February 2013.

[62] BLOWFIELD ET AL., *Setting New Agendas, op. cit.*

CSR activities can also harm development and increase insecurity and conflict.[63] Zandvliet finds that "most companies design their social risk-mitigation strategies in a manner that may actually increase the risk to their operations."[64] Those in charge of operations are often engineers that lack a background in development. Consequently, CSR activities are often characterised by lack of adequate stakeholder consultation in local communities and focus more on the social licence to operate rather then genuine long-term development priorities.[65] Stakeholders might not be given the opportunity to represent their interest, either because they are not allowed or because they lack the capacity.[66] CSR activities can be unsustainable: often the engagement with communities stops once payments have been made or operations have ceased.[67] In this regard, it is also worthwhile pointing out that business are not usually accountable to stakeholders, which translates into poor social control of CSR strategies.[68] Conflicts are also created over the access to corporate benefits.[69] Compensation payments, e.g. for the loss of land or resettlements are not without problems, because beneficiaries cannot easily be identified. Compensation for the loss of land may also create imbalances and lead to one group being favoured over another, for example if land is unequally distributed amongst certain groups.[70] Corporate attempts to improve relations with the community can have the opposite of the desired effects. Corporations are often more concerned with violent protest and ignore non-violent communication of concerns. This provides an incentive to violence, as communities that threaten the security of a company's operations are rewarded.[71]

Different CSR Strategies

Regardless of CSR's effectiveness in mitigating corporate impacts, virtually all large Western oil and mining companies implement some form of CSR strategy, even if the practice

[63] Christian Aid, *Behind the Mask. The real face of CSR*, London, 2004, IRIN, NIGERIA*: Oil giant admits aid policies helped fuel violence*, 4 May 2005.

[64] Luc Zandvliet, "Redefining Corporate Social Risk Mitigation Strategies", *World Bank Social Development Notes*, (16), 2004.

[65] Frynas, *Corporate Social Responsibility in the Oil and Gas Sector, op. cit.*, p. 189.

[66] Idahosa, *Business Ethics and Developments in Conflict (Zones), op. cit.*, p. 239.

[67] Böge et al., *Who's Minding the Store?, op. cit.*, p. 13.

[68] Davis, *The Case for and Against, op. cit.*

[69] Zandvliet, *Redefining Corporate Social Risk Mitigation Strategies, op. cit.*

[70] Hyndman, *Academic Responsibilities and Representation of the Ok Tedi Crisis, op. cit.*, p. 33.

[71] Zandvliet, *Redefining Corporate Social Risk Mitigation Strategies, op. cit.*; Luc Zandvliet, *Assessing Company Behaviour in Conflict Environments: A Field Perspective*, in: Karen Ballentine and Heiko Nitzschke, (eds.), *Profiting from Peace: Managing the Resource Dimensions of Civil War*, pp. 185–206. 2005, p. 193.

differs widely. Utting and Ives assess why there are differences between CSR strategies amongst companies. They attribute the rise of CSR agenda and particularly the role played by oil companies to pressure exerted on two fronts: the first one being pressured by NGOs and various social movements and the second being business interests and policy makers who believed that economic liberalism would come under threat if the negative effects of industrial activities and liberalisation were not addressed.[72] It follows, then, that the structure of the industry, the origin of a company and the degree of stakeholder involvement in the home market have a bearing on a company's CSR strategy. Given the character as state-owned companies in a country where domestic pressure from NGOs is limited it is conceivable that Chinese companies' stance towards CSR differs significantly from that of established investors. However, as I show below the take-up of CSR, though lagging, is the result of reputational pressures: both in foreign markets in which Chinese companies are operating — which leads to a direct response of corporations — as well as pressures on China's reputation as a whole — which led the Government to mandate it. At any rate, CSR is not unknown in China, and there is considerabe overlap between the Chinese and western concepts of CSR.[73]

CSR is most widespread amongst internationally operating companies, which have to rely on international financial markets for access to capital. Larger companies tend to be more aware of the necessity to engage with a wider set of stakeholders, to behave more socially and environmentally responsible and to possess the financial capability and technical expertise to conduct operations according to best practices.[74] CSR is not exclusively an issue for oil companies. Mining companies also make substantial use of social and environmental reporting. The remoteness of their operations, the environmental impact and the effects on indigenous populations makes local communities an important stakeholder.[75] CSR is by no means an exclusively Western way of doing business. This is remarkable because if there are differences of CSR activities along the lines of origin of companies, it is likely that companies from very different context, i.e. China, are likely to adopt a different stance towards CSR altogether.

Utting and Ives address potential differences between oil companies from OECD countries and those from non-OECD countries. While they expect there to be some convergence

[72] Utting et al., *The Politics of Corporate Social Responsibility, op. cit.*, p. 12.

[73] Shangkun Xu and Rudai Yang, "Indigenous Characteristics of Chinese Corporate Social Responsibility Conceptual Paradigm", *Journal of Business Ethics*, 93:321–333, 2010, p. 329f.

[74] Burke, *Corporate Community Relations, op. cit.*; Frynas, *Beyond Corporate Social Responsibility, op. cit.*

[75] Jenkins, *Corporate Social Responsibility and the Mining Industry, op. cit.*, p. 27.

amongst traditional investors from OECD countries — mainly though networking and learning — they maintain that the activities of non-traditional investors may lead to divergence in CSR practices.[76] Like smaller investors, those from non-OECD countries may seek competitive advantages by following a "business-as-usual" approach.[77] While this analysis has some truth with respect to earlier investments of non-traditional investors, it does not apply in this clear-cut manner anymore, as CSR is playing an ever greater role non-traditional investors' strategies. The standards of corporate behaviour are, on average, below those that might be wished for. CSR activities are heterogeneous even among western actors[78] and traditional investors "have not, in sum, set a very high standard for Chinese oil companies to meet."[79]

Corporations may be considered as embedded in their home societies. This, in turn, has implications for the assessment of corporate behaviour in general. From the notion of "embeddedness" not only stems a departure from the neoclassical economists' view that companies react to nothing but market signals. Rather, in Robert GILPIN's words, they are "very much a product of the history, culture and economic systems of their home societies."[80] UTTING AND IVES note that the different approaches of US and European companies to CSR is rooted in the "varieties of capitalism and policy regimes".[81] The different relationships between states and markets and between companies and their stakeholders "with reference to different regulatory, policy ideological, cultural and political settings in which companies operate; the relationships between different policies and regulatory institutions; and the importance of history, policy legacies and path dependency" all re-

[76] UTTING ET AL., *The Politics of Corporate Social Responsibility, op. cit.*, p. 17.

[77] *ibid.*, p. 17.

[78] US companies, for instance used to be more skeptical on the issue of climate change. By 2008, Exxon was still funding for research denying climate change. *ibid.*, p. 19; SUSAN AARONSON AND DAVID DEESE, *Laggards on Responsibility: the Oil Majors*, in: MICHAEL SCHIFFER AND DAVID SHORR, (eds.), *Powers and Principles: International Leadership in a Shrinking World.* Lexington Books, 2009; ADAM, DAVID, *Exxon to cut funding to climate change denial groups*, The Guardian, 28 May 2008.

[79] PEGG, *Social Responsibility and Resource Extraction, op. cit.*, p. 162.

[80] GILPIN, *Global Political Economy, op. cit.*, pp. 288ff., PAULY ET AL., *National Structures and Multinational Corporate Behaviour, op. cit.* Still, there is considerable variation across companies and UTTING AND IVES note that "[a]mong the large western oil companies, BP and Statoil generally are recognised for their proactive CSR policies and practices, while others, such as Occidental Petroleum, are heavily criticised for their 'business-as-usual' approach. Shell has attempted to position itself as a CSR leader but is regularly singled out for both good and bad practices. Firms such as Exxon, Chevron, Total and Talisman Energy are often portrayed as CSR laggards but have belatedly engaged with some aspects of the CSR agenda." There are two reasons for this: the factors that promote or constrain CSR are different and vary by company — and are defined by nature of activism, "traditional business interests and pressures associated with shareholders and profit maximisation, the contribution of CSR to competitive and political advantage and the more of internalisation of CSR within companies." UTTING ET AL., *The Politics of Corporate Social Responsibility, op. cit.*p. 23.

[81] *ibid.*, p. 25.

sult in differences of approaches to CSR amongst companies. Non-traditional investors like China are not in the focus of activists, are supported by their states and focused on raw materials security. State-owned companies such as CNPC are however mandated to do social spending domestically, and the next section will show that the behaviour of non-traditional investors is changing quickly. Differences in CSR strategies also depend on the degree of internalisation and the countries in which companies operate, which may differ greatly in terms of their regulatory environment. CSR is internalised differently according to companies; it is driven by individuals but these may lack the ability to change all divisions and operational levels of a company.[82] TAN points out that companies tend to "adopt double standards in their operating policies and fail to uphold the social responsibility practices of their host countries".[83]

CHINESE COMPANIES AND CSR

Chinese companies are often attacked for their inadequate operational standards. Given the dubious performance of Chinese companies at home they are seen as exporting low standards. These include labour and human rights violations as well as insufficient mitigation of the environmental impact of their operations.[84] Chapter 3 has outlined the range of environmental, social and human rights issues in the extractive industries and noted that low operational standards are common in the industry.

Companies adjust to the context in which they operate. Many of the foreign operations of Chinese extractive companies are in countries with weak governance. The presence of Chinese petroleum companies in badly governed countries is much more a consequence of their late entry into the market rather than the result of choice of authoritarian, like-minded regimes. Nor are the governance problems a consequence of the behaviour of these companies, and there is no systematic difference between traditional investors and

[82] *ibid.*, pp. 26f. IDAHOSA, *Business Ethics and Developments in Conflict (Zones), op. cit.*, p. 238.

[83] JUSTIN TAN, "Institutional Structure and Firm Social Performance in Transitional Economies: Evidence of Multinational Corporations in China", *Journal of Business Ethics*, 86:171–189, 2009, p. 185. KENNETH AMAESHI AND OLUFEMI AMAO, "Corporate Social Responsibility in Transnational Spaces: Exploring Influences of Varieties of Capitalism on Expressions of Corporate Codes of Conduct in Nigeria", *Journal of Business Ethics*, 86:225–239, 2009.

[84] GEERT VAN VLIET AND GÉRAUD MAGRIN, (eds.), *The environmental challenges facing a Chinese oil company in Chad*, Agence Française de Développement, 2012.

China. Like any other investor, Chinese companies needs rule of law, stability and security.[85]

Chinese companies are usually considered as not adhering to models of transparency, social and environmental responsibility that has emerged amongst western companies.[86] During the implementation of their going abroad strategy, Chinese enterprises have learned, however. Increasingly, they emphasise compliance, and adopt CSR standards, not least because there is domestic pressure for them to do so.[87] There are few studies on the environmental records of individual companies. As Chapter 3 described in more detail, in the extractive industries environmental degradation can come in the form of acid drainage of chemicals used to extract metals from ores, oil spills, flaring of associated gas, or land clearance and blasting during exploration and production. As far as the debate about the impacts of emerging investors is concerned, the arguments usually point towards lower environmental safety standards at home[88], as well as a reluctance to apply international good practice or certification. The industry as such has a horrendous record in terms of environmental degradation and CHAN-FISHEL notes that the Chinese "are quickly generating the same kinds of environmental damage and community opposition that Western companies have spawned around the world."[89] SHANKLEMAN notes that in terms of social environmental performance, Chinese corporations are where their Western counterparts were in the late 1990s, i.e. shortly after they had started to take these issues into consideration.[90] For instance, in Cambodia, the Chinese CNOOC was the first petroleum company to produce and publish an Environmental Impact Assessment, whereas US major Chevron has not done so.[91] Another interviewee noted that CNOOC's HSE activities are "high quality".[92] Chinese companies are late-comers to CSR and the implementation of voluntary standards, but they are increasingly part of these regimes (these points are elaborated in Chapter 8). Like most investment in the natural resource sectors, there are few linkages with the local economy.[93] However, Chinese companies

[85] TAYLOR, *Sino-African Relations and the Problem of Human Rights, op. cit.*, p 86. Companies initially invested in pariah states not least because they have been unable to grow through mergers or acquisitions. HOUSER, *The Roots of Chinese Oil Investment Abroad, op. cit.*, p. 158.

[86] SHANKLEMAN, *Going Global, op. cit.*, p. 3.

[87] *ibid.*, p. 3.

[88] *ibid.* and KURLANTZICK, *Beijing's Safari, op. cit.*, p. 5.

[89] MICHELLE CHAN-FISHEL, *Enviromental Impact: more of the same?*, in: FIROZE MANJI AND STEPHEN MARKS, (eds.), *African Perspectives on China in Africa*, pp. 139–152. Fahamu and Pambazuka, Cape Town, 2007, p. 148.

[90] SHANKLEMAN, *Going Global, op. cit.*, p. 50.

[91] *Interview*, NGO representative, Cambodia.

[92] *Interview*, LIM Solinn, Oxfam America, East Asia Regional Office.

[93] BROADMAN, *Africa's Silk Road, op. cit.*, p. 30.

are often criticised for making use of labour imported from China, and for underpaying local workforces.[94] Although these problems appear to be common in the mining industry[95], evidence from Zambia, Peru and the DRC suggests that Chinese companies — especially smaller private enterprises — do pay considerably less than their counterparts.[96] Demand for better working conditions and pay has been a source of violence in Nigeria and Zambia, where mistreatment of workers has led to the killing and abduction of Chinese managers.[97]

Moreover, their choice of investments and environmental record and relations with government and society in host countries is related to their technical operational abilities and degree of adaptation to operating in different cultures, which they have only developed recently.[98] This is also a consequence of the character of these companies: they are not state-directed but state supported, causing them to behave much like traditional, commercial enterprises.

Differences in ownership and the power at home might lead one to expect different approaches to CSR in China. CSR is not a completely alien concept to Chinese companies, even though its application is still rather limited. Chinese companies are latecomers, but CSR is becoming ever more important for Chinese enterprises. This section will outline the ways Chinese companies do CSR and the different approaches (and rationale) for its adoption. It will present China's increasing embrace of corporate social responsibility, which is in no small part due to the fact that China's companies are governed according to largely commercial principles. This in turn means that they respond to the same pressures and incentives as established companies. Chinese companies reacted to market pressures they experienced because they were entering an industry in which some form or (lip service to) Corporate Social Responsibility had already become the norm, and the major state-owned resource companies do issue social responsibility reports.

Social responsibility of companies is not an exclusively Western concept and the conditions for CSR amongst Chinese companies are present not least owing to the charitable behaviour of traditional businesses as well as the socioeconomic functions that state-

[94] ALDEN, *China in Africa, op. cit.*, p. 82ff.

[95] BRÄUTIGAM, *The Dragon's Gift, op. cit.*, p. 300.

[96] see Chapter 9 for Zambia and RAID, *Chinese Mining Operations in Katanga*, Rights and Accountability in Development, Oxford, September 2009 for a study of smaller, privately owned companies in the DRC.

[97] HAGLUND, *In it for the Long Term?, op. cit.*, p. 269.

[98] HERBERG, *Asia's National Oil Companies, op. cit.*, p. 34f.

Table 10: CSR Reporting by Chinese Companies

First Report	Company	Sector	Total Reports
2005	China National Offshore Oil Corporation (CNOOC)	Energy	8
2006	China Petrochemical Corporation (Sinopec)	Energy	7
2006	PetroChina	Petoleum	7
2006	China National Petroleum Corporation (CNPC)	Energy	7
2007	Baoshan Iron & Steel	Metals Products	5
2008	China Minmetals Corporation	Mining	4
2008	Sinochem	Chemicals and Petroleum	5
2009	Ansteel Corporation	Metals Products	4
2009	Baosteel Group	Metals Products	3
2010	Aluminum Corporation of China (Chinalco)	Metals Products	3
2010	Metallurgical Corporation of China	Metals Products	3
2011	China National Coal Group Corporation	Mining	1
2011	Taiyuan Iron & Steel (Group) Company	Metals Products	1
2011	Wuhan Iron and Steel Group	Metals Products	1
2011	Yunnan Aluminium	Metals Products	2
2012	Sinosteel	Metals	1

Source: http://www.globalreporting.org, companies' websites. As of September 2013.

owned enterprises have in China.[99] Chinese companies link development and social and environmental sustainability under the banner of a "harmony", between the company, its employees, consumers and communities and companies' statements about the social responsibilities make frequent references to this concept.[100]

CSR offers to enhance reputation and market for Chinese brands — not only vis-à-vis consumers but also investors and business partners[101] — i.e. the companies "significant others". There is little consumer pressure within China to push for higher standards of Chinese companies' operations abroad, though domestic operations do receive attention.[102] Because Chinese consumers do not demand socially or environmentally sound

[99] Li-Wen Lin, "Corporate Social Responsibility in China: Window Dressing or Structural Change", *Berkeley Journal of International Law*, 28(1):64–100, 2010, p. 85; Loong Wong, "Corporate Social Responsibility in China: Between the Market and the Search for a Sustainable Growth Development", *Asian Business & Management*, 8(2):129–148, 2008, p. 138.

[100] Wayne Visser, *Corporate Social Responsibility in Developing Countries*, in: Donald Siegel, Jeremy Moon, Dirk Matten, Abagail McWilliams and Andrew Crane, (eds.), *The Oxford Handbook of Corporate Social Responsibility*, pp. 473–499. Oxford University Press, Oxford, 2008; Wong, *Corporate Social Responsibility in China, op. cit.*, p. 131.

[101] *ibid.*, p. 140.

[102] Shankleman, *Going Global, op. cit.*, p. 57.

production, "... CSR Standards at the moment are primarily implemented in export-oriented companies in China."[103]

In contrast to the western CSR agenda, which was largely driven by non-governmental organisations, its Chinese incarnation is state-led, not NGO-driven. While Western CSR is a response to activists and may serve to pre-empt more formal regulation, in the Chinese context it cannot be conceived of without the government's involvement.[104] Increasingly, the Chinese government is becoming concerned that NOC's operations may damage their reputation and soft power.[105] XINHUA quotes CHENG Siwei, vice chairman of the Standing Committee of the National People's Congress, who argues that even abroad, companies must adhere to standards in order not to lose business.[106] In late 2007, the State-owned Assets Supervision and Administration Commission of the State Council (SASAC), which controls most of the largest businesses in China issued a *Notification on Issuance of The Guidelines on Fulfilling Social Responsibility by Central Enterprises*. LIN notes that the SASAC stated that the increased global importance of CSR provided an incentive to design a Chinese CSR strategy, and — given different interpretations of CSR — the SASAC's definition is one with Chinese characteristics. Human rights — which are central to western CSR reporting — are implicitly excluded from official CSR guidelines.[107] However, Human Rights are not entirely absent from China's CSR: in November 2007, the Chinese Banking Regulatory Commission has urged Chinese banks to adhere to the UN Global Compact's 10 basic principles, which contain human rights.[108]

LIN notes that since 2004, CSR has started to become in important issue amongst Chinese academics and policy-makers, not least due to the image of irresponsible business practices often associated with Chinese products.[109] The Shenzhen and Shanghai Stock Exchanges have issued Social Responsibility Guidelines in 2006 and 2008, respectively.[110] There appears to be greater awareness of environmental and social issues in China (mainly due to domestic scandals) and the government has reacted by issuing guidelines aimed

[103] LIN, *Corporate Social Responsibility in China, op. cit.*, p. 97.
[104] WONG, *Corporate Social Responsibility in China, op. cit.*, p. 138.
[105] HOUSER, *The Roots of Chinese Oil Investment Abroad, op. cit.*, p. 157.
[106] XINHUA, *Companies lacking social responsibility criticized*, 29 January 2007.
[107] LIN, *Corporate Social Responsibility in China, op. cit.*, p. 66.
[108] MICHAEL LEVINE, "China's CSR expectations mature", *China Business Review*, pp. 50–53, November–December 2008, p. 52.
[109] LIN, *Corporate Social Responsibility in China, op. cit.*, p. 65, 89. These were mainly in the form of low labour standards, or contaminated food products, and limited to domestic operations.
[110] SHANKLEMAN, *Going Global, op. cit.*, p. 53, See also Chapter 8.

at mitigating the environmental impact of Chinese companies.[111] There is also a notion that environmental safeguards are important.[112] China ExIm Bank, which provides project finance and export credit for mining and oil ventures of Chinese companies, issued environmental guidelines for projects in April 2007 and SASAC, noted the necessity of environmental protection in its (mandatory) guidelines for corporate social responsibility.[113] More recently, the Ministry of Commerce, too, has issued guidelines for environmental protection for Chinese enterprises investing abroad.[114] Table 11 presents an overview of main regulations and guidelines regarding social responsibility. The SASAC's rather vague guidelines emphasise harmony, compliance, profitability, quality, efficient use of resources, innovation, safety, labour rights and charitable activities. The adoption of CSR amongst Chinese companies is also part of a strategy to live up to international expectations and is a PR tool for China: SASAC's guidelines state that the adoption of CSR by Chinese enterprises is "[...] helpful in establishing a 'responsible' public image", to become more influential, and "spread an image as a responsible nation".[115] The adoption of CSR is good business for Chinese companies, too, as it improves the companies' reputation, relations with the community and facilitates access to finance, all of which is no longer confined to China alone. Issuing social responsibility reports is another way in which Chinese oil companies are modelling themselves after their international counterparts.[116] Chinese companies are concerned about their reputation, if not with respect to the public or consumers, but in the market. In its filing with the US Securities and Exchange Commission, Sinopec Ltd. openly concedes that the operations of its parent — and the criticism these operations draw — might affect the subsidiary's business as their reputation might affect the ability to raise funds and hence depress the subsidiary's stock value (see more on reputation in Chapter 8).[117]

Their growing exposure to other companies both at home in China and abroad also promotes CSR, and there is a considerable "mimetic effect contribut[ing] to the diffusion

[111] PETER BOSSHARD, "China's Environmental Footprint in Africa", *Pambazuka News*, 376, 29 May 2008, LI JING, "Environmental guidelines for firms investing abroad", *China Daily*, 12 September 2008.

[112] CHINA DAILY, *Environmental guidelines for firms investing abroad*, 12 September 2008.

[113] CHINA EXIM BANK, "Guidelines for Environmental and Social Impact Assessments of the China Export and Import Bank's Loan Projects", http://www.internationalrivers.org/resources/guidelines-for-environmental-and-social-impact-assessments-of-the-china-export-and-import; PEOPLE'S REPUBLIC OF CHINA, *Guidelines to the State-owned Enterprises, op. cit.*

[114] PEOPLE'S REPUBLIC OF CHINA, MOFCOM *and* MEP *Jointly Issued Guidance on Environmental Protection in Foreign Investment and Cooperation*, Ministry of Commerce, 4 March 2013.

[115] PEOPLE'S REPUBLIC OF CHINA, *Guidelines to the State-owned Enterprises, op. cit.*

[116] LEWIS, *Chinese* NOCs *and World Energy Markets, op. cit.*, p. 49.

[117] SINOPEC SHANGHAI PETROCHEMICAL COMPANY LIMITED, *Form 20-F, op. cit.*, p. 11.

of organizational practices".[118] Since Chinese companies are also operating in comparatively well-regulated countries like Canada or Australia and are cooperating with companies that are more experienced at CSR, they are becoming more aware and experienced at addressing social or environmental issues.[119] For instance, González notes that Sinopec and CNPC in Ecuador imitated Encana's community programme and in Chad, CNPC's operations followed the mould created by Exxon and the World Bank in terms of consultations, compensation and stakeholder information.[120] While for most companies, CSR is government mandated, the Chinese oil companies seem to have adopted CSR and social reporting independent of formal government policy. By the time SASAC issued its CSR Guidelines, the three largest oil companies had already reacted to reputational and market pressures and published their first dedicated social reports: CNOOC in 2005 and Sinopec and PetroChina in 2006.

CSR activities of Chinese companies differ from those of western companies. State-owned enterprises provide welfare, education, health care and a number of other benefits to their employees and families. CSR, in contrast, is more about addressing the negative effects of corporate behaviour.[121] Given their background as state-owned enterprises, the large Chinese oil and mining companies do have social and economic functions at home.

CSR that deals specifically with the externalities of resource extraction is not very well developed[122] and all groups emphasise their philanthropy even if no proper CSR is in place.[123] CSR activities are focused at home (although PetroChina issues ad hoc reports addressing its operations in individual countries), which is not surprising given the low degree of internationalisation of these companies (see Tables 1 and 8).[124] Now this is changing and CNPC, for instance, has reported on its activities in Sudan, not least as a response to the criticism the company received there (see Chapter 9). Chinese CSR is less broadly development-oriented than that of western companies. In 2009, CNOOC produced a dedicated CSR report for its overseas operations. Like other Chinese firms, the company

[118] Tan, *Institutional Structure and Firm Social Performance, op. cit.*, p. 186.
[119] Shankleman, *Going Global, op. cit.*, p. 56.
[120] González-Vicente, *Development Dynamics of Chinese Resource-Based Investment, op. cit.* and Geert van Vliet, Géraud Magrin, Weiyong Yang, Gilbert Maoundonodji, Romain Dittgen, Yiran Lin, Fan Wang, Guohuang Liang, Antoine Doudjidingao and Marie-Adeline Taveres, *Chinese and American oil companies and their environmental practices in Chad: A quiet confluence of streams or silence before the battle?*, Rising Powers and Global Standards. December 2011.
[121] Lin, *Corporate Social Responsibility in China, op. cit.*, p. 87.
[122] Shankleman, *Going Global, op. cit.*, p. 51.
[123] Dylan Sutherland and Glen Whelan, "Corporate Social Responsibility in China's Largest TNCs", *University of Nottingham China Policy Institute*, 51, 2009, p. 13.
[124] *ibid.*, p. 14.

emphasises its compliance with local laws and regulations, but it also notes that it has conducted Environmental Impact Assessments for its operations in Equatorial Guinea and Myanmar, where the company would not normally have been required to do so. The implementation of full-scale development programmes is largely absent — examples of CNOOC's activities are limited to ad hoc activities such as the building or repair of transport infrastructure, disaster relief or donations to schools and hospitals.[125]

In their reporting, Chinese companies tend to focus on technical issues, such as health and safety, training or even energy security but also business performance.[126] Amongst the "social responsibilities" of enterprises feature the commercial success, much in line with FRIEDMAN's view, the workers' rights, social welfare, philanthropy and protection of the environment.[127] In contrast to IOCs, for whom CSR often amounts to the implementation of development projects, for Chinese companies, securing the country's energy supplies amounts to corporate social responsibility.[128]

Reporting itself is rather vague and focuses on the environmental and social policies in place, rather than on social and environmental performance and companies tend not to publish negative data.[129] For instance, in contrast to IOCs, Chinese companies do not publish data on spills, and of the oil companies only CNPC publishes figures on accidents.[130] Even though with much less emphasis than Western counterparts, sustainability reports now do make references to human rights, for instance Sinopec's 2007 *Sustainable Development Report* makes frequent references to human rights, although these seem to be interpreted as employment and discrimination-related cases rather than address the communities in which companies operate. Chinese companies do not publish systematic data on their CSR expenditure, the *Aiddata* project colltects data on Corporate Aid, which are presented in Table 12.

[125] CNOOC LIMITED, *Corporate Social Responsibility Report (Overseas)*, CNOOC, October 2009.

[126] SHANKLEMAN, *Going Global, op. cit.*, p. 65 VAN VLIET ET AL., *Chinese and American oil companies and their environmental practices in Chad, op. cit.*, p. 18.

[127] SHANKLEMAN, *Going Global, op. cit.*, p. 53; FRIEDMAN, *Capitalism and Freedom, op. cit.*

[128] e.g. CHINA PETROCHEMICAL CORPORATION, *2011 Corporate Social Responsibility Report*, Sinopec, Beijing, 2012.

[129] KE ZHANG, CASS*:* CSR *report should disclose negative information*, SynTao, 2 April 2011.

[130] SHELL, *Sustainability Report, op. cit.*, CHINA NATIONAL PETROLEUM CORPORATION, CNPC *Group* CSR *Report*, CNPC, Beijing, [various], EXXONMOBIL, *Corporate Citizenship Report*, ExxonMobil, Irving, [various].

Formal adherence to CSR

Sutherland and Whelan find that csr reporting is quite common amongst the most internationalised Chinese companies.[131] Amongst Chinese companies in general, those from the extractive industries fare better, which mirrors csr amongst western enterprises where most of the early adopters among the traditional investors were the largest oil and mining companies. Virtually all large oil companies that operate abroad report, while mining companies — which have even fewer international operations — lag behind. The adoption of csr strategies amongst the large centrally-owned enterprises is reflected in an increase in social reporting by Chinese companies and their membership in the un Global Compact (ungc), a tracking and learning platform centered around issues of labour, human rights, the environment, and anti-corruption. The Global Reporting Initiative (gri) provides a social reporting standard for companies and collects data on social responsibility reports issued. Their increased participation in the Global Compact and the adoption of gri as a voluntary reporting standard shows that Chinese companies are converging on their western peers.

The ungc database contains data on 1,540 companies operating in the minerals industries. After excluding companies listed as small- or medium sized enterprises and those listed as inactive, 251 companies remain of which 19 are Chinese — including the three largest oil companies as well as Minmetals, Chinalco, Shougang, Sinosteel and Baosteel (see Figures 7 and 8).[132] The ungc and gri data also show the lag with which Chinese companies participate in either initiative, the rise in ungc membership in 2008 coincides with the Chinese Government's publication of Guidelines regarding csr. Of a total of 1,575 records from the gri database on social reporting of large mining and oil companies, 41 Chinese companies had issued 105 gri-compliant reports between 2004 and 2012. While Figures 7 and 8 may indicate a growing gap between Chinese and non-Chinese companies, it should be noted that they represent absolute numbers. The shares can be roughly approximated using the rwi's data on listings, which record 3,644 non-Chinese and 219 Chinese companies, though the data are likely to underrepresent the total number of Chinese companies, some of which are likely not listed at all. If these are assumed to be the population of companies, that some 18% of Chinese companies in the sector have re-

[131] Sutherland et al., *Corporate Social Responsibility in China's Largest* tncs*, op. cit.*

[132] Take-up rates vary widely across regions: Ziegler notes that only 3% of ungc members were from the us, whereas 48% came from Europe. Oliver Ziegler, "Global Compact Membership in Europe and the us", pp. 53–68, 2007.

ported according to the GRI standard. The 620 non-Chinese companies that issue reports make up about 17% of all large non-Chinese extractive companies. A similar exercise can be performed with the UNGC membership data, which indicate that 19 of 219 or 8.6 per cent of Chinese companies of interest are UNGC members. While in absolute terms there are more non-Chinese UNGC members, there are only 226 large extractive companies in the UNGC, a take-up rate of 6.2 per cent.

Figure 7: Social Reporting in the Extractive Industries

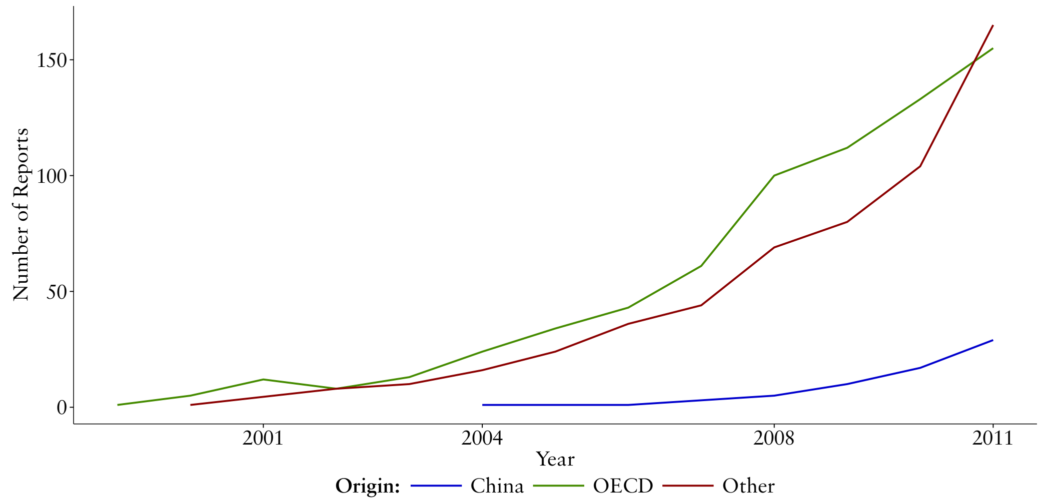

Figure 8: UN Global Compact Membership by Origin

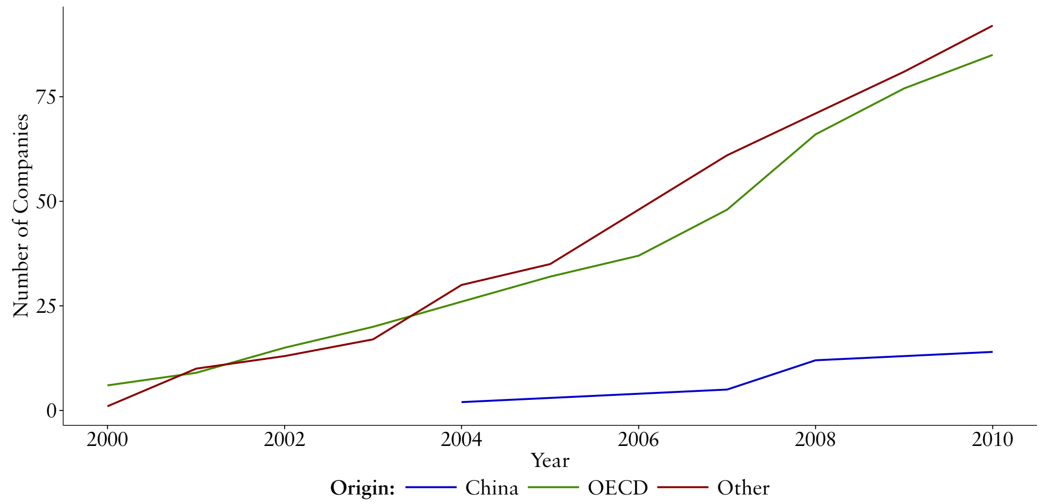

Table 11: Chinese Sustainability Laws and Guidelines

Date	Title	Issuer	Note
January 2001	Code of Corporate Governance for Listed Companies in China	China Securities Regulatory Commission	Largely based on the OECD Principles of Corporate Governance of 1999. Development was partly a reaction to a series of corporate scandals and fraudulent reporting by some companies.*
January 2006	Company Law, Chapter 1, Art. 5		"When undertaking business operations, a company shall comply with the laws and administrative regulations, social morality and business morality. It shall act in good faith, accept the supervision of the government and the general public, and bear social responsibilities."†
2006	Nine Principles on Encouraging and Standardizing Outward Investment	State Council	The principles include: mutual respect, equality and mutual benefit; compliance with local laws, safety of operations; caring for and supporting local communities; supporting local employees and creating a friendly environment for public opinion.‡
September 2006	Shenzhen Stock Exchange Social Responsibility Instructions to Listed Companies#	Shenzhen Stock Exchange	
2007	Accounting Standards for Business Enterprises (based on IFRS)	MOFCOM	
August 2007	Guidelines for Environmental and Social Impact Assessments of the China Export and Import Bank's Loan Projects	China ExIm Bank	
January 2008	(New) Income Tax Law		Preferential tax treatment for environmental protection
January 2008	Guidelines to the State-owned Enterprises Directly under the Central Government for Fulfilling Corporate Social Responsibilities	SASAC	CSR
2008	Directive on CSR Reporting	Shanghai Stock Exchange	
2008	Directive on Environmental Disclosure	Shanghai Stock Exchange	
2009	CASS-CSR Guidelines	Chinese Academy for Social Sciences	
January 2011	Eighth Amendment to the Criminal Law of the People's Republic of China (Art. 164)		Anti-Bribery law to include extraterritoriality
March 2013	Guidance on Environmental Protection in Foreign Investment and Cooperation	MOFCOM and MEP	

Sources: OECD, *Corporate Governance of Listed Companies in China, op. cit.*; http://www.ifc.org/wps/wcm/connect/19231a804886585bb596f76a6515bb18/SSE_IFCReport%2BEnglish.pdf *Christine Mallin, *Corporate Governance*, Oxford University Press, Oxford, fourth edition, 2013, pp. 42, 318; †*Chinese Company Law*, http://english.wzj.saic.gov.cn/laws/061027085055-0.htm
‡http://www.globalwitness.org/sites/default/files/library/Chinese%20guidelines%20EN.pdf; #http://www.szse.cn/main/en/rulseandregulations/sserules/2007060410636.shtml

Table 12: Corporate Aid in Africa by Chinese Extractive Companies

Year	Project	Recipient	Funding Agency	Amount ($)
1998	Scholarship to study in Beijing	Sudan	CNPC	1,500,000
2000	Construction of KRC Friendship School	Sudan	CNPC	800,000
2004	Acrobatics study in China	Sudan	CNPC	
2004	Construction of academic report hall	Sudan	CNPC Well-Logging Company Ltd.	40,000
2004	Construction of the bridge between Khartoum and the Sudanese-Egyptian border	Sudan	CNPC	10,000,000
2004	Establishment of Geo-physical research laboratory	Sudan	CNPC; Bureau of Geophysical Prospecting (BGP)	500,000
2004	Fula Friendship Hospital	Sudan	CNPC	1,500,000
2004	KRC Friendship Hospital	Sudan	CNPC	1,200,000
2004	Loan for railroad development	Sudan	CNPC	10,000,000
2004	Medical facilities for Al Zariba hospital	Sudan	CNPC	200,000
2004	Medical facilities for Melovue hospital	Sudan	CNPC	400,000
2006	Palogue friendship hospital	Sudan	CNPC	1,300,000
2006	Training of petroleum specialists	Sudan	CNPC	
2007	Construction of Heglig Hospital	Sudan	CNPC	
2007	Construction of a primary school	Sudan	CNPC	300,000
2007	Disaster relief	Sudan	CNPC	80,000
2007	Donation of medical equipment	Sudan	CNPC	
2007	Donation to Sudanese government	Sudan	CNPC	1,000,000
2007	Gift and monetary donation to Orphanage	Sudan	CNPC	11,000
2007	Humanitarian Aid to Darfur	Sudan	CNPC	500,000
2007	Improve living and medical facilities at public medical instistutions	Sudan	CNPC	1,000,000
2007	Provide medical and sanitary services in remote areas	Sudan	CNPC	30,000
2007	Public welfare project	Sudan	CNPC	200,000
2007	Supply donation to Orphanage	Sudan	CNPC	
2007	Technical training	Sudan	CNPC	150,000
2007	Training of local oil professionals	Sudan	CNPC	900,000
2007	Repair Roads	Zambia	CNMC	400,000
2008	Flood preparation and relief	Sudan	CNPC	200,000
2008	Grant for national sporting event	Sudan	CNPC	48,000*
2008	Infrastructure Improvement	Sudan	CNPC	3,000,000
2008	Juba University Education and Award Fund	South Sudan	CNPC	700,000
2008	Providing culture and medicines in the countryside	Sudan	CNPC	50,000
2009	Construction of refugee camp in Darfur	Sudan	CNPC	88,600*
2009	Donation to charity	Sudan	CNPC	3,000,000
2009	Juba University Computer Center	South Sudan	CNPC	
2009	Maize donation from CNOOC for famine relief	Kenya	CNOOC	
2010	Training of petroleum specialists	Sudan	CNPC	1,000,000
2010	Grant for Ugandan landslide victim aid	Uganda	CNOOC	50,000
2011	Training of oil workers	South Sudan		
2011	Training of oil workers	Uganda		
2012	CNPC provides guarantee on 1.5bn USD CDB loan	Sudan	CDB, CNPC	1,500,000,000
2012	Training for the Ministry of Petroleum and Mining	South Sudan		

Source: Aiddata.org. * Converted from Sudanese Pounds. 2008: 1 SDG = 0.48 USD; 2009 1 SDG = 0.443 USD

CONCLUSIONS

Oil and mining companies attach a great deal of importance to their social and environmental impacts at home and abroad and attempt — with varying success and commitment — to mitigate the negative impacts of their operations and promote development in the communities in which they operate. They started doing so mainly as a response to activist pressure that publicised corporate wrong-doing and forced companies to protect their reputation, though increasingly CSR has become an operational necessity. CSR strategies and corporate codes of conduct designed at the level of a company's headquarters do not always translate well into changes of corporate conduct at the operational level and their effectiveness in fostering development remains questionable. Companies can be a positive force, but often enough the effectiveness of CSR in terms of mitigation of problems caused by a company's operations differs strongly from the success of CSR as a marketing instrument. Even though what constitutes CSR is not very well defined, the adoption and implementation of CSR has become an industry standard. The implementation of these strategies depends on the context which companies come from.

Western companies do not set the bar very high but Chinese are following, albeit belatedly. CSR in China is by no means non-existent, but it is not as developed as amongst IOCs, and the implementation of CSR programmes is a fairly recent phenomenon and their scope and reporting practices continue to lag behind. For Chinese companies (and the Chinese government) CSR is used explicitly a tool to improve their reputation. Whereas the Western CSR was largely the result of external, NGO-led pressure, in China, it is the Government that, for the most part, drove the agenda. This only applies to some extent to the oil companies, who, in their drive to internationalise an emulate Western companies (see also Chapter 6) were — by Chinese standards — early adopters of the CSR agenda. Chinese oil and mining companies are entering a mature industry which has already largely embraced CSR. The oil companies' CSR reporting is also a reflection of their strategy to become more like established companies: they need to embrace CSR to compete, maintain or build their reputation, not least to access capital but also to maintain their "social licence to operate". For commercial and reputational reasons, Chinese companies have had to submit themselves to what had become international norms for corporate conduct. CSR stops short of formal standards of even regulation and the vagueness of the concept and different interpretations of it allow companies, regardless of their origin, to reduce CSR to tokenism. The following Chapter will therefore address the more formal measures to regulate the extractive industries.

8

REGULATION AND ACTIVISM

INTRODUCTION

The development of mineral resources in developing countries — investment once hailed as a important generator of employment and earner of foreign exchange — has been disappointing.[1] A large number of donors, international financial institutions, NGOs and industry associations have addressed the problem and emphasised the "dysfunctional administrative and political processes" in resource-rich countries to explain the shortcomings of extractive activities.[2]

Chapter 7 has shown that NGOs and their creation of reputational pressures has meant that companies need to adjust, for reputational and operational reasons. But voluntary Corporate Social Responsibility is not the only means by which the negative effects of corporate activities can be mitigated. Both home and host governments as well as NGOs have started to address the negative impacts of corporate behaviour. Numerous forms of regulation exist, from norms and customs, loose codes of conduct to formal legislation adopted by home or host governments or implemented by a combination of these actors.[3] Increasingly, forms of civil regulation, in which the state plays only a secondary role captures corporate activities in the extractive industries. These part overlapping, part complementary rules make it increasingly difficult for large companies, irrespective of their origin, to escape them. Regardless of who adopts or implements such codes, their existence itself is hardly imaginable without activism. Thus, besides host governments, home governments and companies another crucial set of actors determines corporate behaviour.

Laws enacted in one country may affect corporate behaviour of foreign companies operating in third countries. The norms underlying regulatory efforts — e.g. the undesir-

[1] Ross, *The Oil Curse, op. cit.*, p. 190ff.

[2] Campbell, *Corporate Social Responsibility and development in Africa, op. cit.*, p. 138.

[3] Lipschutz et al., *"Regulation for the Rest of Us?" Global Civil Society and the Privatization of Transnational Regulation, op. cit.*, p. 118.

ability of corrupt practices or human rights abuses in third countries — are also becoming increasingly global. Even though legislation in one country might not reach beyond boundaries, states where major extractive companies are domiciled or do business gradually tighten their regulatory regimes to mimic those in other countries.[4] Even though many regulations are ultimately state-implemented, much of it goes back to NGO initiative: good governance and transparency as ideas did not just "float freely"[5], but were promoted by civil society activists, who were able to lift extractive sector transparency onto the international agenda, created networks to support their ideas — both domestically in resource-rich countries as well as in industrialised countries — and ultimately secured the support of states and international organisations.[6]

Until recently, Chinese investors have been viewed as outsiders to any forms of regulation and it has been assumed that due to their non-cooperation they can gain competitive advantages by not adhering to operational, environmental or governance standards in the countries of their operations. This Chapter challenges this notion. In addition to a nascent regulation implemented by the Chinese government, regulatory efforts increasingly transcend national boundaries. Implementation of regulation is not state-centric but market-based. This chapter will outline types of regulation to which companies are subject and argue that — especially in the extractive industries — companies find themselves in a web of regulation that is becoming increasingly difficult to escape. And even though Chinese companies and the Chinese government may not actively endorse most of these standards, the increasing degree of internationalisation of these companies means that they become subject to it.

This chapter will present some of the regulatory initiatives in the sector, and make reference especially to the Extractive Industries Transparency Initiative (EITI) as well as accounting regulations in financial markets that demand transparency of fiscal transactions between host countries and companies. These are by far not the only initiatives that govern aspects of operations in the extractive industries, but revenue transparency is particularly salient. While such regulation has been created by a number of countries

[4] Beth Simmons and Zachary Elkins, "The Globalization of Liberalization: Policy Diffusion in the International Political Economy", *American Political Science Review*, 98(1):171–189, 2004; Hongying Wang and James Rosenau, "Transparency International and Corruption as an Issue of Global Governance", *Global Governance*, 7(1), January–March 2001.

[5] Thomas Risse, "Ideas do not Float Freely: Transnational Coalitions, Domestic Structures, and the End of the Cold War", *International Organization*, 48(2):185–214, 1994.

[6] Virginia Haufler, "Disclosure as Governance: The Extractive Industries Transparency Initiative and Resource Management in the Developing World", *Global Environmental Politics*, 10(3):53–73, August 2010, p. 57.

following civil society advocacy, China has been rather passive in the development of this regulation. Despite this, there are early signs of norm internalisation on the part companies and the government — both of which are said to favour state-based regulation — to engage more actively in global regulatory efforts and to adopt regulation and guidelines to minimise the negative impacts of corporate behaviour.

GOVERNANCE GAPS

Government regulation on its own is often limited, either by pressures of economic globalisation or simply the reluctance of both state and corporate actors to accept binding regulations and increasingly, civil regulation provides a regulatory framework in which NGOs and other civil society actors are included next to state and corporate actors. Virginia HAUFLER categorises four forms of regulation: traditional regulation that is enforced by national governments alone or in cooperation with others; co-regulation, whereby standards are developed by the private sector and governments only provide a sanction mechanism for non-compliance; self-regulation in which the private sector alone sets standards and codes of conduct[7]; and, finally, multi-stakeholder regulation in which actors from different constituencies join to develop a regulatory framework.[8] Other typologies distinguish between different levels (national and international) and characteristics, e.g. voluntariness of regulation.[9] The various forms of regulation and various loci in which these different form apply complement each other (with some degree of redundancy). None of these regulatory initiatives encompass all actors, but on the aggregate, it is impossible for a large multinational oil or mining company to go unregulated. Next to the firm-specific CSR outlined in Chapter 7, a series of guidelines, initiatives and agreements as well as legislative measures address the externalities of resource extraction. Within these a variety of corporate, state or NGO actors agree on common standards and the adoption of codes of conduct.

[7] Traditional self-regulation (e.g. in the forms of technical standards) differs from new forms that seek to mitigate the social and environmental impact of corporate activity. KENNETH ABBOTT AND DUNCAN SNIDAL, "Strengthening International Regulation Through Transnational New Governance: Overcoming the Orchestration Deficit", *Vanderbilt Journal of Transnational Law*, 42:501–578, 2009.

[8] VIRGINIA HAUFLER, *New Forms of Governance: Certification Regimes as Social Regulations of the Global Market*, in: CHRIS ELLIOTT ERROL MEIDINGER AND GERHARD OESTEN, (eds.), *Social and Political Dimensions of Forest Certification*, pp. 237–2347. Kessel, Remagen, 2003.

[9] LEVY ET AL., *Bargains Old and New, op. cit*.

Chapter 4 has outlined the interests of home and host governments in the extractive industry. Against the background of a new "scramble for resources"[10] and the resulting greater competition between companies and amongst states — be they warranted or not — there would appear to be little scope for regulation of the industries as neither parent or host governments nor companies would be inclined to self-inflict losses in competitiveness: for parent or home governments by creating competitive disadvantages for "their" companies or in the case of host governments, by making themselves less attractive to foreign investment (or forfeiting rent-seeking opportunities). It would seem that there is a great likelihood for a race to the bottom, which would create obstacles for reform or outright erode what little standards are in existence.[11] There are many governance gaps in the extractive industries. States and international organisations largely fail to regulate transnational corporations and corporate social responsibility on its own is inadequate to address the externalities of corporate behaviour.[12] It is notable that states did not exercise the initiative in regulating the extractive industries, and it is "civil regulation" in which civil society actors, in alliance with companies, investors alongside states have promoted or implemented regulation.[13] Vogel argues that civil regulation can lead to a "trading up" of standards — constituencies in powerful states are able to leverage this in order to get their states to push for stringent regulation.[14] This is what happened in the past with respect to the creation of the OECD Anti-Bribery convention, and now with financial market regulation.

Traditional regulation by home and host governments is limited. By adopting national legislation, states can act unilaterally to seek control over the corporate entities operating within their territory or claim extraterritorial jurisdiction over companies that operate abroad but are also incorporated domestically or need to get access to capital on markets of third states. States can act jointly in regulating companies' activities by prescribing internationally valid norms.

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[10] Jedrzej George Frynas and Manuel Paolo, "A New Scramble for African Oil? Historical, Political, and Business Perspectives", *African Affairs*, 106(423):229–251, 2007.

[11] Gillies, *Reputational Concerns and the Emergence of Oil Sector Transparency as an International Norm, op. cit.*, p. 107.

[12] Peter Newell, "Managing Multinationals: The Governance of Investment for the Environment", *Journal of International Development*, 13:907–919, 2001, p. 908 and Andreas Scherer, Guido Palazzo and Dorothée Baumann, "Global Rules and Private Actors: Toward a New Role of the Transnational Corporation in Global Governance", *Business Ethics Quarterly*, 16(4):505–523, 2006.

[13] Newell, *Managing Multinationals, op. cit.*, p. 908.

[14] Vogel, *Trading Up, op. cit.*

In some home countries, legislation seeks to limit the adverse effects of the resource industries' operations. Such measures, however, are problematic: national legislation may entail a competitive disadvantage for companies that are subject to it; home governments are thus likely to be reluctant in adopting such legislation, not least because of lobbying efforts by business to prevent legislation.[15] As REED notes, while "in the domestic arena few governments are ever capable of completely identifying national interests with business interests", this does not hold in an international environment, where — costly — regulation of a company is likely to hurt the national firm's competitiveness abroad.[16] For example, businesses in the US have made the case for the abolishment of the *Alien Tort Claims Act* which allowed US companies being sued in US courts for human rights abuses abroad. Similarly, the more recent transparency provisions in the *Dodd–Frank Act* have been challenged on grounds of a loss of competitiveness for listed companies (see below).

State actors are also usually represented in co-regulation schemes or multi-stakeholder initiatives, whose scope and effectiveness they thus shape. Against the background of the often-cited "race to the bottom"[17], the commitment of host governments to implement any standards may be questioned as states themselves — not only corporations — enter into competition with one another. This is to say that in industrialised countries, governments have been far more successful to enact and enforce environmental protection laws, to ensure workers' rights or auditing requirements. Most developing countries' capacity to do so is severely constrained.[18] Neither is the application of these laws guaranteed: in 2001 the International Labour Rights Fund brought a case against Exxon, alleging that the company has directed Indonesian security forces to commit human rights abuses in the Aceh province. The US Department of State subsequently asked the court to dismiss the lawsuit as it was seen as harmful to the US War on Terror.[19] Similarly, in late 2001, po-

[15] SEBASTIAN BARTSCH, "'Global bad actors' an der Börse. Menschenrechte und die Kapitalmärkte", *Internationale Politik*, (7):35–41, July 2001, LEWIS, *Rejuvenating or Restraining Civil War, op. cit.*, p. 28.

[16] REED, *Resource Extraction Industries in Developing Countries, op. cit.*, p. 202.

[17] For the original critique of the race to the bottom — in the context of competition amongst state in the US — see: WILLIAM CARY, "Federalism and Corporate Law: Reflections Upon Delaware", *Yale Law Journal*, 83(4):663–705, March 1974. For a challenge of the "race to the bottom" hypothesis see: DANIEL DREZNER, "Bottom Feeders", *Foreign Policy*, Nov/Dec 2000.

[18] DAVID GRAHAM AND NGAIRE WOODS, "Making Corporate Self-Regulation Effective in Developing Countries", *World Development*, 34(5):868–883, 2006.

[19] TERRY COLLINGSWORTH, "Separating Fact from Fiction in the Debate over Application of The Alien Tort Claim Act to Violations of Fundamental Human Rights by Corporations", *University of San Francisco Law Review*, 37:563–586, 2003.

tential legislation to limit the activities or US corporations in Sudan was altered in order not to antagonise the Sudanese government.

Host governments, too, have a number of means at their disposal to hold corporations accountable and thus try to mitigate the problems associated with their operations. But legislation in host countries is often limited, as leaving the markets unregulated is seen as conducive to foreign investment. Also, their interests might be aligned with the investors: allowing non-transparent revenue systems to persist, enables elites in resource-rich countries to control the distribution of resource wealth, and maintain patronage systems. Accountability problems are likely to arise if companies and elites in host governments collude or companies renders them victims to "predatory states".[20] Rent-seeking amongst host country officials is bound to inhibit any regulatory success.[21] For instance, the Angolan government threatened oil major BP with the termination of its contract should the company disclose its royalty payments to the government. In such a case, even host country regulation is certainly ineffective, and even other types of efforts to hold corporations accountable are unlikely to lead to any meaningful results given the companies' limited options other than divesting themselves.

Weak regulatory frameworks need not necessarily be the result of deliberate actions. Many governments of resource-rich developing countries lack the capacity to implement or monitor regulations. Whereas well-established resource-producing countries might have effective bureaucracies in place to extract rents, this is not necessarily the case in "frontier" countries. Even if the regulatory frameworks are formally in place, they may be outdated and ministries and agencies responsible for the implementation of the minerals policy are often too inexperienced in enforcing legislation.[22]

Making companies accountable under international law runs into collective action problems, as defection by one state from the system is likely to yield competitive advantages in attracting investment[23], even though in the extractive industries operations and capital have to be located where there are resource deposits and are not quite as "foot-

[20] PETER EVANS, *Transnational Corporations and Third World States. From the Old Internationalization to the New*, in: RICHARD KOZUL-WRIGHT AND ROBERT ROWTHORN, (eds.), *Transnational Corporations and the Global Economy*, pp. 195–224. Macmillan, Houndsmills, 1998, p. 198.

[21] In such countries, donor or CSO pressure might might be counterproductive. For instance, activists "pushed too hard" for the adoption of EITI in Cambodia. *Interview*, LIM Solinn, Oxfam America East Asia Regional Office.

[22] In the "frontier" countries of Ghana and Sierra Leone, significant oil deposits were discovered in 2007 and 2009 respectively, and while a regulatory framework was in place, the discoveries took the government by surprise and ultimately led to an overhaul of the legislative framework governing the sector.

[23] Assuming that lax regulation is, indeed, a major determinant of a company's choice of location.

loose" as in other sectors. International organisations can try to exert influence over companies. Regulating the extractive industries multilaterally mitigates the concerns in some host and home countries that higher standards for companies that are operating or listed within the jurisdiction puts them — and hence the country — at a competitive disadvantage. For instance, the passage in 1977 of the *Foreign Corrupt Practices Act* (FCPA) led to US businesses to press for more comprehensive regulations at the level of the OECD, which led to the signing of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions in 1997.[24] The Anti-Bribery convention in turn mandates signatory countries to adopt legislation that criminalises the bribery of foreign officials.[25] Organisations such as the OECD, the UN System or International Financial Institutions (IFIS) have issued codes and guidelines regarding corporate behaviour in a variety of fields[26]; their reach and effectiveness however, appears to be limited.[27] Yet, as far as these other non-state actors go, IFIS also have some leverage over corporate conduct and can also demand the adherence to standards on the part of the governments. The effectiveness of this approach is limited, though, and conditionality requirements regarding governance are usually directed at states rather than companies. For instance, an increase in transparency and "good governance" was the focus of a programme set up in Angola by the IMF in 1995. After it had been prematurely terminated due to non-compliance of the Angolan government, the authorities were still able to obtain credit through oil companies and private banks.[28]

In recent years, the lack of host government capacities has become a focal point for donor governments, IFIS and NGOs, who provide assistance and expertise regarding the management of natural resources (see Chapter 3). Activism works through companies because in host states they can wield considerable power.[29] Companies also push for government legislation — according to AARONSON, BP took a lead role in the Azerbaijani EITI by training officials, whereas Exxon (unsuccessfully) pushed the Equatorial Guinean

[24]It entered into force in 1999.

[25]The FCPA was amended in 1988 to include a provision mandating the US government to push for multilateral approach to combat bribery. P.L. 100-418 Sect. 102 1107 1415–1425.

[26]For example, the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations, the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, the OECD Guidelines for Multinational Enterprises, the UN Global Compact, the UN Guiding Principles on Business and Human Rights or the World Bank-led Global Gas-Flaring Reduction initiative (GGFR).

[27]BANFIELD ET AL., *Transnational Corporations in Conflict Prone Zones, op. cit.*

[28]LE BILLON, *Angola's Political Economy of War, op. cit.*, p. 73.

[29]DEBORA SPAR AND LANE LA MURE, "The Power of Activism: Assessing the Impact of NGOs on Global Business", *California Management Review*, 45(3):78–101, 2003, p. 81.

government to implement the Extractive Industries Transparency Initiative.[30] Western home governments, too, have become more active in adopting legislation — which include the regulation of financial markets in order to force companies to disclose information regarding their payments to host governments as well as sanctions or trade embargoes. These regulatory initiatives have largely been a result of civil society activism.

FORMS OF REGULATION

Conventional regulation by state actors or international organisations and groups of states through mandatory rules does not match the transnational character of the oil and mining industries. Over the past 10 years, an OECD-based system of extractive industries has emerged that minimises negative impacts of mining and oil production and emphasises transparency.[31] This — aspirational — model focuses on minimisation of local impacts, integration of projects into local economies and transparency of resource revenues.[32] New types of regulation include different types of actors namely firms themselves and civil society groups which either set and self-enforce regulatory schemes or collaborate with states and international organisations to do so.[33] These new forms of "civil regulation" constitute a patchwork in which the state's role is mostly indirect.[34]

Business regulation by non-state actors is on the rise and these new actors make rules that used to be the exclusive domain of the state.[35] VOGEL addresses this "civil regulation", which is related to corporate social responsibility, though unlike CSR it is concerned with the development and implementation of standards and codes of practice across a larger number of actors. Regulation is not exclusively state-based anymore, "the 'who' in 'who governs?' must now be expanded to include the participation of nongovernmental and noncorporate actors."[36]

[30] AARONSON ET AL., *Laggards on Responsibility, op. cit.*

[31] SHANKLEMAN, *Going Global, op. cit.*, p. 3.

[32] *ibid.*, p. 13.

[33] ABBOTT ET AL., *Strengthening International Regulation, op. cit.* p. 506. They also note a special case where firms collaborate with intergovernmental organisations, thus "cutting out the middle man". This is the case of the UN Global Compact and the OECD Guidelines for Multinational Enterprises.

[34] NEWELL, *Managing Multinationals, op. cit.*

[35] CLAIRE CUTLER, VIRGINIA HAUFLER AND TONY PORTER, *Private Authority and International Affairs*, in: CLAIRE CUTLER, VIRGINIA HAUFLER AND TONY PORTER, (eds.), *Private Authority and International Affairs*, pp. 3–28. State University of New York Press, New York, 1999, p. 16.

[36] HAUFLER quoted in DAVID VOGEL, "Private Global Business Regulation", *Annual Review of Political Science*, 11:261–282, 2008.

Chapters 1 and 7 have noted that firms respond to more than market signals and shareholders, and are "at least partially guided by principles and norms [which] affect the behaviour of firms both at home and abroad".[37] Civil regulation means soft laws, i.e. codes of conduct or certification — and compliance with civil regulation is voluntary and up to the participants, who take part or comply because of reputational or peer pressures.[38] Koenig-Archibugi points out that "[t]he distinction between mandatory and voluntary is best thought of not as a dichotomy, but as the ends of a continuum [...]" in which companies have some degree of discretion over the adherence to standards, and Vogel notes that regulation is dynamic in the sense that softer forms of regulation may eventually become enshrined in law.[39]

The emergence of private authority in international affairs does not imply a simple shift of regulatory responsibilities from states to private actors. Civil regulation is "governance without government" in that no single formal or state-based authority regulates the extractive industries. "Without government" does not mean that governments are completely sidelined in these processes, but that there is no overarching government.[40] Civil regulation does not spell the end of state authority. Lipschutz argues that as long as civil regulation relies on market mechanisms, ultimately states will "retain the legal authority to establish social regulations."[41] And indeed, civil regulation in the extractive industries does not entirely rely on market incentives but it works through (formal) market regulations coupled with incentives. While the responses of companies in the form of CSR are largely voluntary, in other fields, such as extractive industries transparency, civil society works through states.[42] It is NGOs whose activities ultimately prompts state regulation.

[37] Virginia Haufler, *Self-Regulation and Business Norms: Political Risk, Political Activism*, in: Claire Cutler, Virginia Haufler and Tony Porter, (eds.), *Private Authority and International Affairs*, pp. 199–222. State University of New York Press, New York, 1999, p. 199.

[38] Robert Falkner, "Private Environmental Governance in International Relations: Exploring the Links", *Global Environmental Politics*, 3(2):72–85, May 2003, p. 79. Vogel, *Private Global Business Regulation, op. cit.*, p. 264.

[39] Mathias Koenig-Archibugi, "Transnational Corporations and Public Accountability", *Government and Opposition*, 39(2):234–259, 2004, p. 246. Vogel, *Private Global Business Regulation, op. cit.*, p. 265.

[40] Rosenau, *Governance, Order, and Change in World Politics, op. cit.*, p. 7.

[41] Ronnie Lipschutz, *Doing Well by Doing good? Transnational Regulatory Campaigns, Social Activism, and Impacts on State Sovereignty*, in: John Montgomery and Nathan Glazer, (eds.), *Sovereignty under Challenge: How Governments Respond*, pp. 291–320. Transaction Publishers, New Brunswick, 2002, p. 292.

[42] Peter Newell, *Environmental NGOs, TNCs, and the Question of Governance*, in: Dimitris Stevis and Valerie Assetto, (eds.), *The International Political Economy of the Environment*, pp. 85–107. Lynne Rienner, Boulder, 2001.

Global governance becomes more complex and regulation becomes less hierarchical[43] and there is "a shift in global business regulations from state-centric forms toward new multilateral, non-territorial modes of regulation, with the participation of private and non-governmental actors."[44] Not only do "public and private authorities work hand-in-hand" to define regulation[45] they also become regulators. Ruggie notes that rather than being replaced, states become parts of "systems of governance in broader global frameworks of social capacity and agency that did not previously exist."[46] Haufler argues that the reasons for growth in global private business regulation are activist campaigns and the desire to pre-empt more formal regulation.[47] Haufler notes that ultimately the problems addressed are "often problems of national governance", but that there are many more layers and actors in regulation: industries set their own standards, civil society regulates with monitoring and advocacy, governments and international organisations apply more formal regulation at the national, regional or international levels.[48]

Self-regulation can occur in form of industry or company-level corporate codes of conduct. Many large companies have adopted such standards. These tend to be company specific, whereas a code or standards usually applies to more companies (often in a specific issue area or sector). Most large companies adhere to at least some self-imposed standards or codes of conduct.[49] Companies prefer self-regulation to official governmental regulation, although industry self-regulation e.g. through the International Petroleum Industry Environmental Conservation Association (IPIECA) and the International Council of Mining and Metals (ICMM) does not amount to much more that issuing guidance on best practices regarding environmental and social issues.[50] A company's participation in an initiative or code of conduct with third parties can itself be part of an effort to legitimise its behaviour. For example, this is the case for ExxonMobil's cooperation with the World Bank in Chad. In a similar vein, countries may take part in initiatives or

[43] Braithwaite et al., *Global Business Regulation, op. cit.*, p. 550. This networked regulation or web of influence has drawbacks when it comes to coordinating regulation: without a "central locus of control, regulatory policy becomes a matter of managing a network, rather than a hierarchy."

[44] Scherer et al., *Global Rules and Private Actors, op. cit.*, p. 506.

[45] Falkner, *Private Environmental Governance, op. cit.*, p. 84.

[46] Ruggie, *Reconstituting the Global Public Domain, op. cit.*, p. 519.

[47] Haufler, *A Public Role for the Private Sector, op. cit.*

[48] *ibid.*, p. 121.

[49] Charles Koerber, "Corporate Responsibility Standards: Current Implications and Future Possibilities for Peace through Commerce", *Journal of Business Ethics*, 89:461–480, 2010, p. 463.

[50] ICMM is a CEO-led organisation, i.e. its activities focus on global operations (rather than site-level) and the translation of guidance or policies into local level practice varies according to companies.

adopt legislation, without the intention of actually implementing it, simply for the sake of "labelling" itself as a responsible actor.[51]

Multi-stakeholder regulation, in which codes and standards are the result of negotiation and compromise between different groups of actors: companies, civil society and governments.[52] The inclusion of non-business actors in such codes greatly enhances legitimacy and potentially monitoring and enforcement of these codes.

Activism can target many dimensions, labour and human rights, the environment or transparency.[53] In the extractive industries regulation has been particularly prominent with respect to revenue transparency. A key issue for regulation has been that of revenue transparency. In many resource rich developing countries payments by companies to various government agencies or individuals remain opaque and it is believed that without knowledge of the payments host government receive, citizens in these countries will be unable to hold their governments to account over the use of these revenues. The usefulness of transparency and the effectiveness of initiatives such as EITI have been questioned.[54] While transparency may help holding governments accountable, it can only do so if certain other conditions — such as the capacity to understand that information and the institutions that would allow citizens to act — are in place.[55] Nevertheless, the existence of basic norms or even rudimentary institutionalisation of those norms, provides a seedbed for the development and promotion of more far-reaching and possibly effective regulation (see below).

THE ROLE OF CIVIL SOCIETY

NGOs have been instrumental in publicising the corporate misconduct. Initially the focus of advocacy was on specific problems caused by the extractive industries, such as the struggle of the Ogoni people against Shell and the ABACHA Regime in Nigeria. At first, these efforts were part of wider environmental campaigns by groups such as Greenpeace, Friends of the Earth, or human rights advocates like Amnesty International and Human

[51] NEWELL, *Managing Multinationals, op. cit.*, p. 911.

[52] VOGEL, *Private Global Business Regulation, op. cit.*, p. 270.

[53] SPAR ET AL., *The Power of Activism, op. cit.*, p. 87.

[54] SUSAN AARONSON, "Limited Partnership: Business, Government, Civil Society, and the Public in the Extractive Industries Transparency Initiative (EITI)", *Public Administration and Development*, 31:50–63, 2011; MARK FENSTER, "The Opacity of Transparency", *Iowa Law Review*, 91:885–949, 2006.

[55] IVAR KOLSTAD AND ARNE WIIG, "Is Transparency the Key to Reducing Corruption in Resource-Rich Countries?", *World Development*, 37(3):521–532, 2009.

Rights Watch. Many organisations specifically address petroleum or mining-related issues and some are exclusively dedicated to that sector. There are numerous NGOs and networks active in the field of the extractive industries and especially transparency, such as the Publish What You Pay coalition or the Revenue Watch Institute. These larger, international groups are joind by an ever-increasing number of domestic NGOs in resource-rich countries that address extractive industries-related issues locally. In terms of norm emergence, a few stand out (see Table 13). In addition to the INGOs, there are numerous local NGOs or local chapters that advocate greater transparency in the Extractive Industries. For the purposes of this chapter, I focus on the campaigning about transparency and governance.

NGOs have a number of means at their disposal to effect changes in corporate behaviour. Not only can they serve as watchdogs who collect information on corporate transgressions and publicise them; they also possess the power of persuasion, and promote changes in norms according to which companies are expected to conduct business. More practically, in promoting more mandatory regulation — which given the lack of NGOs' enforcement capacity is state-based — civil society actors go not via the consumer but the political route of pressuring firms and states directly.[56]

Reputation as Leverage

For firms, it is crucial to maintain or create a good reputation in order to retain its social license to operate. NGOs have realised this and increasingly serve as a control mechanism for corporate behaviour in developing countries. While companies often do face political risk in the countries in which they operate, NGOs are able to create political risks at home. Heightened NGO activity increases the likelihood of corporate misconduct being discovered.[57]

Gillies traces the emergence of transparency in the petroleum sector over the past decade. She emphasises more utilitarian concerns on the part of major oil companies as a reason for the successful adoption of transparency as a norm in the extractive industries. Advocacy campaigns by various NGOs and networks created considerable reputational risks for companies and the embrace of it by companies helped companies to protect

[56] Bridge, *Global production networks and the extractive sector, op. cit.*, p. 415.

[57] Idahosa, *Business Ethics and Developments in Conflict (Zones), op. cit.*, p. 227; Tan, *Institutional Structure and Firm Social Performance, op. cit.*, p. 185.

Table 13: NGOs with Focus on the Extractive Industries

Name	Type	Activities Regarding Oil and Mining
Revenue Watch Institute	Research and grant-makng institution (funded by the Open Society Foundation)	Advocates revenue and contract transparency in the extractive industries. Provides capacity development for partner organisation in resource-rich developing countries. Operational presences in Peru, Ghana, Indonesia, Azerbaijan, Nigeria and Tanzania
Publish What You Pay	Coalition/Network of numerous INGOs and parter NGOs in developing countries	Advocates transparency of company payments/government revenues in the extractive industries, financial reporting standards and stock market disclosure
Transparency International	NGO	Promoting Revenue Transparency Reports (2008 and 2011) as well as general work on transparency: corruption perceptions index, bripe payers index.
Global Witness	Watchdog/Advocacy NGO	Focused specifically on the extractive industries. Run dedicated programme engaging with Chinese companies and policy-makers. Dedicated reports on Afghanistan (2012), Angola (1999, 2001, 2004, 2010, 2012), Cambodia (2009), DR Congo (2005, 2007, 2011, 2012), Indonesia (2005), Kazakhstan (2010), Liberia (2007, 2011), Libya (2009, 2012), Uganda (2012)
Tax Justice Network	Network	Opposes tax havens and advocates transparency and tax compliance. Campaigned for financial market disclosure rules and accounting standards for the extrative industries.
CAFOD	Aid and Development Charity	Works, inter alia, on communities and mining in Peru, Honduras and the DRC. Advocates financial market disclosure by extractive companies.
Action Aid	Aid and Development Charity	Advocates corporate accountability and transparency in taxation.
Oxfam	Aid and Development Charity	Programme on governance in the oil, gas and mining industries. Issues include corruption, transparency and community rights. In country-work with local civil socety groups and advocacy with firms, donors, IFIs
Christian Aid	Aid and Developmet Charity	Advocates financial transparency and corporate accountability (report on CSR in 2004), taxation (report on Zambia 2007 and Latin America 2009).
HRW	NGO	Has documented human rights abuses in the extractive industries since 1999 and published 22 reports on the oil and mining industry since: Angola (2009, 2010), Eritrea (2013), Equatorial Guinea (2009), India (2012), Kazakhstan (2012), Mali (2011), Mozambique (2013), Nigeria (1999: 3×, 2002, 2003, 2005, 2007), Papua New Guinea (2011), São Tomé and Príncipe (2010), Sudan (2003), Tanzania (2013), Zambia (2011), Zimbabwe (2009, 2010)

their reputation.[58] Against the background of a race to the bottom, it would seem unlikely for transparency norms to have developed, but activists not only possess the power of persuasion, they have successfully attacked companies' reputation and use this "stick" to coerce them. Activists can resort to "naming and shaming" exercises whereby issues of corporate misconduct are brought to the public's attention.The success of such a strategy, especially if consumers are targeted to boycott certain products, is closely linked to the degree a company and its product are well known. Transnational activist pressure is most likely to yield results if the salience of the issue addressed is likely to find resonance with the wider public and if factors such as "brand value", i.e. the company's reputation, are at stake.[59] Initially, activists directed their efforts at major disasters in the oil industry on a variety of issues such as the environmental degradation caused by the Exxon *Valdez* spill, Shell's disposal of the Brent Spar platform and human rights abuses of Shell in Nigeria or Unocal's and Total's continued operations in Myanmar.[60] They also took issues with oil companies' roles in zones of conflict in Angola, Sudan, and Colombia. The early campaigns ran along the lines of "hit them till it hurts, and then they will change for the better"[61] but now, rather than resorting to naming and shaming there is increasing cooperation between NGOs and companies, even though the relationship remains adversarial at times.[62] Even now the organisations addressing governance in the extractive industries are broadly divided along the lines of insiders and outsiders, i.e. those who are prepared to cooperate with firms and those who do not. Some NGOs do not seek dialogue — anticorporate groups NGOs or campaigns such as CorpWatch, Protest Barrick are uncompromising and focus on naming and shaming of companies.[63] For instance, Greenpeace runs a site detailing Exxon's funding for climate change-skeptics.[64] Amnesty International and Human Rights Watch, in turn, focus on human and labour rights abuses which are either perpetrated by companies or in which they belive companies are complicit.[65] NGOs such

[58] GILLIES, *Reputational Concerns and the Emergence of Oil Sector Transparency as an International Norm, op. cit.*

[59] HAUFLER, *A Public Role for the Private Sector, op. cit.*, p. 23.

[60] UTTING ET AL., *The Politics of Corporate Social Responsibility, op. cit.*, p. 12.

[61] ZADEK, *The Civil Corporation, op. cit.*, p. 57.

[62] VOGEL, *Private Global Business Regulation, op. cit.*, p. 267.

[63] YAHIA SAID, *Global Civil Society: Oil and Activism*, in: HELMUT ANHEIER, MARLIES GLASIUS AND MARY KALDOR, (eds.), *Global Civil Society 2004*, pp. 76–93. Sage, 2004, p. 87. http://www.corpwatch.org; http://protestbarrick.net/section.php?id=3.

[64] GREENPEACE, *Stop Esso*, http://www.greenpeace.org.uk/climate/stop-esso and IDEM *ExxonSecrets*, http://exxonsecrets.org.

[65] YAHIA SAID, *Global Civil Society: Oil and Activism*, in: HELMUT ANHEIER, MARLIES GLASIUS AND MARY KALDOR, (eds.), *Global Civil Society 2004*, pp. 76–93. Sage, 2004, p. 84.

as Global Witness and Transparency International fall somewhere in between.[66] They combine naming in shaming where they see fit, but are more constructive in their participation in initiatives such as the EITI.[67] Pressure has worked with companies, but now NGOs also go through states and get more binding regulations implemented. This is somewhat more constructive than the mere pressuring of companies to adopt CSR or better internal standards.[68]

NGOs can also resort to legal action against companies or advocate shareholder activism in which they can try to affect corporate decision-making by bringing their issues up in general meetings.[69] For instance, the failure of PetroChina to raise the expected amount of capital in its New York IPO is an often cited example for successful activism by NGOs and investment funds regarding the parent company's involvement in the Sudan. However, it is unlikely that the failure to raise capital resulted in a change of corporate conduct.[70] In 2009, Oxfam America filed an ultimately unsuccessful shareholder proposal aiming at the disclosure of the company's payments to host governments.[71] As part of a wider campaign activists of the Free Burma Coalition also issued a number of shareholder's resolution that sought changes in Unocal's project in Myanmar.[72]

Existing legislation also enables legal activism, where activists bring cases against companies. Lawsuits under the Alien Tort Claims Act (ATCA) have often been unsuccessful and lawsuits brought against Unocal's operations in Myanmar, Shell in Nigeria and RioTinto in Papua New Guinea have ultimately been dismissed, following a decision by the US Supreme Court that limits the ATCA's application to US companies.[73] In 2005, French oil major Total settled a lawsuit over its use of forced labour in Myanmar at a French court.[74]

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[66] *ibid.*, p. 85.

[67] Peter Eigen, a founder of Transpareny International was the EITI's first Chairman.

[68] ZADEK, *The Civil Corporation, op. cit.*, p. 2.

[69] UTTING ET AL., *The Politics of Corporate Social Responsibility, op. cit.*, p. 13f; NEWELL, *Managing Multinationals, op. cit.*, p. 912.

[70] BARTSCH, *'Global bad actors' an der Börse, op. cit.*

[71] *Chevron shareholders cast their votes for transparency*, http://www.oxfamamerica.org/press/pressreleases/chevron-shareholders-cast-their-votes-for-transparency, 27 May 2010.

[72] SPAR ET AL., *The Power of Activism, op. cit.*, p. 87.

[73] *Kiobel v. Royal Dutch Petroleum, Co* and *Sarei et al v. Rio Tinto Plc et al, 9th* U.S. *Circuit Court of Appeals, No. 02–56256.* http://www.business-humanrights.org/Categories/Lawlawsuits/Lawsuitsregulatoryaction/LawsuitsSelectedcases/ShelllawsuitreNigeria; DEBORA SPAR AND LANE LA MURE, "The Power of Activism: Assessing the Impact of NGOs on Global Business", *California Management Review*, 45(3):78–101, 2003, p. 88.

[74] MARTIN ARNOLD, "Total Pays €5.2m in Burma Case", *Financial Times*, 30 November 2005, p. 32.

In addition to pressuring companies from the outside, international NGOs have amassed a considerable amount of expertise and credibility and become part of epistemic community[75] and are relied upon by development agencies, host governments, international organisations and companies to shape and implement strategies to improve governance in the extractive industries. NGOs can work towards holding corporations accountable by creating awareness not just with the public but with relevant state authorities directly. They play an important role as "impartial" provider of information[76] and provide input for policy makers. They can also attempt to lobby governments and pressure them to adopt legislation. Thus NGOs can act to hold companies accountable either by proxy — through shaping states and public's demand for accountability — or directly in collaborating with businesses in order to shape and oversee their policies and actions.[77] Chinese companies have at times engaged with activists: one interviewee noted that in Niger, trade unions were accusing CNPC of labour rights violations, and the company subsequently invited union representative to China to discuss the issue, which in turn resulted in change of CNPC's conduct.[78]

Firms have become increasingly responsive to NGOs, but responsiveness to direct campaigns might be limited depending on the context out of which the firm operates and what challenges might be brought against them. Firms' responsiveness also depends on industry and compliance costs. Spar and La Mure emphasise rationality and cost considerations of companies when assessing the effectiveness of NGO campaigns — e.g, given the high fixed cost and difficult adjustment oil and mining companies cannot just take their production elsewhere, unlike apparel manufacturers. They show that with respect to various campaigns attacking, amongst others, Levi's, Wal Mart, Unocal and Total, the oil companies were least responsive. The extractive industries tend to be targeted but also that they resist more activist pressure because compliance with demands might be costly. For firms, transaction cost, competitive position and brand are important factors. But

[75] Peter Haas, "Introduction: Epistemic Communities and International Policy Coordination", *International Organization*, 46(1):1–35, Winter 1992.

[76] John Ruggie, *Taking Embedded Liberalism Global: The Corporate Connection*, in: David Held and Mathias Koenig-Archibugi, (eds.), *Taming Globalization: Frontiers of Governance*, pp. 93–129. Polity Press, Cambridge, 2003, p. 105.

[77] Melanie Beth Oliviero and Adele Simmons, *Who's Minding the Store? Global Civil Society and Corporate Social Responsibility*, in: Marlies Glasius, Mary Kaldor and Helmut Anheier, (eds.), *Global Civil Society 2002*, pp. 77–107. Oxford University Press, 2002, pp. 84ff.

[78] *Interview*, Marinke van Riet, Publish What You Pay.

in some cases, costs for the firm (such as complete divestment from the country) can be prohibitive, especially in capital intensive industries.[79]

NGOs' options and the effectiveness of their actions vary and depends on what corporations are to be held accountable for and where. The success of initiatives in holding companies accountable depends on the area of activity (e.g. workers' rights, environmental protection, transparency all resonate differently with the public at home), the structure of the particular industry (e.g. oligopolistic or competitive), and the provenance and "public face" of companies that are to be held accountable. Large multinational firms are susceptible to pressures from NGOs and ultimately consumers. In contrast to major oil producers whose distribution networks can be easily identified and targeted in their home markets, most mining companies operate without visible brands. Still, as argued in Chapter 1, even without a public face, pressure may fall on fertile ground — the "significant others", whose approval companies might seek extend to fellow firms in the industry as well. UTTING notes that activists address CSR or company failures in specific contexts, regardless of the severity of the problems — some companies might be easy targets.[80] Some issues (e.g. environment and human rights abuses) are more popular than others such as tax avoidance. And the public in some home countries appear to be more receptive to some countries rather than others. The increasing internationalisation of companies from emerging economies and efforts to operate in western markets is likely to contribute to mitigating the problem of limited visibility. On the other hand, smaller companies (e.g. those providing only upstream services such as exploration) as well as those operating in the mining sector are usually much less responsive to public pressure.[81] This is also a result of choice: The target selection of NGOs is also often off, as success of campaigns requires some degree of cooperation of companies and easy targets. Mimicking the concerns voiced by BRÄUTIGAM about a focus in media on Chinese actors, NGOs need to use their resources for maximum impact and they might only focus on larger, more visible companies.[82] This is because, as Chapter 1 has shown, these companies are more likely to have incentives for compliance and the capacity to do so.

Even though non-state actors may succeed in holding individual companies accountable on behalf of those who lack the capacity to do so, their reach is often limited. As

[79] SPAR ET AL., *The Power of Activism, op. cit.*, p. 84.

[80] UTTING ET AL., *The Politics of Corporate Social Responsibility, op. cit.*, p. 23.

[81] OECD, "Multinational Enterprises in Situations of Violent Conflict and Widespread Human Rights Abuses", May 2002, VOLKER RITTBERGER, "Transnationale Unternehmen in Gewaltkonflikten", *Die Friedens-Warte*, 79(1–2):15–34, 2004, GLOBAL WITNESS, *Paying for Protection, op. cit.*, p. 3.

[82] SPAR ET AL., *The Power of Activism, op. cit.*, p. 81. NEWELL, *Managing Multinationals, op. cit.*, p. 913.

the case of oil companies' involvement in Sudan shows, NGO pressure — and, in the case of the US, host government legislation — led to a divestment by western oil firms. However, by driving some of these actors out of oil exploration and production in the Sudan, these measures left a void that was readily filled by actors that were not as susceptible to similar pressures, thus not effectively doing away with the causes for concern.[83] OTTAWAY notes the extreme case where US Oil firms were largely forced out of Burma because of public pressure in 1998 — Unocal, however, stripped itself of most of its US assets in order to avoid being subjected to activist campaigns.[84] This points to another limitation of non-state actors' capability in holding companies accountable: whereas NGOs may successfully change the public's perception of an issue or bring accountability gaps on governments' agenda in industrialised countries, this may not always be effective with respect to corporations from countries where civil society is weak, or different norms govern corporate behaviour.[85] While activism has led to an adjustment of corporate conduct — the implementation of CSR programmes in the oil industry is a consequence of activist pressure more than anything else — corporations from countries where civil society is weak, or where international civil society actors have no reach might be less responsive to NGO pressure.

The financial sector, too, is becoming a more active actor in social issues.[86] Subsumed under the label "socially responsible investment" funds, investors can exert some influence over firms.[87] Likewise, and more recently, traditional institutional investors, such as government pension funds start making their investments decisions according to "ethical" considerations, too. Rating agencies or sustainability indices such as FTSE4Good or Dow Sustainability index may indirectly help shape corporate behaviour. In 2009, the Norwegian Pension Fund divested from Canadian gold miner Barrick, citing concerns over the company's environmental damage at its Pogera mine in Papua New Guinea.[88] ZADEK notes financial market participants themselves might not be too concerned about

[83] LEWIS, *Rejuvenating or Restraining Civil War, op. cit.*, HUMAN RIGHTS WATCH, *Sudan, Oil, and Human Rights, op. cit.*

[84] MARINA OTTAWAY, "Reluctant Missionaries", *Foreign Policy*, pp. 44–54, July/August 2001, p. 48; SPAR ET AL., *The Power of Activism, op. cit.*, p. 95.

[85] OECD, *Multinational Enterprises in Situations of Violent Conflict, op. cit.*, RITTBERGER, *Transnationale Unternehmen in Gewaltkonflikten, op. cit.*, GLOBAL WITNESS, *Paying for Protection, op. cit.*, p. 3.

[86] HAUFLER, *Is there a Role for Business in Conflict Management?, op. cit.*, p. 669.

[87] HAUFLER, *A Public Role for the Private Sector, op. cit.*, p. 23.

[88] *Mining company excluded from the Government Pension Fund — Global due to contribution to serious environmental damage*, http://www.regjeringen.no/en/dep/fin/press-center/Press-releases/2009/mining-company-excluded-from-the-governm.html?id=543107, 31 January 2009.

social responsibility, though ABBOTT AND SNIDAL classify these funds as NGOs since they are neither targets of regulation nor states.[89]

Norms and Extractive Industries Governance

Civil society actors played a central part in the emergence of norms and the subsequent passing of regulation that addresses governance issues in the extractive industries. Despite the potential road-blocks due to the increased competitive pressures which could potentially stall reform processes, better governance and transparency in the extractive industries have emerged as a norm. Civil society pressure, corporate social responsibility and an existing anti-corruption movement, paired with the academic literature addressing the resource curse provided a fertile environment for the emergence of extractive industry transparency.

NGOs and other non-state actors command a softer and more indirect form of power. Even though boycotts or naming and shaming are to some extent coercive, in the main, NGOs "aim at changing consciousness and creating mechanisms of accountability."[90] They need to change the norms upon which state and companies base their actions. As FLORINI points out, "civil society tries to shape these norms in two ways: directly, by persuading policy makers and business leaders to change their minds [...] or indirectly, by altering the public's perception of what governments and businesses should be doing."[91] SIKKINK argues in the same direction that — although lacking the "traditional attributes of power", NGOs have the power to shape the agenda and the way issues are discussed and perceived.

The emergence of these norms resonates well with existing theories the role of civil society in norm diffusion. Transnational civil society has effectively acted as "norm entrepreneurs", who are able to convince others to accept new norms.[92] The targets of these norm entrepreneurs were not only states, but also international financial institutions and companies and unlike other international norms that ultimately might become institutionalised in (international) law, the practice of regulation and governance in the

[89] ABBOTT ET AL., *Strengthening International Regulation, op. cit.*, p. 516.

[90] NEWELL, *Environmental* NGO*s,* TNC*s, and the Question of Governance, op. cit.*, p. 105.

[91] ANN FLORINI AND P.J. SIMMONS, *What the World Needs Now?*, in: ANN FLORINI, (ed.), *The Third Force: The Rise of Transnational Civil Society*, pp. 1–16. Carnegie Endowment for International Peace, Washington, 2000, p. 11.

[92] MARTHA FINNEMORE AND KATHRYN SIKKINK, "Interational Norm Dynamics and Political Change", *International Organization*, 52(4):887–917, Autumn 1998, p. 895.

extractive industries does involve state and non-state actors. As civil society actors are unable to impose norms, they inform and persuade others and NGOs have relied on their expertise to gain legitimacy and credibility.[93] These NGOs are also the "socialising agents" of norms, providing information and documentation of what they perceive to be the most salient issues.[94] This is often done in collaboration between international NGOs and domestic civil society groups where INGOs rely on information of local partners to publicise and promote the latter's cause.[95] States are likely to embrace norms if it enhances their reputation[96] and the same appears to hold for corporations and the international financial institutions.[97]

The process of emergence of extractive industry transparency as a norm is not yet complete. FINNEMORE AND SIKKINK propose a three-stage process of successful norms: norm emergence, a norm cascade which occurs after a critical mass of states have embraced the new norm and drives other to follow suit a well as its internalisation, i.e. the point at which a norm is taken for granted.[98] In terms of structure, norm entrepreneurs used different "organisational platforms": some NGOs were specifically created to deal with issues in the extractive industries, such as Global Witness, the Revenue Watch Institute or the Publish What You Pay coalition, but existing organisations, above all the World Bank also eventually helped promote extractive sector governance and transparency norms.

Related norms were already in existence, given the donors' focus on principles of good governance, which facilitated the "grafting"[99] of extractive industry-specific norms onto those previously accepted ones. In terms of their success, GILLIES notes that take-up of these norms was facilitated by the fact that once IFIs and donors were on board with extractive industry transparency, the existing donor-client relationship forced raw materials producing states to adopt them.[100]

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[93] *ibid.*, p. 900.

[94] *ibid.*, p. 902.

[95] KECK ET AL., *Activists Beyond Borders, op. cit*.

[96] FINNEMORE ET AL., *Interational Norm Dynamics and Political Change, op. cit.*, p. 906.

[97] GILLIES, *Reputational Concerns and the Emergence of Oil Sector Transparency as an International Norm, op. cit.*, p. 113.

[98] FINNEMORE ET AL., *Interational Norm Dynamics and Political Change, op. cit.*, p. 895.

[99] RICHARD PRICE, "Transnational Civil Society and Advocacy in World Politics", *World Politics*, 55(4):579–606, July 2003, p. 584.

[100] The larger oil producing countries have largely eschewed transparency and are so far not members of the EITI.

Institutionalisation of Transparency

By now, transparency in the extractive sector is institutionalised in three different ways: Host government regulation (EITI), home government legislation (financial market reporting requirements) and (unilateral) voluntary corporate disclosures of tax payments. Transparency International had already campaigned against corruption since the early 1990s, and the issue of transparency had become a norm upon which extractive industry transparency could be "grafted".[101] GILLIES identifies Global Witness as the early norm entrepreneur, calling out the Government of Angola as well as companies operating in Angola for their non-transparent practices.[102] Soon, Human Rights Watch joined and produced reports on Nigeria's and Angola's oil sectors.[103] In contrast actors targeting the extractive industries at the time — such as the Sudan Divestment Task force — Global Witness and Human Rights Watch did not call for boycotts or divestment, which helped ensure the companies cooperation. In 2002, Global Witness, the Open Society Institute, Oxfam, Save the Children, CAFOD, and Transparency International created the Publish What You Pay coalition (PWYP), which calls on companies in the extractive industries to make transparent their payments to the governments in resource-rich countries. By 2011, the coalition had 633 members organisations in 59 countries.[104] PWYP believes that companies and governments should publish their financial relationship so that citizens can ultimately hold them to account for the way they spend the money. More generally, PWYP advocate institutional reforms towards more accountability in the sector.[105] In practice the campaign does so by lobbying for EITI, for the adoption of stock market disclosure rules and financial reporting standards — though PWYP emphasises that it transparency is merely the first step in their push for accountability.[106] The structure of the PWYP coalition allowed domestic groups to link up with international activists, a key condition for suc-

[101] HAUFLER, *Disclosure as Governance, op. cit.*, p. 63.

[102] GLOBAL WITNESS, *A Crude Awakening. The Role of the Oil and Banking Industries in Angola's Conflicts*, Global Witness, London, 1999, GILLIES, *Reputational Concerns and the Emergence of Oil Sector Transparency as an International Norm, op. cit.*, p. 109.

[103] *The Price of Oil*, *Some Transparency no Accountability*, *Chop Fine*, *Sudan Oil and Human Rights*.

[104] The number has since grown to about 800, though detailed data are not available.

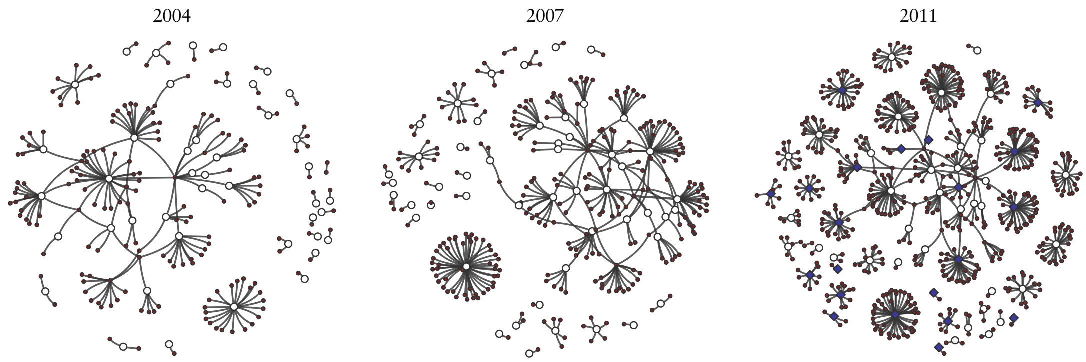
[105] GAVIN HAYMAN AND CORENE CROSSIN, *Revenue Transparency and the Publish What You Pay Campaign*, in: KAREN BALLENTINE AND HEIKO NITZSCHKE, (eds.), *Profiting from Peace: Managing the Resource Dimensions of Civil War*, pp. 263–285. 2005, p. 265.

[106] The relationship between PWYP and the EITI is "not always easy" because PWYP's demands are more encompassing than what EITI aims for and the success of the latter reduces the pressure to move towards more accountability. *Interview*, Marinke VAN RIET.

cessful transnational activists success as it provides information and legitimacy to their cause.[107]

Figure 8 shows the evolution of the Publish What You Pay coalition. The small circles represent an NGO that forms part of PWYPs network. Countries are represented by larger, hollow circles. In the rightmost panel, countries in which Chinese companies operate are maked by diamonds rather than circles.[108] The network envelops Chinese companies' operations. Across resource-rich countries, including those in which Chinese companies are present experience, local chapters emerge and advocate transparency.[109]

Figure 9: The Publish What You Pay Network



The Extractive Industries Transparency Initiative

Approaches to improve transparency of the relationship between companies and host governments have relied on home and host government regulation. However, the latter is the result of a much larger group of actors that have pushed for and monitor the implementation of standards in resource-rich countries. The Extractive Industries Transparency

[107] PRICE, *Transnational Civil Society and Advocacy in World Politics, op. cit.*, p. 595f. THOMAS RISSE AND KATHRYN SIKKINK, *The Socialization of International Human Rights Norms into Domestic Practices: Introduction*, in: THOMAS RISSE, STEPHEN ROPP AND KATHRYN SIKKINK, (eds.), *The Power of Human Rights. International Norms and Domestic Change*, pp. 1–38. Cambridge University Press, Cambridge, 1999.

[108] Note that a better formal representation of the network would have each vertex that forms part of a PWYP country chapter as a so-called clique — i.e. have all vertices in a given country connected to each other — rather than being connected to a country. However, the point here is to show the increasing number of NGOs and countries where NGOs address extractive industries transparency and show the exposure, if not direct contact, of Chinese operations to NGO activity. See Figure A.14 for such a representation.

[109] The average degree centrality across countries in which China operates increase from 3.61 in 2004 to 4.71 in 2007 and 12.66 in 2011 — i.e. on average, in a country where Chinese companies extract natural resources, 12 NGOs specifically address transparency issues.

Table 14: Civil Regulation in the Extractive Industries

Name (Year)	Description	Principal Actors	Chinese Participation
IPIECA Oil and gas industry guidance on voluntary sustainability reporting (1974)	Oil Sector Guidance on Social Reporting	Firms	CNOOC and Sinopec Addax are IPIECA members. The former prepares report according to IPIECA/API guidelines.
ISO14001 (1996, current version 2004)	Certification of environmental management systems	States, Firms	Large oil companies (and subsidiaries) have operations certified. Application amongst mining companies limited, though Minmetals and Chinalco have certifications
Global Reporting Initiative (1999)	Sustainability reporting guidelines	NGOs, Firms	The largest Chinese oil and mining companies report according to GRI (as well as the Chinese-only CASS-CSR Guidelines)
OECD Guidelines for Multinational Enterprises (1999)	Guidelines on business conduct in the fields of the environment, human rights, anti-corruption, taxation and employment	States, Firms	Aspects of OECD guidelines covered in Company Law, code of Corporate Governance of Listed Companies
AccountAbility 1000 Framework for Responsible Business Practices (1999)	Sustainability and Stakeholder Engagement Standards	NGOs, Firms	
Voluntary Principles on Security and Human Rights (2000)	Human Rights Guidelines for Extractive Companies	States, NGOs, Firms	
International Council of Mining and Metals (2001)	Sustainable Development Framework for Mining Companies	Firms	Only Chinese member is MMG, a subsidiary of Minmetals
Equator Principles (2002)	Sustainable Project Finance	States, Firms	Only one Chinese Bank (Industrial Bank) is EP member. China ExIm bank has issued guidelines similar to the EP.
Extractive Industries Transparency Initiative (2003)	Publication of company payments in the extractive industries	States, NGOs, Firms	China does not support the initiative globally, but Chinese companies comply with mandatory reporting in host countries. Minmetals subsidiary MMG is a supporter of EITI by virtue of its membership in the ICMM.
United Nations Global Compact (2004)	Incorporate principles on labour, human rights, anti-corruption and the environment in member's business practices	States, Firms	Large Chinese oil companies participate

Initiative (EITI) is a so-called multi-stakeholder initiative in which representatives from host governments, donors, companies and other NGOs seek to make transparent company payments and government receipts in the extractive sector. The creation of the EITI has its roots in the PWYP campaign; its initial implementation was led by the UK Government. The EITI established a set of criteria mandating participating governments to publish relevant government revenues from the oil, gas and mining sectors. While PWYP's demands were company oriented, this would have caused commercial disadvantages. Therefore, EITI goes via the route of host governments (even tough the process is managed by home and host governments, donors, IFIS, NGOs and companies in a multi-stakeholder process). Host country regulation did not pose a problem for companies initially, as all companies operating in a given country would be subject to it, which helped securing the support of companies.

After the creation of EITI, extractive industries transparency was taken up in a number of other fora such as the G8, G20 and the United Nations.[110] In September 2008, the UN General Assembly passed resolution A/RES/62/274 on transparency in the extractive industries. Azerbaijan had initially tabled the resolution in 2007, and while it was supported by donor governments, initially developing countries were rather reluctant to support it, as the issue as well as the EITI which it endorses, were seen as imposed by industrialised countries.[111]

While, EITI is designed as a flexible initiative and only focuses on one aspect, is rather varied in its implementation and therefore relatively weak. Most companies operating in EITI member-states are subject to the EITI reporting requirements — in general, only companies whose payments to Governments are "immaterial" are exempt from reporting. The EITI defines transparency rather broadly, and leaves the implementation to working groups in member countries. By now the initiative is backed by numerous donor governments, IFIS, and companies. Even though 40-odd countries implement the EITI, the major oil producers in the Middle East and Latin America are not members of the initiative. Those that do not implement EITI appear to be those over whom INGOs and IFIS have less leverage. EITI country membership is subject to adverse selection, where ruling elites have

[110] G8, *Heiligendamm Summit Declaration*, 2007, para 83, http://www.g-8.de/Content/EN/Artikel/__g8-summit/anlagen/2007-06-07-gipfeldokument-wirtschaft-eng,templateId=raw,property=publicationFile.pdf/2007-06-07-gipfeldokument-wirtschaft-eng.pdf. G8, *Deauville Summit Declaration*, 2011, para. 62, http://www.g8.utoronto.ca/summit/2011deauville/2011-declaration-en.html. SynTao, *G20 Reaffirms Support for* EITI, 25 September 2013.

[111] EITI, *Minutes of the 3rd* EITI *Board Meeting Parkveien 45, Oslo, Norway*, 27 September 2007, EITI, *Minutes of the 5th* EITI *Board Meeting, Madrid*, 27 May 2008. The resolution was adopted without a vote.

more to hide, are not prepared to grant the necessary freedom to civil society actors to participate in the process (or where donors have no interest in imposing the initiative) are less likely to implement the EITI.[112] Even if they do, the processes might be meaningless: the government of the Republic of Congo, regularly harassed and imprisoned activists who were working on the country's EITI process.[113] Therefore activists have continued to demand home government regulation and attempted to widen the scope of transparency regulations.[114] Initially the NGOs' target was revenue but now ancillary issues such as contracts between governments and companies as well as expenditure management have become more important and donors, the World Bank and NGOs like Revenue Watch or the Natural Resource Charter advocate transparency across all aspects of the "value chain" in resource extraction.[115] Wider issues such as transfer pricing, whereby companies shift profits to low-tax jurisdictions have also become the focus of activist pressure.[116] That the norm has not been fully internalised yet is evidenced by the fact that many extractive companies are members of the Extractive Industries Transparency Initiative, and at the same time fight the extension of transparency regulation to other issue areas. Companies might be publicly in favour of issues such as revenue transparency, but they do continue to lobby and litigate against more stringent transparency regulation in the US and elsewhere.[117] Home government legislation mandating transparency was opposed by the international oil and mining companies: as China and the Chinese companies did not make any demands on good governance and transparency, such measures, if applied only to Western companies, would hurt their commercial interests.[118]

Financial Reporting Requirements

Home government legislation in the form of disclosure requirements has gained prominence, mostly due to the efforts of advocacy groups. Home-government legislation is also

[112] HAYMAN ET AL., *Revenue Transparency and the Publish What You Pay Campaign, op. cit.*, p. 276.

[113] PUBLISH WHAT YOU PAY, *Transparency Campaigners imprisoned in Congo Brazzaville must be released immediately and unconditionally*, 13 April 2006, PERSONAL COMMUNICATION, Christian MOUNZEO, 26 May 2008.

[114] REVENUE WATCH INSTITUTE, *Eye on EITI*; SAVE THE CHILDREN, *Making it add up*.

[115] OXFAM AMERICA, *Governance of Extractive Industries in Southeast Asia, op. cit.*, p. 50. THE WORLD BANK, *EITI++*, http://go.worldbank.org/XYLUR236T0; http://naturalresourcecharter.org.

[116] LE BILLON, *Extractive sectors and illicit financial flows, op. cit.*, PWYP NORWAY, *Lost Billions, op. cit.*, PWYP NORWAY, *Piping profits, op. cit.*

[117] SOROS, *The Netherlands Must Support Strong Oil Transparency Laws, op. cit.* http://politicsofpoverty.oxfamamerica.org/index.php/2012/02/09/the-transparent-hypocrisy-of-big-oil/.

[118] GILLIES, *Reputational Concerns and the Emergence of Oil Sector Transparency as an International Norm, op. cit.*, p. 119.

less self-contained as it might seem — as the case of the *Dodd–Frank Wall Street Reform and Consumer Protection Act* shows. The Act contains provisions on the disclosure of payments from extractive companies to governments and requires companies to reveal if their products may contain so-called "conflict minerals". All extractive companies that are traded in the US are subject to regulation by the Securities and Exchange Commission. This includes companies headquartered outside the US.[119] The Publish-What-You-Pay coalition had originally lobbied for the passage of a law in the US that would require companies traded in the United States to publish the payments they make to governments in resource rich countries. These provisions eventually found their way[120] into the Dodd-Frank Wall Street Reform and Consumer Protection Act — much to the dismay of oil companies.[121] The SEC had been tasked with the drafting of these regulations and during the consultation process it became evident that oil — but not mining — companies are strongly lobbying to dilute the provisions.[122]

While the oil companies are in opposition to the provisions in the Dodd–Frank Act — citing the existing Extractive Industries Transparency Initiative as sufficient to achieve transparency in the sector — they attempted to water down the regulation as far as possible.[123] Oil companies argued that by publishing these data, they will be put at a commercial disadvantage as competitors will be able to draw inferences from tax data and gain access to trade secrets.[124] It is notable the consultation documents reveal no discernible difference in the positions of companies according to their origin. Although Western companies note a potential danger and competitive disadvantages vis-à-vis companies from emerging economies[125], the latter are subject to the same kinds of regulations as they, or their subsidiaries, are traded in the United States. Extractive companies in the

[119] The SEC estimated that 1,101 companies would be subject to the regulation, and the Revenue Watch Institute notes that 29 of the 32 largest oil companies and eight out of ten of the largest mining companies will be required to report their payments to host governments. Revenue Watch Institute, Q & A U.S. Financial Reform and Transparency in Oil, Gas and Mining, http://www.revenuewatch.org/news/news-article/united-states/qa-us-financial-reform-and-transparency-oil-gas-and-mining.

[120] Originally PWYP — via US Senators Richard Lugar and Benjamin Cardin — had tried to push for a standalone piece of legislation in the form of the "Energy Security though Transparency Act".

[121] Kara Scannell, "Oil Industry Gets Disclosure Jolt", *Wall Street Journal*, 11 August 2010.

[122] Securities and Exchange Commission, Disclosure of Payments by Resource Extraction Issuers, Proposed Rule, 15 December 2010, http://sec.gov/rules/proposed/2010/34-63549fr.pdf.

[123] Alex Barker and Guy Chazan, "Lobbyists fight to weaken graft rules", *Financial Times*, p. 3, 12 April 2012.

[124] Theodore Moran, *Promoting Universal Transparency in Extractive Industries: How and Why?*, Center for Global Development, February 2011.

[125] Kyle Isakower and Patrick Mulva, *[Letter addressed to the US Securities and Exchange Commission]*, American Petroleum Institute, 12 October 2010.

mining sector were in favour of more stringent reporting requirements, regardless of their origin.[126]

Besides the fact that home government legislation can be designed to apply to companies from third countries, legislation itself is spreading: Following the passage of the Dodd–Frank act, financial reporting in extractive industries was discussed at the EU and G20 level.[127] The UK Government announced the introduction of similar disclosure requirements.[128] In 2013, a revised EU Transparency and Accountability Directive was adopted, that requires all companies above a certain size, that have to prepare annual financial statements (whether they are listed or not), to include in those statements information regarding their payments to governments in their countries of operation. Similar rules exist for companies traded at the Hong Kong Stock Exchange, though these are not as stringent as the ones adopted by the SEC.[129]

Norms do not travel fast, and extractive industry transparency has hit a number of road-blocks. Despite their prima facie support of transparency, oil companies strongly opposed mandatory disclosure requirements requested by the Dodd–Frank legislation. The American Petroleum Institute, a business association, successfully sued the SEC for going beyond its mandate in designing its disclosure rules under Section 1504 of the Act.[130] Similar to the "country-by-country" disclosure requirements under the Dodd–Frank legislation, listed firms in the extractive industries, have to prepare statements of accounts in order to inform investors about the value (and tax authorities about the tax base) of the firm. Although these standards are set by — private — accounting bodies, the adherence to reporting requirements set therein are mandated by law in many jurisdictions.[131] The International Accounting Standards Board (IASB), a private not-for-profit organisation

[126]http://www.sec.gov/comments/s7-42-10/s74210.shtml.

[127]European Commission Internal Market and Services DG, Public Consultation on Country-by-Country Reporting by Multinational Companies, Brussels, 2010, http://ec.europa.eu/internal_market/consultations/docs/2010/financial-reporting/consultation_document_en.pdf. The consultation document makes direct reference to Dodd–Frank and the EITI.

[128]Heather Stewart, "Britain backs 'publish what you pay' rule for oil and mining firms in Africa", *The Observer*, 20 February 2011.

[129]Hong Kong Stock Exchange, Amendments to the Rules Governing the Listing of Securities on The Stock Exchange of Hong Kong Limited, 18.05 (6) (a) http://www.hkex.com.hk/eng/rulesreg/listrules/mbrulesup/Documents/mb96_miner.pdf; Revenue Watch Institute, *Hong Kong: Stock Exchange to Require Greater Transparency*, 28 May 2010.

[130]Reuters, U.S. SEC *won't appeal ruling vs disclosing payments abroad*, 4 September 2013. The SEC will redraft the rules.

[131]The most common set of standards are the international financial reporting standards IFRS, upon which many other standards are based. The US regulatory authorities use a different set of Generally Accepted Accounting Principles (GAAP), but standards are increasingly becoming compatible.

Table 15: Stockmarket Listings of Chinese Oil and Mining Companies

Company	Sector	Exchange	IPO
Sinopec Corp	Petroleum	New York, London, Hong Kong, Shanghai	2000
CNPC/Petrochina	Petroleum	New York, Hong Kong, Shanghai	2000
CNOOC Limited	Petroleum	New York, Hong Kong	2001
Minmetals Resources/MMG	Base Metals and Mining	Hong Kong	1994
China Non-Ferrous Metals Mining Corporation	Non-Ferrous Metals	Shenzhen, Hong Kong	1997, 2012
Chinalco/CMC	Aluminium and Copper	New York, Hong Kong, Shanghai	2001, 2013
Shougang	Iron and Steel	Hong Kong, Shenzhen	2005 (Shenzhen)
Baoshan/Baosteel	Iron and Steel	Shanghai	2000
MCC	Mining (Copper, Nickel), Engineering	Hong Kong	2009
Wuhan Iron & Steel	Iron and Steel	Shanghai	1999
Jiangxi Copper	Non-ferrous Metals	Hong Kong, London	1997

Source: Companies' and Stock Exchanges' websites.

which sets the so-called International Financial Reporting Standards (IFRS) considered whether to include in its standards specific requirements for firms operating in the extractive industries.[132] The PWYP coalition made specific proposals for a potential standard requiring companies to disclose payments to host governments that were included in the IASB's consultation document. Unsurprisingly, the arguments put forward are divided along the lines of NGOs/Socially Responsible Investors versus Companies. However, in the responses to the consultation it became evident that transparency in the extractive industries as a norm had not yet reached accounting firms.[133]

[132] International Accounting Standards Board, "Extractive Activities", *Discussion Paper*, (DP/2010/1), 2010.

[133] see for example: PriceWaterhouseCoopers, *[Letter addressed to the IFRS Foundation/IASB]*, IASB, 30 July 2010. Accounting firms and most investors view disclosure of tax payments to governments as largely immaterial for potential investors.

REGULATORY EXPOSURE OF CHINESE COMPANIES

Chinese companies are often criticised for not having to adhere to home-government regulation, similar to that of anti-bribery and human rights laws adopted by many OECD countries. When the US Securities and Exchange commission held a consultation regarding the implementation of the Dodd–Frank transparency regulation, many western respondents noted that this would create an unlevel playing field. Many contributions explicitly — if unfounded — noted the Chinese companies' freedom from regulation. The adoption of the SEC rules is by no means the only example where companies try to avoid regulation citing the competitive advantage of the Chinese. Apart from the fact that the implementation of these regulations is a rather recent phenomenon, increasingly, Chinese companies do have to adhere to international standards, and where they do not do so formally, they do so substantively (see Table 11). This is the result of a recognition on part of the companies that as "global players" they must also show responsibility as well as the result of government policy.

Against the background of NGOs' power, it would follow that companies originating from countries where NGOs cannot fulfil their roles as watchdogs or agenda-setters, are under less public scrutiny and less inclined to take part in voluntary regulatory initiatives. Civil society in China is relatively weak and there is hardly a transparency movement that could pressure companies or the government to adopt more stringent standards. But INGOs have shaped international markets towards higher standards, and internationalisation and cooperation exposes Chinese SOEs to foreign practices and foreign pressure. Increasing internationalisation of companies from emerging economies and efforts to operate in western markets contributes to mitigating the problem of limited visibility. On the other hand, smaller companies (e.g. those providing only upstream services such as exploration) as well as those operating in the mining sector are usually much less responsive to public pressure.[134] While it is likely that consumers in these countries might be less aware of the dealings of their companies abroad — international NGOs and civil society organisations from host countries can act as corrective forces. In contrast to western home governments, there is considerably less domestic pressure from NGOs in China. ALDEN AND HUGHES note that "the lack of a strong civil society inside China inhibits the ability of its policymakers to draw on expertise of the kind of independent pressure groups and

[134] OECD, *Multinational Enterprises in Situations of Violent Conflict, op. cit.*, RITTBERGER, *Transnationale Unternehmen in Gewaltkonflikten, op. cit.*, GLOBAL WITNESS, *Paying for Protection, op. cit.*, p. 3.

NGOs that are available to traditional donor/investor states"[135] Unlike elsewhere NGOs do not serve as resource of information for government or businesses and GONGOs (government organised NGOs) are on CPP line.[136] One interviewee cited the limited receptiveness and the consequent absence of a "domestic push" of Chinese NGOs for transparency and accountability as one of the obstacles for greater engagement of China (alongside language problems and a lack of contacts).[137] Conversely, attempts at outreach and engagement with China by western actors appear to be limited, if only because China is either seen as too different for lack of "local knowledge", or because it is not an easy target for outreach.[138] However, there are signs that indicate greater engagement with issues of transparency amongst Chinese academics, research institutions and even the government and "there are people wanting to have conversations" about issues of transparency and good governance in the extractive industries.[139]

As they enter international markets, Chinese companies are subject to reputational pressures, which target the companies' ability to raise equity. SINOPEC acknowledges that

> "We are affiliated with Sinopec Corp. and Sinopec Group, both of which have been identified in the news media as engaging in operations in or purchasing substantial volumes of crude oil sourced from countries identified by the U.S. government as state sponsors of terrorism such as Iran, Syria, Cuba and Sudan. [...] Nevertheless, certain articles in the press have identified institutional investors, many of whom have substantial investment portfolios and purchasing power, that may have divested, or intend to divest or otherwise not invest in, our stock because of the alleged operations of our affiliates in such countries. Decisions by such large investors may have the effect of reducing demand for our stock in the market, perhaps significantly, which could cause substantial downward pressure on our stock price."[140]

Chapter 7 has already touched upon the fact that Chinese companies are increasingly embracing CSR and that their parent government has adopted some standards to regulate

[135] ALDEN ET AL., *Harmony and Discord in China's Africa Strategy, op. cit.*, p. 563.
[136] *ibid.*, p. 579.
[137] *Interview*, Marinke VAN RIET, PWYP.
[138] *Interview*, Francisco PARIS, EITI. Earlier outreach activities in place at EITI appear to have been largely abandoned. An exception to this is Global Witness, who run a dedicated "China Programme", advocating good governance in the natural resource sector. In relation to China' Global Witness' approach is less characterised by "naming and shaming" but on highlighting the benefits of sustainable business practices to Chinese companies and policy-makers. *Interview*, Lizzie PARSONS, Global Witness.
[139] *Interview*, Lizzie Parsons, Global Witness.
[140] SINOPEC SHANGHAI PETROCHEMICAL COMPANY LIMITED, *Form 20-F, op. cit.*, p. 11.

corporate behaviour abroad. Chinese companies are experiencing a change in norms and find it increasingly necessary to adopt CSR — both substantively as well as a label. As NGOs have successfully shaped the discourse around the various problems associated with natural resource extraction the issues have become so prominent and norms increasingly global that it cannot be ignored even by actors that are seemingly immune from civil society pressure. Besides these direct efforts to regulate Chinese companies, the increasing relevance of international standards that this chapter has addressed so far means that companies find themselves increasingly enmeshed in a web of international, host-government or industry self-regulation that becomes hard to escape.

Home government regulation is slowly becoming more stringent, but in their operations at home, Chinese oil and mining companies have abysmal labour safety and environmental records.[141] In 2006, partly in reaction to the criticism of foreign ventures by Chinese companies, the State Council published the *Nine Principles on Encouraging and Standardizing Outward Investment*.[142] The principles include: Mutual respect, equality and mutual benefit; compliance with local laws, safety of Operations; caring for and supporting local communities; supporting local employees and creating a friendly environment for public opinion — indicating that reputation and the importance of "significant others" are of concern to the Chinese Government as much as normative motivations for compliance. The State Environmental Protection Administration was upgraded to the status of a Ministry in 2008. One of the Companies from emerging economies are perceived to be amongst the most corrupt. The Watchdog NGO Transparency International produces a Bribe Payers Index which measures the perceived likelihood that companies pay bribes. The most recent study shows that companies from China rank second-to-last amongst the world's largest economies.[143] Although it is often held that China is less inclined to adopt anti-corruption legislation, the Chinese government has amended its criminal law statutes making it illegal to bribe foreign officials, similar to the US *Foreign Corrupt Practices Act*.[144] In 2011 China's anti-corruption law gained and extra-territorial aspect when the Criminal Law of the PRC was amended to make it an offence for Chinese companies to bribe officials of foreign governments.[145] So far, however, there have been

[141] Jennifer Li, *China's Rising Demand for Minerals and Emerging Global Norms and Practices in the Mining Industry*, Foundation for Environmental Security and Sustainability, 2006.

[142] http://www.globalwitness.org/sites/default/files/library/Chinese%20guidelines%20EN.pdf

[143] Transparency International, *Bribe Payers Index*, 2011.

[144] Bräutigam, *The Dragon's Gift, op. cit.*, John Hynes, "China Beefs Up Its Anti-Bribery Law With Its Very Own Version Of The FCPA", *National Law Review*, 31 March 2011.

[145] Transparency International, *Bribe Payers Index, op. cit.*, p. 12.

no cases brought against Chinese extractive companies for the bribery of foreign public officials.

The large Chinese oil companies (and some of the mining companies) do participate in the GRI, the UNGC and have been certified according to the ISO14001 environmental standards. CNPC adopted ISO14001 in 1997 and by 2007 all of the companies' subsidiaries were certified.[146] The Chinese Development Bank is member of the UNEP Finance Initiative for sustainable project finance. And even if Chinese companies and banks are not formally part of the western initiatives on project finance or CSR, they implement them substantively. The Chinese Academy of Social Sciences (CASS) has developed CSR guidelines and China ExIm Bank has created social and environmental guidelines for projects it funds abroad.[147] The International Finance Corporation partnered with China ExIm Bank to push for the adoption of Equator Principles.[148] The Shanghai Stock Exchange (SSE) has issued Environmental Disclosure Guidelines, a CSR Notice and guidelines for disclosure practices of companies holding mineral rights. The SSE has also proposed the voluntary disclosure of companies' social contributions, which expresses earnings, taxes, and salaries paid per share.[149] The China Chamber of Commerce of Minerals, Metals and Chemicals Importers and Exporters (CCCMC), has drafted *Guideline for Social Responsibility in Chinese Outbound Mining Investments*, which, inter alia, include the recommendation to join the EITI globally and participate in country processes. This is evidence that the Chinese government — the CCCMC is part of MOFCOM — is increasingly interested in engagement with civil regulation.[150]

So far, China has been a bystander in the emergence of norms and regulation in the extractive industries, and while it is "certainly not obstructionist", nascent active engagement in the process is not (yet) the result of a strategy at the level of the Chinese government of the coporate headquarters.[151] China prefers state-centric governance[152], and the

[146] VAN VLIET ET AL., *Chinese and American oil companies and their environmental practices in Chad, op. cit.*, p. 12.

[147] Guidelines for Environmental and Social Impact Assessments of the China Export and Import Bank's (China ExIm Bank) Loan Projects.

[148] BRÄUTIGAM, *The Dragon's Gift, op. cit.*, p. 303.

[149] SHANGHAI STOCK EXCHANGE, SSE *Drives Listed Companies to Fulfill Social Responsibilities*, 14 May 2008; GLOBAL WITNESS AND SYNTAO, *Transparency Matters. Disclosure of Payments to Governments by Chinese Extractive Companies*, Global Witness, London, 2013.

[150] The guidelines were drafted in cooperation with a German-sponsored project on CSR in China. www.syntao.com/Uploads/file/Public-Consultation_Draft_Guideline.pdf. *Interview*, Lizzie Parsons, Global Witness.

[151] *Interview*, Francisco PARIS.

[152] CHAN ET AL., *Rethinking global governance, op. cit.*

country does not endorse multi-stakeholder initiatives such as the EITI. Chinese companies do however emphasise compliance to formal regulation and thus become — by the way the new forms of regulation are structured subject to these regimes even if they are not actively supporting them; though Global Witness note that China Oilfield Services, a subsidiary of CNOOC, does voluntarily publish its tax payments to foreign governments.[153] A large number of Chinese companies, including the major oil companies, are listed on stock exchanges (see Table 15), subjecting them to the transparency requirements of US and EU accounting regulations described above. The Revenue Watch Institute's data for 5,784 stock market listings of companies in the oil, gas and mining sector of 3,863 companies shows contains records of 269 Chinese listings of 219 different companies. Of the 269 listings, 102 are outside China and 55 in countries where transparency regulations apply.

With the exception of Minmetals subsidiary MMG[154] none of the large Chinese companies formally support the Extractive Industries Transparency Initiative (whereas all major Western companies do). Nevertheless, they have to report if they operate in a country that implements it. Still, Chinese companies have to comply with transparency regulations that EITI-implementing countries dictate. Of 54 countries in which Chinese companies operate, 18 implement EITI.[155] Even though Chinese companies are not proactively supporting the EITI in host countries, there is increasing engagement in the mechanism: CNPC is a member of EITI multi-stakeholder groups in Chad, Iraq and Mongolia, and Sinopec-Addax is a member of Cameroon's stakeholder group. In Tajikistan, which has not yet produced an EITI report so far, Broadtec Group, a private Chinese mining company is represented on the multi-stakeholder group.[156] If presence in EITI working groups is taken as a metric for engagement, CNPC is about as involved as BP, ExxonMobil, Perenco or Tullow, which are also represented on three working groups, while Chevron, Total and Shell are members in 4, 5 and 6 EITI country processes, respectively. While not a member of the Zambian EITI process, CNMC's subsidiary NFCA has publically stated its support for

[153] Global Witness et al., *Transparency Matters, op. cit.*, p. 21.

[154] The company was formed after Minmetals took over the majority of assets of Australian miner OZ Minerals. The companies operational headquarters are in Australia. The company is a member of the ICMM which collectively supports the EITI.

[155] In some of these countries, Chinese companies have not yet reported their payments to governments as the publication of EITI reports often lags by a couple of years.

[156] http://eiti.org/news-events/exxonmobil-cnpc-and-shell-elected-iraq-eiti-council. Friends of the Earth, *Crude Beginnings. An assessment of China National Petroleum Corporation's environmental and social performance abroad*, San Francisco, 2012, p. 33.

the EITI.[157] While this engagement is indicative of China's growing acceptance of non state-based regulation in the extractive industries, as well as a nascent internalisation of transparency norms, it should be noted that engagement is very much due to the local dynamics rather than corporate strategy as one interviewee noted.[158] Table 16 presents and overview of those countries in which Chinese companies have already reported.

[157] HART NURSE, *Validation of the Extractive Industries Transparency Initiative in Zambia*, Zambia EITI Council, May 2011.

[158] *Interview*, Francisco PARIS, EITI.

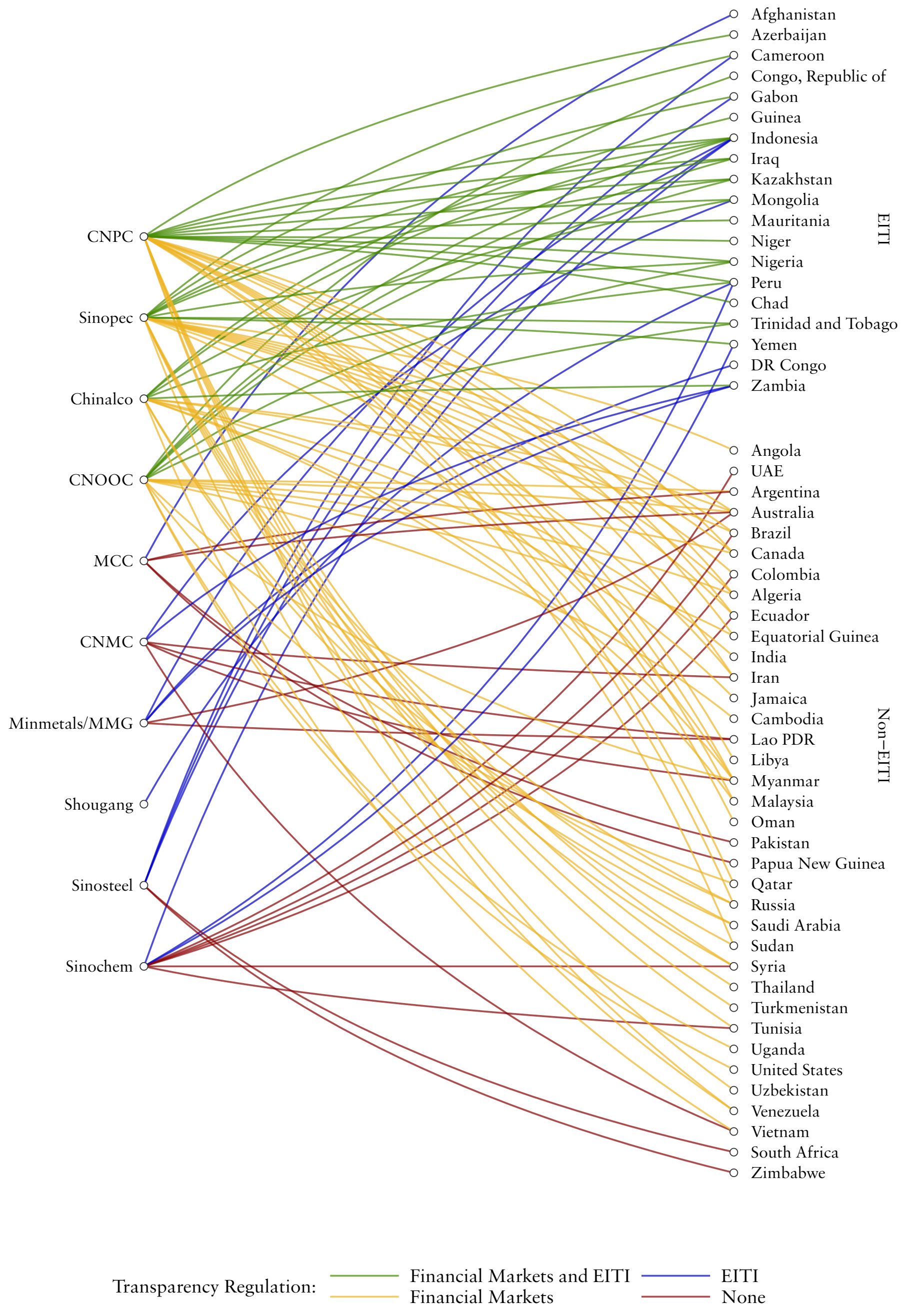
Table 16: EITI Reporting of Chinese SOEs

Country	**Reporting Company (Fiscal Year of First Disclosure)**	**Notes**
Afghanistan	MCC (2008)	
Azerbaijan	CNPC (2005), Sinopec (2007)	
Cameroon	Addax (2005)	The company was taken over by Sinopec in 2009. A representative of Addax is member of Cameroon's Multi-Stakeholder Group
Chad	CNPC (2007)	CNPC is member of the Multi-Stakeholder Group
Congo (Brazzaville)	CNOOC (2007)	
DR Congo	Anvil/MMG (2011)	Canadian company Anvil Mining was taken over by Minmetals' subsidiary MMG in 2011.
Gabon	Sinosteel, Sinopec (2006)	
Guinea	Chinalco	Through stake in Simandou Iron Ore Joint Venture with Rio Tinto
Indonesia	CNOOC, Petrochina (2009)	
Iraq	CNOOC, PetroChina (2009)	Sinochem and China Zhenhua Oil, a subsidiary of Norinco, also report on their oil purchases but do not actually produce oil. CNPC/PetroChina is member of the Multi-Stakeholder Group
Kazakhstan	CNPC (2005)	
Mongolia	PetroChina (2006), CNMC (2008)	CNPC is member of the Multi-Stakeholder Group
Mauritania	CNPC (2006)	
Niger	CNPC (2005)	
Nigeria	Sinopec-Addax (2009)	
Peru	CNPC (2005)	Through stake in Pluspetrol Norte
Tajikistan	No Reports	Broadtec Group, a Chinese mining company is represented on the Multi-Stakeholder Group
Zambia	CNMC (2008)	NFC Africa has publicly endorsed the EITI

Source: EITI Application Forms, Reconciliation and Validation Reports, various countries and years. http://eiti.org.

Figure 8 illustrates how the (host-country) implemented EITI regulations and accounting regulations in financial markets capture a significant part of Chinese foreign investment in the extractive industries. It plots 111 presences of 10 Chinese SOEs abroad, showing that 93 of these (or some 83%) are subject to some form of disclosure requirements.

Figure 10: Regulatory Exposure of Chinese Companies



EITI implementing (both compliant and candidate/suspended) countries are plotted on the top right-hand side. *Source: United States Geological Survey*, Companies' websites, http://www.eiti.org.

Of these, 29 are subject to transparency regulation both by virtue of the companies' listings and the fact that the country implements EITI. A further 51 links between companies and non-EITI countries would be subject to transparency requirements because of financial markets listings only, and the 6 companies that are not listed at US or European stock exchanges would need to disclose the financial dealings with host governments in EITI countries for 13 of their foreign operations.

CONCLUSION

The extractive industries are increasingly becoming subject to regulation. There are numerous initiatives, guidelines and campaigns that specifically address governance of the extractive industries and the associated problems in the field of transparency and taxation, the environment, and conflict. Many of these efforts of civil regulation go back to NGO campaigns that have gone some way to tame the markets in which companies do business. One fear is that, with the emergence of non-traditional investors, unilateral efforts aimed at mitigating the negative impacts of resource extraction are bound to fail. The state is largely an arbiter that is influenced by them, though state actors help "orchestrate" regulatory efforts.[159] NGOs are responsible for a shift in norms/ideas that have rather quickly permeated through various levels of international/global governance — home government, host government levels and international regimes. Regulation is still implemented through states, but increasingly this occurs in cooperation with NGOs and other non-state actors, who monitor corporate activities. Agenda-setting and policy formulation, too, happen through different actors and the primacy of states is eroding though not vanishing as there is a shift towards civil regulation. NGOs have created an environment in which it is difficult for globally-operating firms to escape. The role of civil society is two-fold: via market-based incentives their efforts elicit company responses in the form of CSR. Advocacy groups have also acted as norm entrepreneurs, and thus provided the basis for the adoption of more formal regulation.

Even though states do not exercise regulatory initiative but there are limits to NGOs' power. Particularly in relation to China, this "global division of regulatory labour"[160] where states are not only part but ultimately the locus of regulation, the reach of civil

[159] ABBOTT ET AL., *Strengthening International Regulation, op. cit.*, p. 511.

[160] LIPSCHUTZ ET AL., *"Regulation for the Rest of Us?" Global Civil Society and the Privatization of Transnational Regulation, op. cit.*

regulation would seem limited. This is both due to a weakness in China's domestic civil society which could pressure companies or the government as well as the preference of the Chinese government for state-centric regulation. China, where NGOs either cannot operate as freely or are not as well-organised or have little reach has not yet fully internalised the norm of extractive industries transparency, though there are signs that this is changing. To some extent the internalisation of norms is revealed by the Chinese administration's increased regulatory efforts in the fields of social responsibility, transparency, the environment or anti-corruption, much of these efforts appear to be geared towards creating or maintaining a good reputation. In terms of motivation this reveals that social approval and calculative considerations trump normative ones, with the possible exception of compliance with legislation as a deontological motivation. Chapter 1 has shown that social and normative motivations can lead companies to partake in and comply with regulation. There is considerable overlap between social and normative motivations for compliance, and both seem to be at play in China's growing exposure to and engagement with civil regulatory efforts. Chinese policy-makers and companies have cited reputational concerns as rationales for (self-) regulation, given the great degree of social demand for good corporate behaviour in the extractive industries. Even more, there are signs of normative motivations being at play, as companies and the Government[161] become accepting of regulation[162] engaged more actively in civil regulation and devise regulation that is substantively similar to that in place elsewhere.

Even those Chinese companies that still do not formally cooperate (proactively) in these forms of regulation are subject to it. Unlike their western counterparts, their behavioural shift is not driven as much by activism. The way much of this new regulation is structured, increasingly captures Chinese investors as well, as it works through markets. Regulation is market-based in two senses: in the general sense, Chinese companies do business in markets that, by virtue of NGO intervention have come to demand socially responsible behaviour. More specifically, their internationalisation and need to raise finances exposes them to financial market places, the most important of which are subject to formal regulation mandating transparency and socially and environmentally sound business practices. Thus even though China is reluctant to take a lead in multilateral regulatory efforts,

[161] While the Chinese government so far is "choosing not to adopt" EITI, they do show interest in it and increasingly EITI is "being talked about" amongst Chinese policy-makers and researchers, *Interview*, Lizzie Parsons, Global Witness.

[162] Lehmann Nielsen et al., *Mixed Motives, op. cit.*, p. 433.

Chinese companies do play along and emphasise compliance with local standards and indirectly become subject to multilateral regulatory regimes.

9

EXAMPLES

INTRODUCTION

This chapter will present two case studies which serve to illustrate points made throughout this thesis and bring together different aspects of China's rise in the context of two countries, Sudan and Zambia. The chapter supplements the evidence presented so far and will present two of the major ventures of Chinese companies abroad against the background of the argument made in this thesis.

The first study on Sudan shows the changing behaviour of the Chinese Goverment in response to global public pressure. Sudan serves as a hard case: as was suggested in the introduction to this thesis, much of the criticism directed at China is based on an overgeneralisation and extrapolation of the behaviour of China and Chinese companies in the early stages of their going abroad strategy, most notably the impact of China on Sudan's civil wars. The example of Sudan is not so much aimed at exonerating China for its actions in Sudan, but to show that China's changing role in international affairs is reflected even in the most notorious of China's foreign ventures.[1]

The second study on Zambia focuses on companies and the local context in which copper mining companies operate. The privatisation of Zambia's copper mines in the late 1990s resulted in a lax and weakly enforced regulatory framework. After privatisation, the sector generated few benefits for the government and left most mine workers in precarious employment. While none of the investors fare particularly well in terms of working conditions, salaries, or access to healthcare, criticism of foreign investors coalesced around Chinese companies. Human Rights Watch claims that the Chinese investors are "the country's worst" in terms of wages and safety record.[2] Although Chinese mining investors initially did fare considerably worse than their western peers, improvements in

[1] Power et al., *China's Resource Diplomacy in Africa, op. cit.*, p. 159, 245ff.

[2] Human Rights Watch, *You'll Be Fired if You Refuse. Labor Abuses in Zambia's Chinese State-owned Copper Mines*, Human Rights Watch, New York, November 2011, p. 3.

the regulatory framework, and popular outrage over corporate conduct has prompted these companies to change in order to protect their long-term investment interests and maintain their "social licence to operate".

This chapter will show that the political context matters more than the company, let alone its home government, even though these factors do play a role at times. In the cases of Sudan and Zambia, Chinese operations have been going on long enough to attract considerable local and international attention.

SUDAN

Sudan provides evidence relevant for a number of claims made throughout this thesis. It is the case from which many of the over-generalisations of China's role in the extractive industries derive.[3] In Sudan, China's initial reluctance to influence the Sudanese government and the provision of diplomatic backing, arms exports — and via oil sector development, also financial support (see Chapter 7) — led to a prolongation of conflict.

The Sudan study focuses less on corporate conduct, as the very presence of oil companies in the country had adverse effects on Sudan's civil wars. Even though the Sudanese conflicts were not originally fought over control of petroleum, oil development did play and continues to play an important role: its oil wealth allowed the prolongation of conflict and the protection of oil assets had a direct bearing on conflict. Their activities in Sudan brought a number of oil companies under pressure, and Chinese operations were not the only ones to come under fire for their operations in Sudan. Another company, the Canadian Talisman, came under criticism for operating in the country and amidst pressure from activists that translated to Government and financial market pressures, ultimately left the country, something that did not happen with CNPC. Western companies (mostly) left the Sudan given sanctions and public pressure, and this gap was readily filled by the Chinese, which is often cited as an example of weakening of western bargaining power vis-à-vis host governments and as an example of Chinese thirst for oil propping up dictatorships. Given its increasing interest in developing oil resources abroad, the Chinese government supported the Sudanese government diplomatically, although intensified economic ties meant China could not anymore remain blind to domestic Sudanese problems

[3] Daniel Large, "China's Sudan Engagement: Changing Northern and Southern Political Trajectories in Peace and War", *The China Quarterly*, 199:610–626, September 2009.

if it wanted to protect its business interests. The actions of the Government of Sudan damaged China's reputation, prompting China to react and while China had initially dragged its feet over the conflict in Darfur, it did eventually push the Sudanese government to allow UN peacekeepers, including Chinese ones. The section shows the changing behaviour of the Chinese government as a result of reputational pressures and also highlights the power of activists, which were able to influence — via states and markets as proxies — the behaviour of companies operating in Sudan.

Sudan also provides an example of change in Chinese behaviour. Since the start of operations in the late 1990s, there has been a shift both in foreign policy of the Chinese Government and the oil companies. This change is ultimately rooted in activist pressure that "trickled-up" and permeated into the international community and could thus affect Chinese directly. The history of the Sudanese oil sector is not exclusively dominated by Chinese companies. Western actors, too, have been linked to conflict and their exit of the country provided an opening for greater Chinese investment. The case provides an early example of private and public regulation and the role of civil society activism. As business ties deepened there was a move from investment generation to investment protection.[4] China's changing attitudes towards Sudan and its different responses to the North–South and the Darfur conflicts are also due to changed economic involvement in the country.[5] China played an important role to set up the UN/AU mission in Darfur and had an interest in ensuring peace between North and South Sudan, if only to protect oil investments straddling the borders.[6]

China's activities in relation to Sudan caused substantial damage for China's reputation. Much of the criticism directed at the operations of Chinese oil companies abroad is the result of one of CNPC's earliest investments abroad, those in Sudan. Sudan has become a "major cause celebre" manifested in public campaing.[7] Like Talisman before it, China has been targeted for its role as a supporter of the Government of Sudan; militarily inside Sudan and internationally, by campaigners and diplomats.[8]

Activism was not directly successful. While NGO pressure did create problems for the Canadian company Talisman by putting pressure on the Canadian and US governments

[4] LARGE, *China & the Contradictions of 'Non-interference' in Sudan, op. cit.*, p. 104. LARGE also notes that Malaysia and India pursued similar approaches.

[5] *ibid.*, p. 103.

[6] DOWNS, *China's Energy Rise, op. cit.*, p. 177.

[7] CARMODY ET AL., *Flexigemony and Force in China's Resource Diplomacy in Africa, op. cit.*, p. 501.

[8] LARGE, *China & the Contradictions of 'Non-interference' in Sudan, op. cit.*, p. 104.

(the latter being more easily persuaded), it was rather toothless with respect to China. However, I argue that the awareness it ultimately rose about oil and human rights in Sudan did translate into reputational damage for these companies as well, and — in the context of more substantial Chinese–Sudanese ties — ultimately helped to change China's behaviour.

Oil and Conflict

This section will concentrate on the actions of Talisman (a Canadian independent oil company) and CNPC, the Chinese National Petroleum Corporation. Oil companies entered Sudan amidst a long-standing civil war between the (northern) Government of Sudan (GOS) and the southern Sudan People's Liberation Movement (SPLM). Eventually, oil development and thus the oil companies became an important factor in Sudan's conflict(s) and control over access to it became part of the equation.[9] In its drive to protect oil installations, the Government cleared the area around installations and could make use of the infrastructure provided by and for oil operations. By 1997, the conflict, and Sudan's status as a sponsor of terrorism, had resulted in a US imposed ban on investment in Sudan, opening up the country's oil sector for Canadian European and Asian competitors.[10] Sudan was put on the list of sponsors of terrorism in 1993 by the US. Three years later, the US placed Sudan under sanctions, although a loophole that would have allowed US firm Occidental to operate in the country was not closed until late 1997.[11] Also in 1996, the UN placed Sudan under diplomatic sanctions in response to the country's refusal to cooperate regarding the assassination attempt on the Egyptian president in Addis Ababa.

Oil exploration in the country had been going on since before the 1990s — US major Chevron had found oil in 1978 but left the country in 1990 and sold its licence in 1992, both due to the security situation and home government pressure.[12] Even during Chevron's operation, oil was a factor in Sudan's civil war. Human rights abuses have

[9] Francis Deng and Stephen Morrison, U.S. *Policy to End Sudan's War. Report of the* CSIS *Task Force on* U.S.*–Sudan Policy*, Center for Strategic and International Studies, Washington, D.C., February 2001

[10] Leben Moro, "Oil, War and Forced Migration in Sudan", *St. Antony's International Review*, 2(1):75–90, May 2006, p. 75.

[11] *Executive Order 13067 of November 3, 1997 Blocking Sudanese Government Property and Prohibiting Transactions With Sudan.* Meghan O'Sullivan, *Shrewd Sanctions: Statecraft and State Sponsors of Terrorism*, Brookings Institution Press, Washington, D.C., 2003, p. 238. Ultimately the Sudanese Government was against the investment of a US company, given a previous US military attack on Al-Shifa.

[12] Luke Patey, "A Complex Reality: The Strategic Behaviour of Multinational Oil Corporations and the new Wars in Sudan", *Danish Institute for International Studies Report*, 2, 2006, p. 14.

been part and parcel of oil operations from the beginning.[13] The Sudanese government needed to protect its financial interests by ensuring control of the area where oil operations took place, which ultimately led to displacement of the civilian population.[14] By the mid-1980s oil field areas were effectively cleared of the civilian population, to ensure uninterrupted work. Chevron was subject to attacks by the SPLA, and was, in turn financing Misiriyya militias — known for harassing civilians — to protect installations.[15] This would recur later, as representatives of those who supplied its enemies with much-needed cash in the conflict, oil companies Talisman and later CNPC became targets of the SPLA.[16]

The sector became a target for SPLA given its economic significance and the potential of disrupting the North Sudanese economy. The militarisation of the sector also meant that Sudanese forces attempted to clear the settlements in the oil-producing areas for oil development to expand,[17] thus making oil companies a party in the war. Oil companies were not only criticised for the human rights abuses directly related to their operations (in the form of evictions) but also for giving the Government the ability to finance its military operations. The Government of Sudan used the Heglig airstrip in Talisman's concession for its war efforts.[18] Cooperation also included the sharing of (military) infrastructure and aircraft between the GOS and Talisman.

Talisman

Canadian firm Arakis started oil exploration in the concession. The Arakis concession was in the midst of the conflict area and the company had contracted Executive Outcomes, a private military company to protect its installations.[19] Arakis sold 75 per cent of its shares to CNPC as the company lacked the funds to develop the field on its own. In 1998, Arakis was taken over by Talisman, which gained a 25% share in the Greater Nile Petroleum Operating Company, GNPOC (of which CNPC, Petronas of Malaysia and Sudapet, the national oil company, held 40%, 30% and 5%, respectively) in 1998. It was

[13] Stephen Kobrin, "Oil and Politics: Talisman Energy and Sudan", *International Law and Politics*, 36:425–456, 2004, p. 441, John Harker, *Human Security in Sudan: The Report of a Canadian Assessment Missionaries*, Department of Foreign Affairs and International Trade, Canada, Ottawa, January 2000.

[14] Deng et al., U.S. *Policy to End Sudan's War, op. cit.*

[15] Douglas Johnson, *The Root Causes of Sudan's Civil Wars*, James Currey, Oxford, 2003, p. 83.

[16] Human Rights Watch, *Sudan, Oil, and Human Rights, op. cit.*, p. 436.

[17] Large, *China & the Contradictions of 'Non-interference' in Sudan, op. cit.*, p. 97.

[18] Leonardo Franco, *Situation of human rights in the Sudan* A/54/467, United Nations General Assembly, New York, 14 October 1999, p. 12 para. 77; Harker, *Human Security in Sudan, op. cit.*, p. 15.

[19] Now defunct, Executive Outcomes were infamous for its involvement in conflicts in Sierra Leone and Angola.

under Talisman's operatorship of GNPOC that Sudan saw its first oil exports in 1999. Like its predecessors, Talisman was complicit in human rights abuses. Displacement was a major issue — and became particularly serious after 1998.

After Talisman's entry to Sudan, human rights campaigners — Amnesty International, the American Anti-Slavery Group and the Canadian Inter-Church Coalition — started attacking the company for human rights abuses in the context of its operations in Sudan. As an independent oil company, Talisman only focused exploration and production, i.e. it did not refine or market its oil. It would thus be considerably less subject to pressure from consumer boycotts[20], but because it was owned by institutional investors these could exert similar pressure. The Company denied the existence of a problem of displacement, and claimed its operations and community programme as well as links to the Government acted as a positive force.[21] Neither Talisman nor later CNPC placed great importance on social responsibility, besides paying lip-service to their companies' commitment to corporate ethics.[22] The company also made the common CSR mistake of tokenism: The Harker report notes that while the company had built hospitals, local Nuer and Dinka were not given access. In 2000 the company signed an ethics code.[23] Talisman chose stakeholders themselves and limited participation to consultation.[24] Its CSR process was more about managing the process rather than understanding, which is also the result of the weakness of local actors to formulate ideas and exert pressure to change corporate behaviour.[25] Talisman claimed that it convinced partners from CNPC and Petronas to adopt ethics codes.[26]

Activist pressure on oil operators took various forms (see Chapter 8): In Talisman's case, it consisted of documenting and publicising human rights abuses, lobbying (institutional) investors to divest from Talisman's stock (also by linking them — through their stock holdings — to the human rights abuses in Sudan), pressuring the US and Canadian governments to take action against Sudan and the company as well as legal challenges at home.[27] Notably, the Sudan Divestment Taskforce (SDTF)[28] "[did] not seek to force all

[20] Kobrin, *Oil and Politics, op. cit.*, p. 437f; Luke Patey, "Against the Asian Tide: The Sudan Divestment Campaign", *Journal of Modern African Studies*, 47(4):551–573, 2009.

[21] Idahosa, *Business Ethics and Developments in Conflict (Zones), op. cit.*, p. 234.

[22] Harker, *Human Security in Sudan, op. cit.*, p. 27.

[23] Human Rights Watch, *Sudan, Oil, and Human Rights, op. cit.*, p. 418.

[24] Idahosa, *Business Ethics and Developments in Conflict (Zones), op. cit.*, p .239.

[25] *ibid.*, p. 240.

[26] *ibid.*, p. 237. Barry Nelson, "Talisman benefits Sudan", *The Ottawa Citizen*, 1 March 2001, p. A15.

[27] Kobrin, *Oil and Politics, op. cit.*, p. 439.

[28] http://endgenocide.org/who-we-are/our-history/

companies to leave Sudan", but instead use their economic clout to pressure the Government of Sudan.[29] The SDTF was able to target non-US companies active in the Sudan, by addressing institutional investors and demanding they, in turn pressure companies. The companies only made up a small part of funds' portfolios making it more feasible to divest from a given company.[30] Activists were successful in convincing some funds to divest.[31] The Campaign succeeded in convincing US to change legislation and the company was obstructed in the US in their efforts to raise funds.[32]

Eventually, Talisman's alleged complicity in human rights abuses was also investigated by the Canadian government. The Canadian Government commissioned a group led by John HARKER to produce a report, which lists numerous violations of human rights, including displacements, forced removals, killing of civilians and concludes "that oil is exacerbating the conflict in Sudan."[33] Rather than placing Sudan under targeted sanctions, as the report had recommended, the Canadian Government largely ignored the report it had commissioned and opted for "constructive engagement" with Sudan, in order to protect its business interests[34] but also to maintain the possibility to reach a negotiated settlement. The position of the Canadian government in relation to Talisman's investment in Sudan are not very different from the rhetoric the Chinese employed when CNPC's operations came under criticism. In sum, business, rather than human rights considerations drove the Governments position. The US, which did not have an business interests in the Sudanese petroleum sector responded more strongly. Talisman was openly criticised by the US government and when the US Congress was about to limit the company's access to its financial markets, it divested as it saw its share price drop.[35] In February 2000, the US Office of Foreign Asset Control imposed sanctions on members of the GNPOC consortium (including Talisman and CNPC), barring any US citizens from conducting financial transactions with members of the GNPOC consortium.[36] US Congress also passed the Sudan Peace Act.[37] The original bill sought to prevent shares of Sudanese oil companies to

[29] SUDAN DIVESTMENT TASK FORCE, *Sudan Divestment Resource Guide*, Genocide Intervention Network, Washington, D.C., 21 March 2008.

[30] PATEY, *Against the Asian Tide, op. cit.*, p. 558.

[31] TIAA-CREF, a US pension fund for teachers that held 0.2 per cent of the company's stock, removed Talisman from their portfolio. IDAHOSA, *Business Ethics and Developments in Conflict (Zones), op. cit.*p. 234

[32] PATEY, *A Complex Reality, op. cit.*, p. 18.

[33] HARKER, *Human Security in Sudan, op. cit.*, p. 15.

[34] IDAHOSA, *Business Ethics and Developments in Conflict (Zones), op. cit.*, p. 235. This had already been done in response to South Africa's apartheid regime where investment and trade were considered the best way to maintain influence (and keep business running).

[35] PATEY, *A Complex Reality, op. cit.*, p. 25.

[36] O'SULLIVAN, *Shrewd Sanctions, op. cit.*, p. 238.

[37] H.R. 5531, signed into law on 21 October 2002. USPL107–245.

be listed at US stock exchanges, but was ultimately dropped, and foreign policy interests trumped Human Rights concerns as the US needed the country as a partner in its "war on terror".[38]

Talisman was also sued under the Alien Tort Claims Act: individuals displaced from the oilfields brought a class action lawsuit in US federal district court for the Southern District of New York against Talisman and the Sudanese government.[39]

While Talisman's operations were a success in terms of profits as oil production was higher than expected, the company's valuation on the stock market did not reflect this — until Talisman eventually sold its interests. Talisman was not driven out of the country because of host-country political risk, but rather because of pressure at home. Citing political and legal risk in Sudan and the US, the company sold off its shares to Indian ONGC Videsh in March 2003.[40] The company's then CEO, James BUCKEE "said the decision to pull-out had been made because of "US pressures" which threatened to exclude Talisman from US financial markets" — indicating civil regulation and activist pressure could successfully work through financial markets.[41]

CNPC/PetroChina

China's investments gained prominence in a context that was different from the one experienced by Talisman. After the signing of the Comprehensive Peace Agreement between the GOS and the SPLM, international attention had shifted towards Darfur. Although oil operations themselves did not play a role in Darfur comparable to that in the North–South conflict[42], the remaining companies, above all CNPC, came under pressure because they offered diplomatic and financial support to the Sudanese government, enabling it to perpetrate genocide in Darfur.

[38] UNITED STATES, *H.R. 2052 Sudan Peace Act*, GPO, 2001, passed the House on 13 June 2001: http://www.irinnews.org/report/22200/sudan-us-state-department-opposes-peace-act: House Bill to Push Human Rights in Sudan Vexes Wall Street, WSJ 2001.

[39] US Presbyterian Church of Sudan vs. Talisman Energy Inc., Civ. Action No. 01CV9882 (AGS), S.D.N.Y., second amended complaint dated August 15, 2003. HUMAN RIGHTS WATCH, *Sudan, Oil, and Human Rights, op. cit.*, p. 496. The lawsuit was ultimately unsuccessful.

[40] MORO, *Oil, War and Forced Migration in Sudan, op. cit.*, p. 85.

[41] BBC NEWS, *Talisman pulls out of Sudan*, 10 March 2003.

[42] However, CNPC does hold rights to oil concessions located in Darfur. As an explicit ally of the NCP, China was attacked by those within the Sudan who sought to challenge the NCP. China's oil installations in Kordofan were attacked by JEM in October 2007. LARGE, *China & the Contradictions of 'Non-interference' in Sudan, op. cit.*, p. 101.

Even before Talisman had been successfully pressured to leave the country, Chinese companies were present in Sudan. Arakis' and later Talisman's need for financing, had allowed CNPC to purchase shares in the existing ventures of GNPOC. China's oil investments did not replace western companies as the Government of Sudan had already approached China in 1994 to invest in the country's oil sector.[43] China's role in Sudan is somewhat opportunistic and the consequence of other actors leaving the country.[44] For the Sudanese government, China provided a counterweight to the confrontational attitude to the US as well as an opportunity to develop its oil reserves, the latter also being the main motivator for the Chinese.[45] CNPC's investment was both in the company's and the government's interest.[46] CNPC's first share dates from 1995, and it acquired a 40% share in GNPOC in 1997.

Following the first oil exports in 1999, Sudan became an important exporter for China the county received about 10% of its oil imports from Sudan.[47] Since then, economic ties have further intensified and oil, though dominant, is no longer the only sector that links the two countries. Chinese-built or operated projects included the Merowe dam project, numerous bridges, power stations, the deepening of the port in Port Sudan.[48] And although China is the country's largest investor (see Table 18), Sudan was much less important to China than China to Sudan.[49]

In the 1990s Sudan was isolated and put under Sanctions by the UN and US — for China it thus became a competition-free, if challenging, investment opportunity.[50] Sudan's oil deposits suited the technological capabilities of CNPC as they are geologically similar to those found in China's Bohai Bay, which made it easier for CNPC to develop them.[51] Sudan is thus a case where Chinese companies had to content themselves with leftovers, which was suitable for investment of the then technologically inexperienced oil company, which was nonetheless prepared t take the political risks of investment in a conflict-ridden country. The investment was not entirely state-directed, CNPC lobbied China ExIm Bank to grant it a concessionary loan to invest in Sudan — not vice versa.[52] China's oil in-

[43] *ibid.*, p. 95.
[44] Large, *China's Sudan Engagement, op. cit.*, p. 615.
[45] *ibid.*, p. 615.
[46] Jakobson et al., *China and the Worldwide Seach for Oil Security, op. cit.*, p. 66.
[47] Large, *China & the Contradictions of 'Non-interference' in Sudan, op. cit.*, p. 97.
[48] Askouri, *China's Investment in Sudan, op. cit.*, p. 76 and Foster et al., *Building Bridges, op. cit.*, p. 28. These projects were plagued with human rights abuses as well.
[49] Large, *China's Sudan Engagement, op. cit.*, p. 616.
[50] Large, *China & the Contradictions of 'Non-interference' in Sudan, op. cit.*, p. 96.
[51] Jakobson et al., *China and the Worldwide Seach for Oil Security, op. cit.*, p. 66.
[52] *ibid.*, p. 66.

vestment (alongside partner ONGC of India and Petronas of Malaysia) was part of the Sudanese government's strategy to establish an oil industry in the country. Despite this, the GOS did not only serve Chinese interests and did not reward them as they might have expected.[53] The Sudanese were by no means only playing to Chinese interests and — once it had become an exporter and its bargaining position improved — it sought to diversify its investors and not become too dependent on the Chinese. Talisman wanted to sell its stake to CNPC in 2002, but the Sudanese Government awarded the share to ONGC Videsh of India.[54]

Talisman's exit, rather than causing an improvement of the human rights situation in the oil-rich areas of Sudan, merely resulted in a change of ownership and human rights abuses continued under CNPC's operatorship.[55] CNPC benefited from campaigns by the Sudanese military and southern militias that cleared population around oil installations, and protected operations from rebel groups. The Sudanese forces also used the infrastructure provided by the Chinese government to launch attacks against civilians.[56] Displacement continued, although by then Darfur had become the main issue.[57] Whereas displacements in Unity state can be linked to oil operations, in Darfur — where CNPC operates a concession in Block 6 — clearing population off the concession was not a main driver of displacements.[58] Like with Talisman, the Government of Sudan used the facilities of the project for military campaigns against southerners.[59] The Sudan Divestment Taskforce continued to publish advisories on which companies were "highest offenders" and largely "unengageable by shareholders or unwilling to consider altering problematic practices in Sudan" and warranted scrutiny.[60] Unsurprisingly, the Chinese government did not launch any investigation into the allegations brought forward by the various civil society actors. And even though CNPC had signed a code of ethics, following pressure

[53]Chinese oil companies had a similar experience in Angola, where they received much fewer licences as expected (Sinopec-Sonangol International had won licences, but when talks about buiding a refinery broke down, it relinquished them). SHANKLEMAN, *Going Global, op. cit.*, p. 76.

[54]JAKOBSON ET AL., *China and the Worldwide Seach for Oil Security, op. cit.*, p. 67.

[55]SUDAN DIVESTMENT TASK FORCE, *PetroChina, CNPC, and Sudan, op. cit.*, EUROPEAN COALITION ON OIL IN SUDAN, *Oil Development in northern Upper Nile, Sudan*, European Coalition on Oil in Sudan, Utrecht, May 2006.

[56]AMNESTY INTERNATIONAL, *Sudan/China: Appeal on the occation of the China–Africa summit*, Amnesty International, AFR 54/072/2006, London.

[57]LARGE, *China & the Contradictions of 'Non-interference' in Sudan, op. cit.*, p. 100.

[58]AMNESTY INTERNATIONAL, *Sudan/China, op. cit.*, p. 3.

[59]TAYLOR, *Sino-African Relations and the Problem of Human Rights, op. cit.*, p. 79.

[60]These were not only from the petroleum sector and not only from China, companies such as French/American oil field service provider Schlumberger were listed as well as Rolls Royce. SUDAN DIVESTMENT TASK FORCE, *Company Report*, Genocide Intervention Network, Washington, D.C., 12 February 2007, p. 5ff.

from its partner Talisman, the company did not respond to criticism. Only much later did the company produce a CSR report specifically on Sudan.[61] CNPC's CSR activities are fairly broad: besides health, safety and environmental issues, the company runs a number of "social welfare" programmes, that are similar to those of western IOCs. The company provided funds to Khartoum University to train petroleum specialists, water wells as well as funding for hospitals. While the company does not state the volume of its CSR activities in Sudan, data from the Aiddata project suggests that CNPC and subsidiaries implemented 38 projects in Sudan (and South Sudan). The monetary value of 27 of these projects amounts to 39.7m USD (see also Table 12).

Originally CNPC had planned an initial public offering for 1999, but this was abandoned because of US plans to bar Companies dealing with Sudan from US financial markets.[62] In 2002 however, PetroChina was successfully listed at the New York stock exchange, even though it was unable to raise as many funds as expected. Before floating PetroChina, CNPC took great care to build a "firewall" around its Sudanese operations. In contrast to other foreign ventures, which are held by PetroChina, the company's Sudanese assets formally belong to CNPC, though as the SUDAN DIVESTMENT TASKFORCE notes, due to cross-ownership and overlapping management, this is at best a legalistic distinction.[63] Divestment was not a major threat due to the fact that SASAC remained by far the largest shareholder, although divestment by well-regarded firms such as Warren BUFFET's Berkshire Hathaway could affect the share price. The activists' reach was limited to reputational damage and was somewhat successful in making stock market listings difficult for CNPC and its subsidiary PetroChina. Still, public pressure was followed by Berkshire's and Fidelity's divestment from Petrochina.[64] However, the funds did so gradually, and their decision appears to be unrelated to the Divestment Taskforces's pressure.[65] PetroChina's stock was unaffected by the sale.

Military cooperation between China and Sudan predates China's involvement in the Sudanese petroleum sector, between 1985 and 1989, China exported arms worth about USD 50m to Sudan.[66] In 1991, the National Islamic Front Government of BASHIR received arms worth an estimated 300m from the Chinese government (funded by Iran).[67] China's

[61] CHINA NATIONAL PETROLEUM CORPORATION, CNPC *in Sudan*, CNPC, Beijing, 2009.
[62] HUMAN RIGHTS WATCH, *Sudan, Oil, and Human Rights, op. cit.*
[63] SUDAN DIVESTMENT TASK FORCE, *PetroChina,* CNPC*, and Sudan, op. cit.*
[64] ALDEN ET AL., *Harmony and Discord in China's Africa Strategy, op. cit.*, p. 573.
[65] PATEY, *Against the Asian Tide, op. cit.*
[66] ASKOURI, *China's Investment in Sudan, op. cit.*, p. 75.
[67] LARGE, *China & the Contradictions of 'Non-interference' in Sudan, op. cit.*, p. 95.

Table 17: Military Expenditure in Sudan, 1996–2006 (millions of USD)

	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
Military Expenditure	106.33	97.73	259.96	429.62	587.27	388.09	484.61	398.11	1240.77	1165.00	1537.16
Central Government Expenditure	501.28	632.72	700.32	692.06	1112.70	1367.16	1540.09	2167.35	3285.78	3661.92	4945.05
Percentage of Military Expenditure	21%	15%	37%	62%	53%	28%	31%	18%	38%	32%	31%
Arms Imports from China		54†	0.197‡	0.099*	3	16	97	15.2*	25	11.5*	

Source: WORLD BANK, *World Development Indicators*, The World Bank, 2013 †SIPRI, ‡UN COMTRADE (Chinese Exports), *UN COMTRADE (Sudanese Imports)

economic and military support directly affected the GOS's war effort. China helped Sudan to develop an arms industry and built three arms factories in Sudan.[68] Its oil wealth, flowing since 1999, allowed the Sudanese Government to finance military operations. According to the World Bank's Sudan Public Expenditure Review, the country spent a large part of its revenues on the military (see Table 17). In the early 2000s, China was the country's largest supplier of arms and the country has contributed the bulk of weapons used in Darfur.[69] In 2006, a UN Security Council report noted that "most ammunition currently used by parties to the conflict in Darfur is manufactured either in Sudan or in China".[70]

International pressure (as well as desire to appear more responsible) "has compelled China to play a more active role in resolving the conflict in the Darfur region of Sudan", since as the largest investor in the country and a significant buyer of Sudanese oil it wields considerable influence over Sudanese politics.[71] CARMODY AND TAYLOR note that that given its foreign policy stance and the emphasis on sovereignty (but also against the background of slight changes in China's attitudes regarding foreign intervention, as a last resort with UN consent) oil was by far not the only reason for the country's reluctance

[68] *ibid.*, p. 98. CARMODY ET AL., *Flexigemony and Force in China's Resource Diplomacy in Africa, op. cit.*

[69] SMALL ARMS SURVEY, "Supply and Demand. Arms flows and holdings in Sudan", *Sudan Issue Brief*, 15, 2009.

[70] S/2006/65, 30 January 2006, *Final report of the Panel of Experts submitted in accordance with resolution 1591 (2005)*, p. 37.

[71] DOWNS, *China's Energy Rise, op. cit.*, p. 177.

to cooperate with the international community on the Darfur issues.[72] Internationally, China was subject to considerable criticism, and had difficulties reconciling its wish to be seen as a force trying to solve the conflict with its continued support for the NCP.[73] In the early 2000s, China dragged its feet over UN sanctions against Sudan, but by 2007 it had pressured the Sudanese government to accept a peacekeeping mission for Darfur. Even before international pressure regarding the "Genocide Olympics" had mounted, China had moved to address these issues (though LARGE notes that the calls for a boycott of the Games has served as a catalyst).[74] Within China, too, concerns mounted as China's NOCs operations in Sudan have caused headaches for the Chinese government. NOCs have been criticised for being motivated by profits, ignoring China's energy security concerns. RAINE argues that in Sudan, oil companies have effectively "hijacked China's foreign policy".[75]

In the initial stages of the Darfur conflict, China attempted to block resolutions to the crisis. CARMODY AND TAYLOR note that China's stance shifted from 2005 onwards.[76] As the issue of China's support of Sudan became a liability, the interpretation of the non-interference doctrine has become more flexible.[77] RAINE notes that "it is no longer quasi-sacrilegious in China to question the limits of sovereignty."[78] To assuage Sudanese concerns about its allegiances, China increased its investment and aid to the country.[79] In Darfur, China cautiously started to play a more positive role from 2007 onwards when China appointed a special envoy to Darfur.[80] In 2007, China appointed LIU Guijin as China's envoy to Africa to focus on the Darfur issue.[81] China's support for UN peacekeepers was against the GOS's wishes, and HU Jintao stated the living conditions of Darfuris needed improvement.[82] China still defended Sudan's sovereignty in the Darfur issue, and supported the NCP Government, but started doing so in the context of interna-

[72] CARMODY ET AL., *Flexigemony and Force in China's Resource Diplomacy in Africa, op. cit.*, p. 504.

[73] LARGE, *China & the Contradictions of 'Non-interference' in Sudan, op. cit.*, p. 102.

[74] *ibid.*, p. 100.

[75] SARAH RAINE, *China's African Challenges*, International Institute for Strategic Studies, London, 2009, p. 148.

[76] CARMODY ET AL., *Flexigemony and Force in China's Resource Diplomacy in Africa, op. cit.*

[77] POWER ET AL., *China's Resource Diplomacy in Africa, op. cit.*, p. 254.

[78] RAINE, *China's African Challenges, op. cit.*, p. 155.

[79] JONATHAN HOLSLAG, "China's Diplomatic Manoeuvring on the Question in Darfur", *Journal of Contemporary China*, 17(54):71–84, 2008, CNPC received new concessions in 2007, despite the Chinese pressure on Sudan and the government's decision to strike Sudan off the list of preferred destinations for foreign investment. RICHARD MCGREGOR, "Iran, Sudan, Nigeria off China incentive list", FT.*com*, 2007.

[80] NEWS, *China's 'peaceful rise' running into criticism, op. cit.*

[81] POWER ET AL., *China's Resource Diplomacy in Africa, op. cit.*

[82] LARGE, *China's Sudan Engagement, op. cit.*, p. 619.

tional/multilateral initiatives.[83] Much to the dismay of (North) Sudanese commentators, China did not veto any of the Darfur-related Resolutions, including the referral to the ICC, which made China a questionable ally in Khartoum's eyes.[84]

China's UN Ambassador WANG Guangya helped formulate a deal on the Annan plan and the country urged Khartoum to accept a UN–AU force.[85] China was explicit about having been important in doing so — a formal break with non-interference, and *Xinhua* emphasised that China was "pivotal" in securing Sudan's acceptance of the plan.[86] Resolution 1556 demanded the disarmament of militias in Darfur and called for an arms embargo. China abstained from voting on the resolution, saying the punitive measures such as an arms embargo were "not helpful".[87] China voted in favour on resolution 1679, which threatened with sanctions, should the Darfur agreement be violated and while abstaining from Resolution 1706, which extended the mandate of the UN Mission in Sudan to enforce the Darfur peace agreement, it did so only because it lacked explicit consent of the consent and cooperation of the Sudanese Government, but otherwise stated its support of "almost all the contents of the resolution."[88]

The shift in China's position is also the result of pressure from outside: Congress members pressured BUSH to put China's role in Darfur on the agenda in the context of his visit to the Olympics.[89] The US Senate passed a resolution "Calling on the Government of the People's Republic of China to use its unique influence and economic leverage to stop genocide and violence in Darfur, Sudan", given its unique power to do so.[90] Following pressure from the Safe Darfur Coalition, US Congress enacted the *Sudan Accountability and Divestment Act of 2007*, which allows local governments in the US to divest from companies that do business in Sudan.[91]

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[83] LARGE, *China & the Contradictions of 'Non-interference' in Sudan, op. cit.*, p. 101.

[84] ASKOURI, *China's Investment in Sudan, op. cit.*, p. 82.

[85] LARGE, *China & the Contradictions of 'Non-interference' in Sudan, op. cit.*, p. 100.

[86] XINHUA, *China is "crucial" persuader of Sudan peace plan*, 12 April 2007.

[87] UNITED NATIONS SECURITY COUNCIL, *5015th meeting*, S/PV.5015, 30 July 2004, ZHANG Yishan.

[88] UNITED NATIONS SECURITY COUNCIL, *5519th meeting*, S/PV.5519, 31 August 2006, WANG Guangya.

[89] AA.VV., *[Letter addressed to President George W. Bush]*, Congress of the United States, 30 July 2008.

[90] The resolution noted the Chinese govenments progress towards pressuring Sudan to end violence by not obstructing UN Resolutions supporting the Addis Ababa framework for a joint peacekeeping force, high-level visits an public statements. The resolution also notes a change in China's position in the UN Security council. UNITED STATES SENATE, S. RES. *203 Calling on the Government of the People's Republic of China to use its unique influence and economic leverage to stop genocide and violence in Darfur, Sudan.*, GPO, 2007.

[91] SHERYL STOLBERG, "Bush Signs Bill Allowing Sudan Divestment", *The New York Times*, 1 January 2008. Though the President retained the option of limiting divestment if it were to conflict with foreign policy objectives.

Table 18: Economic Ties between China and Sudan

Year	Annual Oil Production ('000 Barrels)	Total Exports	Exports to China	%	Total Imports	Imports From China	%	Total Oil Exports	Oil Exports to China	%	FDI Stock
1997	3,285	1,633.99			490.45						
1998	4,380	2,058.60	23.01	*1.12*	534.65	110.83	*20.7*				
1999	22,995	992.80	1.47	*0.15*	222.06				49.65		
2000	63,510	1,860.14	53.30	*2.87*	1,631.06	229.35	*14.1*		729.48		
2001	79,205	1,957.82	731.73	*37.37*	1,811.88	158.38	*8.7*	1457.99	937.31	*64.29*	
2002	87,965	2,492.75	938.13	*37.63*	2,008.04	219.89	*11.0*		1,156.24		
2003	96,725	2,897.85	1,441.82	*49.75*	2,480.42	478.42	*19.3*	1938.17	1,430.74	*73.82*	
2004	109,865	4,034.78	1,705.88	*42.28*	3,612.00	815.89	*22.6*	2779.79	1,659.44	*59.70*	171.61
2005	111,325	7,366.85	2,614.46	*35.49*	4,505.81	1,293.59	*28.7*	3738.54	2,574.49	*68.86*	351.53
2006	120,815	8,844.47	1,943.48	*21.97*	5,478.71	1,410.33	*25.7*	4790.41	1,872.08	*39.08*	574.85
2007	170,820	9,853.57	4,171.24	*42.33*		1,536.79			4,143.19		
2008	175,200	16,416.73	6,325.89	*38.53*	9,500.95	1,874.33	*19.7*	8685.09	6,291.45	*72.44*	528.25
2009	173,375	8,589.88	4,682.80	*54.52*	9,079.52	1,705.49	*18.8*	6951.48	4,644.71	*66.82*	563.89
2010	169,725	11,874.76	6,675.92	*56.22*	11,529.25	1,950.77	*16.9*	8565.98	6,556.93	*76.55*	613.36
2011	165,345	9,546.27	9,541.55	*99.95*	8,981.72	1,994.60	*22.2*		9,418.77		

Sources: United Nations, UN *Commodity Trade Statistics Database, op. cit.*, People's Republic of China, *2010 Statistical Bulletin of China's Outward Foreign Direct Investments, op. cit.*, BP, *Statistical Review of World Energy, op. cit.*, IMF Direction of Trade Statistics, China Statistical Yearbook.

ZAMBIA

Zambia also has considerable experience with Chinese investors. As very prominent investors in Zambia, China and Chinese companies, above all the China Non-Ferrous Metal Mining Company (CNMC), have been subject to popular (and sometimes violent) attacks. However, rather than being specifically linked to the origin of the copper mining companies, the woes experienced in Zambia's copper sector are inextricably linked to the privatisation of Zambia's copper mines and the adoption of a neo-liberal economic model that (further) weakened state capacity. In the early days of their operations labour standards were low across all companies in the sector, with Chinese state-owned companies faring particularly badly. In Zambia the operations of Chinese enterprises are characterised by change. This is due to a number of factors: reputational concerns following the popular backlash against Chinese in Zambia; greater efforts of Chinese companies world-wide to improve their image and adhere to standards (see Chapter 8) as well as the adoption of more effective regulation in the host country.

Zambia's Copper Sector

By 1991, as a heavily indebted country, Zambia was in the hands of international donors, who made debt relief conditional on privatisation and spending cuts.[92] During the 1990s the contribution of the mining sector to Zambia's GDP had steadily declined, from 16.7 per cent in 1994 to 6.1 per cent in 2000.[93] Between 1997 and 2000, at the behest of the International Financial Institutions, the Zambian state-owned company Zambia Consolidated Copper Mines (ZCCM) was split and sold off to private investors.[94] Zambia's economic fortunes are closely linked with the price of copper. At privatisation a metric ton of copper traded for around 1,600 USD, but world demand increased sharply between 2003 and 2007, from 1,700 to 7,200 dollars per metric ton. The global financial crisis caused another sharp downturn in 2008, and copper prices nearly halved by early 2009 before rebounding in late 2010.

[92] Alastair Fraser, *Zambia: Back to the Future?*, Global Economic Governance Programme Working Paper 2007/30, Oxford, 2007, p. 21.

[93] National Assembly of Zambia, *Report of the Committee on Economic Affairs and Labour*, 2010, p. 12.

[94] Alastair Fraser and John Lungu, *For Whom the Windfalls? Winners & Losers in the Privatisation of Zambia's Copper Mines*, Civil Society Trade Network of Zambia, Lusaka, 2007.

Six companies dominate Zambia's mining sector, UK/Indian Company Vedanta, Canadian companies Barrick and First Quantum Minerals, Swiss-based Glencore, and the South African Metorex and CNMC.[95] NFCA, a subsidiary of CNMC first invested in the country in 1998, when it took over Chambishi Metals. CNMC acquired the closed copper mine at Chambishi for 20 million USD. The company invested a further 150m to restart operations.[96] Since then, the company has further expanded its operations and acquired the Luanshya Mines in 2009 for 50 million USD.[97] It is also the owner of two copper smelters in the country. CNMC's investment in Zambia accounts for 60 per cent of all Chinese investment in the country and is heavily dependent on support from the home government.[98]

Weak Regulatory Framework and Labour Rights

Zambia's mining sector is characterised by a weak regulatory framework and privatisation has dismantled the social safety net previously provided by Zambia's state-owned miner ZCCM. Privatisation led to massive unemployment, between 1997 and 2001 the workforce was cut from 31,000 to 19,145[99] though employment in the sector has increased significantly since then, and it is now estimated that mining accounts for 90,000 jobs, 74,254 of which in the formal sector.[100] New jobs became contract-based or were merely casual, without pension entitlements that the ZCCM had previously afforded its employees. Of the five major mining companies, nearly one half of the workers were non-permanent.[101] Mining companies make use of contractors, who generally do more dangerous work and whose employment is more precarious.[102] In terms of contractors, Chinese companies, on average, compare quite favourably with their western counter-

[95] Zambia's EITI report shows 73 mining companies operating in the country; the relevance of these companies varies greatly, the smallest contributes the equivalent of 11 USD to the Government's revenues, the largest about 106 million USD (see Table 23).

[96] LEE, *Raw Encounters, op. cit.*

[97] LI PENGTAO, "The Myth and Reality of Chinese Investors: A Case Study of Chinese Investment in Zambia's Copper Industry", SAIIA *Occasional Paper*, 62, 2010.

[98] ANDERS BASTHOLM AND PETER KRAGELUND, *State-driven Chinese Investments in Zambia: Combining strategic interests and profits*, in: MEINE PIETER VAN DIJK, (ed.), *The New Presence of China in Africa*. Amsterdam University Press, 2009, p. 125.

[99] FRASER ET AL., *For Whom the Windfalls?, op. cit.*, p. 21.

[100] REPUBLIC OF ZAMBIA, *Preliminary Results of the 2012 Labour Force Survey*, Central Statistical Office, Lusaka, 2013.

[101] FRASER ET AL., *For Whom the Windfalls?, op. cit.*, p. 22.

[102] HAIRONG YAN AND BARRY SAUTMAN, ""The Beginning of a World Empire"? Contesting the Discourse of Chinese Copper Mining in Zambia", *Modern China*, 39(2):131–164, 2013.

parts, although there is some variation amongst the four CNMC-owned plants (see Table 19). Casualisation is a general feature of Zambian mining and not confined to Chinese enterprises, but during the raw materials boom in the late 2000s, workers' bargaining position improved and they were able to negotiate better deals.[103] In order to attract investment the government granted the companies significant tax incentives. Despite this, and against the background of low copper prices many investors (among them AngloAmerican) left the country in the early 2000s.

Table 19: Directly Employed and Contract Workers in Zambian Mines

	Direct	**Contract**	**Contractors**
First Quantum/Kansanshi	2,124	10,084	83%
Glencore/Mopani	8,475	8,708	51%
Barrick/Lumwana	1,827	3,947	68%
Vedanta/Konkola	8,371	15,138	64%
CNMC Luanshya†	2,630	2,259	46%
NFC†	979	2,454	71%
Chambishi Copper Smelter†	1,129	866	43%
Sino-Metals Leach†	399		0%
Chinese Companies	5,137	5,579	52%
without smelters	3,609	4,713	57%

† CNMC Group.
Source: ICMM, *Enhancing mining's contribution to the Zambian economy and society*, International Council on Mining & Metals, 2014, p. 33; China Nonferrous Mining Corporation Limited, *Global Offering, op. cit.*, pp. III–148ff.

Zambia's weak regulatory framework and limited capacities within the regulatory agencies (Mines Safety Department, MSD; Zambia Revenue Authority, ZRA; Environmental Council of Zambia, ECZ) allow corporate misconduct in terms of tax evasion or safety regulations to go undetected. Even in cases where companies are fined, regulations are outdated: the ECZ can impose fines for up to 144,000 Kwacha (approximately 37 USD)[104] the MSD approximately 135,000 Kwacha.[105] The mining companies' Development Agreements refer to environmental management plans, which take precedence over Zambia's environmental legislation.[106] When the ECZ tried to bring a legal case against the company for discharging acidic tailings into a river, the Minister of Environment overruled

[103] Lee, *Raw Encounters, op. cit.*, p. 128.
[104] Dan Haglund, "Regulating FDI in weak African States: a case study of Chinese copper mining in Zambia", *Journal of Modern African Studies*, 46(4):547–575, 2008, p. 560.
[105] Human Rights Watch, *You'll Be Fired if You Refuse, op. cit.*
[106] Abi Dymond, *Undermining Development? Copper Mining in Zambia*, Action for Southern Africa and Christian Aid, London, October 2007, p. 16.

the decision.[107] Accomodation between companies and the government (see Chapter 3 has weakened regulatory oversight. HAGLUND notes that, like in other African countries, large investors have close links with the political elites, using them to facilitate the relationship between the company and the government.[108] Even though it may be effective, the reliance on personal ties undermines regulatory agencies.[109] The MSD is understaffed and 26 of 60 positions of inspectors are vacant.[110] However, the agency's budget has increased from 600,000 to 1,090,000 USD.[111]

Chinese companies do not get a better deal than others in Zambia and the state receives relatively little from copper despite high prices.[112] During privatisation, the Government of Zambia tried to attract investors by giving significant tax incentives. Mopani Copper Mines and KCM were liable to pay a corporate income tax of 25 per cent, rather than a 35 per cent rate applicable in other sectors. While mineral royalties were set at 3 per cent of the value of produced copper, which in international comparison is at the lower end of mineral royalties, both companies negotiated a royalty rate of 0.6%.[113] In addition to the ability to carry forward losses, or accelerated depreciation for equipment (both of which lower taxable income and result in lower corporate income tax), the Development Agreements also included stabilisation clauses, which isolate companies from any tax hikes for a period of 15 years. While such incentives tend to be common in minerals taxation (see Chapter 3), they result in very little or no revenues for the Government and are discouraged in the OECD *Guidelines for Multinational Enterprises*.[114] A WORLD BANK study on Zambia's fiscal regime found that the marginal effective tax rate in the sector is zero.[115] Although the state holds interests in the mining ventures and should be entitled dividends,

[107]HAGLUND, *In it for the Long Term?, op. cit.*, p. 640, DYMOND, *Undermining Development? Copper Mining in Zambia, op. cit.*

[108]HAGLUND, *In it for the Long Term?, op. cit.*, p. 638.

[109]HAGLUND, *Regulating* FDI *in weak African States, op. cit.*, p. 561.

[110]HUMAN RIGHTS WATCH, *You'll Be Fired if You Refuse, op. cit.*

[111]HUMAN RIGHTS WATCH, *Zambia: Safety Gaps Threaten Copper Miners*, Human Rights Watch, New York, February 2013.

[112]PRICEWATERHOUSECOOPERS, *Independent Reconciliation Report for Year End December 2008*, Zambia Extractive Industries Transparency Initiative, 2011.

[113]Development Agreement, Konkola Copper Mines PLC, 31 March 2000 and Development Agreement Mopani Copper Mines, 31 March 2000.

[114]OECD, *Guidelines for Multinational Enterprises, op. cit.* These state that companies should "[r]efrain from seeking or accepting exemptions not contemplated in the statutory or regulatory framework related to environmental, health, safety, labour, taxation, financial incentives, or other issues."

[115]FOREIGN INVESTMENT ADVISORY SERVICE, *Sectoral Study of the Effective Tax Burden*, International Finance Corporation and World Bank, 2004, The marginal effective tax rate is the difference between the rate of return of investment before taxes and the after tax return that the amount would have yielded to savers.

these are not paid regularly.[116] The stability clauses in the Development Agreements were rendered void in 2008, when the Government adopted a new tax regime.[117]

The mining sector's contribution as a tax payer has increased, as has the quality of employment. The sector's importance as employer lies not so much in the number of workers, but in the fact that employment tends to be formal and remuneration high. In 2008, only 2% of employed Zambians worked in formal or formal mining, a figure that dropped further to 1.67% in 2012, though mainly due to an increase in the economically active population.[118] Despite these numbers — which are still above typical employment figures for mineral abundant countries[119] — employment in the sector constituted 26.3 per cent of pay-as-you-earn tax contributions in 2009.[120] In 2012, total employment in the formal mining sector stood at 74,254 persons.[121]

Faced with domestic criticism, and encouraged by NGOs and donors, the Government of Zambia tightened the tax regime for the mining sector in 2008 and again in 2011. In 2008, the Zambian Government voided all development agreements when it repealed the *Mines and Minerals Act* of 1995 and replaced it with the new *Mines and Minerals Development Act* Royalties rose from 0.6 to 3 per cent, income tax from 25 to 30 per cent to and the Government instituted a windfall tax that would generate extra revenues in times of high copper prices. The latter measure was repealed in 2009, as copper prices had dropped sharply and miners had threatened to delay investment and cut jobs.[122] In 2012, mineral royalties were further increased to 6 per cent. In 2009, revenues from mining companies accounted for approximately 22 per cent of government revenues (see Table 23), a figure which, according to data from the Zambia Revenue Authority has since increased to 32%.[123]

The weakness in Zambia's regulatory framework is only just beginning to be corrected by civil society pressure. Local civil society is limited, and NGOs often lack the capacity to monitor the fairly complex operations of extractive industries and pressure companies for

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[116] Xinhua, *Several Zambian mining joint ventures fail to declare dividends*, 16 June 2007.

[117] David Manley, *A guide to mining taxation in Zambia*, Zambia Institute for Policy Analysis & Research, Lusaka, 2013, p. 33.

[118] Republic of Zambia, *Preliminary Results of the 2012 Labour Force Survey, op. cit.*

[119] ICMM, *Enhancing mining's contribution to the Zambian economy and society, op. cit.*, p. 6.

[120] National Assembly of Zambia, *Report of the Committee on Economic Affairs and Labour for the Fifth Session of the Tenth National Assembly*, Lusaka, 2010, p. 3.

[121] Republic of Zambia, *Preliminary Results of the 2012 Labour Force Survey, op. cit.*, p. 12.

[122] Business Monitor International, *Zambia Mining Report*, Q3 2009, p. 6.

[123] ICMM, *Enhancing mining's contribution to the Zambian economy and society, op. cit.*, p. 7.

Table 20: Chinese and Zambian Workers at CNMC Mines

	Chinese	Zambian	% Zambians
NFCA			
Headquarters	33	229	87.4
Management	9	0	0.0
Admin	8	43	84.3
HSE	1	24	96.0
Security	0	95	100.0
Other (Sales, HR, Finance, Procurement)	15	67	81.7
Mining Department	15	591	97.5
Operations	5	446	98.9
Technical	7	10	58.8
Other (Equipment, Power)	3	135	97.8
Processing Plant	14	97	87.4
Contractors	326	2128	86.7
Total	388	3045	88.7
Total NFC staff only	62	917	93.7
CNMC Luanshya			
Management	9	2	18.2
Underground Mining	6	1337	99.6
Others	65	1211	94.9
Contractors	378	1881	83.3
Total	458	4431	90.6
Total CNMC staff only	80	2550	97.0

As of December 2011. *Source:* China Nonferrous Mining Corporation Limited, *Global Offering*, 20 June 2012.

compliance.[124] The Government of Zambia is reluctant to cooperate with NGOs for fear it might harm its relationship with foreign investors.[125] However, this is changing: Since 2008, Zambia is a member in EITI and Chinese companies (alongside others) disclose tax payments to the government.[126] The CNMC-related mining companies have also issued statements in support of the country's EITI process.[127]

By far the most salient issue about mining operations are the working conditions for miners. Much of this is a direct consequence of privatisation. Previously, in heyday of Zambia's command economy, ZCCM had a significant social role, e.g. by providing hous-

[124] Ndubisi Obiorah, *Who's afraid of China in Africa? Towards an African civil society perspective on China–Africa relations*, in: Firoze Manji and Stephen Marks, (eds.), *African Perspectives on China in Africa*, pp. 35–56. Fahamu and Pambazuka, Cape Town, 2007.

[125] Haglund, *Regulating* FDI *in weak African States, op. cit.*, p. 564.

[126] http://zambiaeiti.org.zm

[127] Hart Nurse, *Validation of the Extractive Industries Transparency Initiative in Zambia, op. cit.*

Table 21: Fiscal Terms in Zambia's Mining Sector

	2006	2007	2008	2009	2012
Royalties	0.60%	3%	3%	3%	6%
Corporate Income Tax	25%	30%	30%	30%	30%
Variable profits tax	No	No	Yes	Yes	Yes
Windfall profit tax	No	No	Yes	No	No
Mineral Royalty based on official prices	No	No	Yes	Yes	Yes
Loss carry forward	15–20 years	15–20 years	10 years	10 years	10 years
Capital expenditure allowance	100% for all CAPEX	100% for all CAPEX	100% for exploration, 25% for other CAPEX	100% for all CAPEX	100% for all CAPEX

Source: NATIONAL ASSEMBLY OF ZAMBIA, *Report of the Committee on Economic Affairs and Labour for the Fifth Session of the Tenth National Assembly*, Lusaka, 2010, ICMM, *Enhancing mining's contribution to the Zambian economy and society, op. cit.*

ing and health care[128], which the new owners did not take on. Privatisation, paired with a slump in copper prices created substantial unemployment and thus corporate leverage over the workforce.

Anti-Chinese Backlash

In Zambia, the benefits of increased economic activity in the sector were seen to accrue to outsiders. This "resource nationalism", paired with bad working conditions and accidents has led to the most visible group of investors, China being singled out for Zambia's woes.[129] The anti-Chinese sentiment is best understood as anti neo-liberalism.[130] HAGLUND argues that due to corporate governance Chinese investment is not sustainable, as its managers are motivated by short-term goals: Chinese expats remain in the country only for three years which limits the incentives for longer-term relations even at a company level, and promotes short-term profit-making.[131] CNMC's annual staff turnover is 8 per cent, and the company has stated its aim to reduce that number (inter alia, by increasing salaries) in order to build a more stable management.[132]

[128] NATIONAL ASSEMBLY OF ZAMBIA, *Report of the Committee on Economic Affairs and Labour, op. cit.*, p. 35.

[129] ROHIT NEGI, "Beyond the "Chinese Scramble": The Political Economy of Anti-China Sentiment in Zambia", *African Geographical Review*, 27:41–63, 2008, p. 59.

[130] *ibid.*, p. 48.

[131] HAGLUND, *In it for the Long Term?, op. cit.*, p. 642.

[132] CHINA NONFERROUS MINING CORPORATION LIMITED, *Global Offering, op. cit.*, p. III–150.

In 2005, 50 miners were killed in an explosion at one of NFCA's contractors, BGRIMM[133], an incident which raised concerns about safety and other regulatory standards at Chinese enterprises and severely affected China's image in the country. NFCA continues to be beset by strikes[134], though strikes are not unique to Chinese companies. In 2007 and 2012, there were strikes over wages at First Quantum's Kansanshi mine.[135] The Chinese privately-owned Collum coal mine has also witnessed violent conflict: In 2010, during a protest about pay and working conditions, two Chinese manager shot and injured 11 miners and in 2012 a Chinese manager was shot dead.[136]

In the 2006 elections, Michael SATA ran an anti-Chinese platform and the Chinese ambassador threatened to cut diplomatic ties should he win, an unusual step for a country that emphasises non-interference.[137] Anti-Chinese sentiment was such that China's then premier HU cancelled a visit to the Copperbelt region for fear of protests.[138] SATA eventually lost the election, but carried the districts with most Chinese presence, and anti-Chinese riots broke out in Lusaka. Against the background of anti-Chinese sentiment, the Chinese government attempted to do some damage control, by establishing a Special Economic Zone (SEZ) in Chambishi and cancel debt to the country.[139] POWER ET AL. note that the reason for the creation of the SEZ was to counter Zambian criticism of Chinese imports hurting the domestic economy. Investments in the SEZ are expected to amount to 800m to 1bn USD.[140] The Aiddata project lists 58 Chinese development projects in Zambia for the period between 2000 and 2012 (exluding corporate aid and joint ventures). The largest projects relate to the construction of power plants and transport infrastructure as well as debt cancellation. The total value of these projects amounts to 2.9bn USD.

In 2007, the company launched a CSR strategy, which included the provision or rebuilding of transport infrastructure, health projects such as an HIV/AIDS and malaria awareness campaigns, but also philanthropy in the form of donations to schools.[141] As part of its CSR strategy, the company also instituted an envrironmental, health and safety manage-

[133] Beijing General Research Institute of Mining and Metallurgy.

[134] WALL STREET JOURNAL, *Zambian Miners Riot Over Labor Dispute*, 19 January 2011.

[135] REUTERS, *First Quantum Zambia mine workers strike*, 12 July 2007, REUTERS, *Strike hits First Quantum's Zambia copper mine*, 2 March 2012.

[136] BBC NEWS, *Chinese bosses charged over Zambian mine shooting*, 18 October 2010, BBC NEWS, *Zambia seizes control of Chinese-owned mine amid safety fears*, 20 February 2013. In early 2013 the mine was seized and the company's licence revoked.

[137] CARMODY ET AL., *Flexigemony and Force in China's Resource Diplomacy in Africa, op. cit.*, p. 506.

[138] AL JAZEERA, *Zambia cancels Hu mine visit*, 1 February 2007.

[139] CARMODY ET AL., *Flexigemony and Force in China's Resource Diplomacy in Africa, op. cit.*, p. 506.

[140] POWER ET AL., *China's Resource Diplomacy in Africa, op. cit.*, p. 73–75.

[141] LEE, *Raw Encounters, op. cit.*, p. 140.

ment system and notes that its workers' safety programme and the availability of personal protective equipment go beyond the requirements of Zambian laws.[142] Before that, the company had virtually no community relations in place, whereas others such as KCM had provided health education and hospitals for their staff.[143] In 2012, CNMC was listed on the Hong Kong Stock Exchange. The company started publishing reports. Even before that, HAGLUND notes that firms' conduct has improved considerably.[144] Chinese companies do make (and disclose) social payments in Zambia.[145]

Table 22 presents an overview of social payments of major mining companies in Zambia and relates them to the operations' profitability (for which tax payments are used as proxy). While NFC Africa's social spending has increased towards the mid-field, in 2011, CNMC Luanshya accounted for about one sixth of social expenditures as reported to the EITI. Reporting on social expenditure is inconsistent. Expenditures vary widely across companies and years. For instance, First Quantum reported to have spent USD 4.8m on upgrading an airport runway as CSR, whereas it will surely benefit the company, given that Solwezi airport is only at 8km from the mine's site.[146] Similarly, between 2009 and 2011, CNMC spent USD 7.05m on the running of hospitals and schools, though these appear to be part of operations rather than voluntary CSR.[147] Reported figures in EITI reports are not audited and differ from statements companies made elsewhere: First Quantum reports social and environmental payments of 3,461,703, 9,832,119 and 21,352,212 for 2009, 2010 and 2011, respectively, while Mopani Copper Mines is said to make annual social contributions of about 15–20 million USD.[148]. According to the ICMM, social payments in 2012 were higher, with Glencore/Mopani, Vedanta/Konkola, FQM/Kansanshi and Barrick/Lumwana spending 30m, 24m, 13m and 2m, respectively.[149] Barrick's own report on community development states expenditure of 1.4m for 22 community projects

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[142] CHINA NONFERROUS MINING CORPORATION LIMITED, *Global Offering, op. cit.*, p. 187.

[143] JOHN LUNGU AND CHARLES MULENGA, *Corporate Social Responsibility Practices in the Extractive Industry in Zambia*, Catholic Commission For Justice Development And Peace (CCJDP), Development Education Community Project (DECOP) and The Zambia Congress Of Trade Unions (ZCTU), 2005.

[144] HAGLUND, *In it for the Long Term?, op. cit.*, p. 628.

[145] MOORE STEPHENS, *Independent Reconciliation Report for the Year 2009*, Zambia Extractive Industries Transparency Initiative (ZEITI), 2012, p. 39 MOORE STEPHENS, *Independent Reconciliation Report for the Year 2011*, Zambia Extractive Industries Transparency Initiative (ZEITI), 2014.

[146] FIRST QUANTUM MINERALS, *Sustainability Report 2012*, Vancouver, 2012.

[147] CHINA NONFERROUS MINING CORPORATION LIMITED, *Global Offering, op. cit.*, p. I–32.

[148] FIRST QUANTUM, *Sustainability Report*, [various], http://www.first-quantum.com; EIB, *Mopani Copper Project*, European Investment Bank, 31 May 2011, http://www.eib.org/infocentre/press/news/all/mopani-copper-project.htm

[149] ICMM, *Enhancing mining's contribution to the Zambian economy and society, op. cit.*, p. 71.

relating to schols, housing and health centres, though its total spending is USD 284,652.[150] While CNMC-related companies made just under 4m USD in social contributions (comparable to those of Barrick), their breakdown is not available. Projects — which appear to be somewhat less sophisticated in terms of development and sustainability than those of other mining companies — include hospitals, 18 university scholarships, building of a high school, donation of seed to farmers but also the sponsorship of a golf tournament and a USD 50,000 in 2013 to the First Lady's foundation.[151]

China's role in Zambia has also attracted NGO attention. In 2011, HUMAN RIGHTS WATCH issued a report on labour conditions in Zambia's Chinese-run mines which singled out CNMC for particularly bad working conditions and termed the company "the biggest violator of workers' rights."[152] The report, which garnered considerable media attention has been disputed by the president of Zambia's Mineworkers Union, who is quoted saying:

> "We cannot wholesomely condemn the Chinese-owned mining houses. Remember when we had the global crisis, no worker was retrenched at any Chinese mine. Yes, they have their own problems like mistreating workers and not following labour laws, but other mining houses are also culprits in this area. It is not only the Chinese mining companies."[153]

YAN AND SAUTMAN lambast HRW for "western-skewed" report, that over-generalises China's role in Africa (see Introduction). While standards in the sector in general are low, they argue that "CNMC does not fit into a binary of 'good' and 'bad': all mining firms in Zambia exploit the country's labor and natural resources."[154] Although NFCA's early practices were problematic, much has improved.[155] In terms of workers, NFCA was particularly reliant on contract labour, out of 2,063 employees, only 56 were permanent, whereas UK/Indian owned Konkola Copper Mines (KCM) employed about 30 per cent of its approximately 15,000 strong workforce on permanent contracts. The high number of casual workers had also adversely affected levels of unionisation, and only 52 NFCA em-

[150] BARRICK GOLD CORPORATION, *Responsible Mining. 2012 Corporate Responsibility Report*, Toronto, 2012, p. 47, 74.

[151] http://www.cnmc.com.cn/outlineen.jsp?column_no=18.

[152] HUMAN RIGHTS WATCH, *You'll Be Fired if You Refuse, op. cit.*, p. 22.

[153] LUSAKA TIMES, *Mineworkers Union of Zambia refuse to entirely blame the Chinese-owned mining firms over the 'flouting' of labour laws*, 5 November 2011.

[154] YAN ET AL., *"The Beginning of a World Empire"?, op. cit.*, p. 151.

[155] ROZEMARIJN APOTHEKER, *Foreign Copper Mine Companies in Zambia: Who Benefits?*, Master's Thesis, Universiteit van Amsterdam, Amsterdam, 2009.

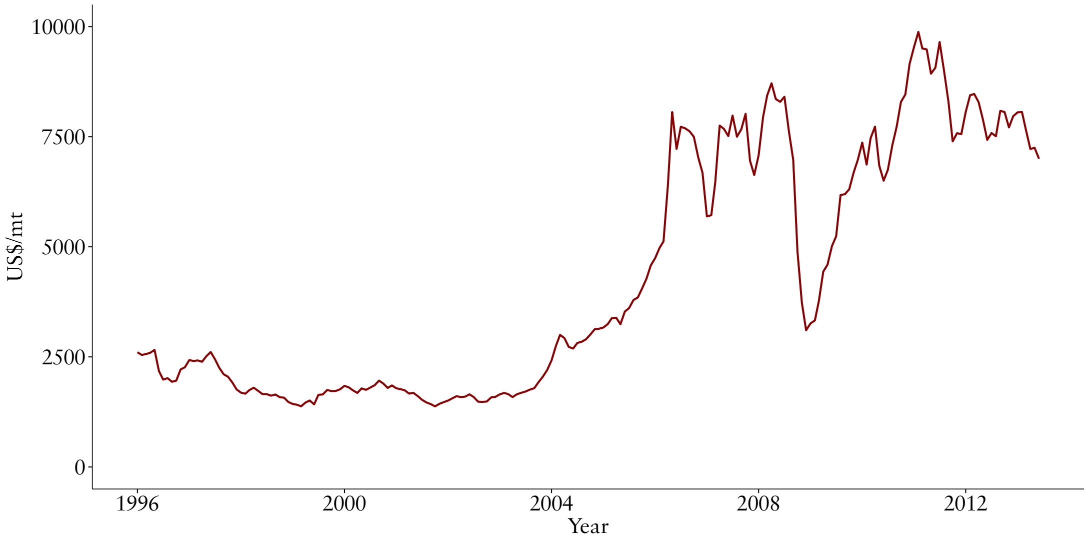
ployees were union members, earning the company the reputation as a "union buster".[156] In 2004 and 2006, two violent wild-cat strikes occurred at NFCA's Chambishi mine. Following the second strike, NFCA signed a collective agreement which included a 23 per cent pay rise (65 per cent including allowances). The company also made its contract workers permanent and elevated casual workers to contract status.[157] By 2009, about 70 per cent of NFCA employees were union members, on the upper end of the industry level of unionisation which range from 50 to 70 per cent.[158] From 2012 onwards NFCA made all positions permanent.[159]

Chinese companies, in Zambia and elsewhere, have been accused of importing labour from home, thus limiting economic opportunities for locals. Chinese companies do employ more international staff than other companies. However, in mining departments the level of Zambian employment is comparable to others, though once contractors and other departments are taken into account, the share of Zambians drops to about 90 per cent (see Table 20). For comparison, expatriate staff make up about 1–2 per cent of western mining companies, which, in international comparison, is low: in Peru and Tanzania foreign workers make up 8% and 17% of the workforce, respectively.[160] Luanshya fares a bit better than NFC, mainly because it is a continuation of operations after a takeover: individual circumstances do appear not only to cause variations across Chinese companies, but also across subsidiaries of the same company.

Even though CNMC employees have experienced pay rises, pay at Chinese-owned copper mines still compares unfavourably with the rest of the industry. Monthly salaries at the highest paying company, KCM, are around 3 million Kwacha (USD 600), while NFCA's average salary at Chambishi stands at around 1.7 million Kwacha or 340 USD.[161] At CNMC's Luanshya mine employees receive about 80 per cent of what KCM miners receive.[162] The salaries at Luanshya are higher, because the company took over more experienced staff from the previous owners. According to Human Rights Watch, since 2011, CNMC's subsidiaries have made notable improvements in terms of labour standards and cut working hours.[163]

[156] Fraser et al., *For Whom the Windfalls?, op. cit.*, p. 73.
[157] Lee, *Raw Encounters, op. cit.*, p. 143.
[158] Apotheker, *Foreign Copper Mine Companies in Zambia, op. cit.*, p. 53, 43.
[159] Yan et al., *"The Beginning of a World Empire"?, op. cit.*, p. 151.
[160] ICMM, *Enhancing mining's contribution to the Zambian economy and society, op. cit.*, p. 63.
[161] Caixin, *Zambian Workers Return to Jobs at Chinese-Owned Copper Mine*, 23 October 2011
[162] Barry Sautman and Hairong Yan, "Barking up the wrong tree", *Pambazuka News*, 563, 14 December 2011.
[163] Human Rights Watch, *Zambia, op. cit.*

Figure 11: Price of Copper Cathode since 1996



Source: IMF *Primary Commodity Prices*

Chinese mining companies have also been criticised for their safety record — though safety is an issue in all Zambian mines.[164] Sautman and Yan point out that CNMC's fatality rates are roughly proportionate to their share in the Zambian mining workforce, despite the fact that the company operates two — inherently more dangerous — underground mines, while other companies' operations are mixed: in the period 2001–2008, CNMC accounted for 7.2 per cent of the mining workforce and 8.3 per cent of fatalities. After the acquisition of Luanshya in 2009, the share of the workforce rose to 10.5 per cent, while the share of fatalties rose to 11.5 per cent.[165] They quote the MSD Chief Inspector of Mines who stated that in its first five years of operations NFCA's "was the worst mine in terms of safety", but that now, NFCA no longer stands out.[166]

CNMC's investment is long-term and to maintain its "social licence to operate" (see Chapter 7), the company tries to improve its image amongst the population in the Copperbelt. When copper prices fell sharply in 2008, approximately 10,000 miners were laid off.[167] As the Swiss-operated Luanshya mine ceased operations, CNMC acquired the mine and instituted a counter-cyclical policy of "four nots": not to cut back production, not to

[164] Fraser et al., *For Whom the Windfalls?, op. cit.*
[165] Yan et al., *"The Beginning of a World Empire"?, op. cit.*
[166] Sautman et al., *Barking up the wrong tree, op. cit.*
[167] Lee, *Raw Encounters, op. cit.*, p. 149.

cut back investment, not to hesitate to make new investment and not to lay off workers.[168] The company paid no royalties for Luanshya in 2009 after taking over from Enya, as the Government of Zambia made this concession as an incentive for CNMC to take over.[169]

[168] PENGTAO, *The Myth and Reality of Chinese Investors, op. cit.*, p. 8; YAN ET AL., *"The Beginning of a World Empire"?, op. cit.*

[169] *Statutory Instrument No. 66*, 2009.

Table 22: Social Payments in Zambia's Mining Sector

	2011				2009			
Company	Tax	Social Payments	% of Tax	% of Total Social Payments	Tax	Social Payments	% of tax	% of Total Social Payments
Kansanshi Mining/FQM	941,941,589	11,564,815	1.23%	52.53%	171,587,594	2,337,891	1.36%	7.34%
CNMC Luanshya†	21,478,669	3,582,099	16.68%	16.27%	3,995,046	1,333,532	33.38%	4.19%
Lumwana	139,519,712	2,724,486	1.95%	12.37%	45,431,629	1,010,503	2.22%	3.17%
Vedanta/Konkola	163,054,127	2,176,955	1.34%	9.89%	144,514,863	13,686,881	9.47%	42.96%
Glencore/Mopani	116,574,590	1,268,930	1.09%	5.76%	61,047,562	13,105,232	21.47%	41.14%
NFC Africa†	21,957,003	263,374	1.20%	1.20%	20,967,697	67,182	0.32%	0.21%
Lafarge	24,944,550	238,272	0.96%	1.08%	21,304,796	61,831	0.29%	0.19%
Chambishi Metals†	11,453,632	82,922	0.72%	0.38%	8,054,499	19,620	0.24%	0.06%
Ndola Lime	9,113,132	58,436	0.64%	0.27%	3,872,771	14,665	0.38%	0.05%
Chibuluma Mines*	47,398,285	39,918	0.08%	0.18%	12,472,652	48,751	0.39%	0.15%
Maamba Collieries	5,533,396	15,432	0.28%	0.07%				
Chambishi Copper Smelter†	7,548,880	412	0.01%	0.00%	8,226,714	110,583	1.34%	0.35%
Sino-Metals Leach†	2,487,823				2,307,570	59,453	2.58%	0.19%

† CNMC; * Chinese company.
Sources: Moore Stephens, *Independent Reconciliation Report for the Year 2009*, Zambia Extractive Industries Transparency Initiative (ZEITI), 2012, Moore Stephens, *Independent Reconciliation Report for the Year 2011, op. cit*. Exchange rate (Kwacha/Dollar) 2009: 5046; 2011: 4860.
Note: Minor contributors have been excluded from totals. Figures for First Quantum and Kansanshi have been aggregated. Numbers are based on stated company payments (rather than government receipts). Therefore, there are discrepancies with data provided in Table 23.

Table 23: The Copper Industry in Zambia

Mine	Main Investor	Origin	Government Receipts			
			2008	2009	2010	2011
Lumwana Mining Company	Barrick	Canada	33,168,436	45,849,507	118,117,847	139,577,569
Chambishi Metals	CNMC	China	19,800,613	8,128,605	4,901,844	11,433,252
CNMC Luanshya	CNMC (since 2010)	China	11,306,610	4,031,845	7,711,261	21,478,669
NFC Africa Mining	CNMC	China	20,537,493	21,160,664	22,930,497	20,983,121
Sino-Metals Leach (Smelter)	CNMC	China	4,912,157	2,328,819	1,342,576	2,198,235
Kansanshi Mining	First Quantum	Canada	233,290,380	127,958,411	311,327,525	872,729,250
Mopani Copper Mines	Glencore and First Quantum	Switzerland and Canada	57,380,248	61,609,162	75,895,348	116,667,216
Chibuluma Mines	Jinchuan Group (via Metorex)	China	23,252,086	12,587,343	31,377,638	46,700,462
Konkola Copper Mines	Vedanta Resources	UK/India	88,760,964	145,844,482	123,747,516	185,554,127
BHP	BHP Billiton	Australia		354,788		
Total			492,408,988	429,853,625	697,352,057	1,417,321,901
Amount of Copper (metric tons)			546,000	697,000	767,008	819,574
Export value† (USD)			3.802 bn	3.600 bn	5.782 bn	7.235 bn
Government's Tax revenue (USD)			2.547 bn	1.916 bn	2.685 bn	3.788bn

† Copper price 2008: 6963.48 USD/mt; 2009: 5165.30 USD/mt; 2010: 7538.37 USD/mt; 2011: 8828.18 USD/mt.
Exchange rate (Kwacha/Dollar) 2008: 3745; 2009: 5046; 2010: 4797; 2011: 4860.
Sources: IMF Primary Commodity Prices. International Monetary Fund, *Government Finance Statistics*, IMF, 2013; Philip Mobbs, *The Mineral Industry of Zambia in 2009*, in: USGS *Minerals Yearbook 2009*, volume III Area Reports — International, pp. 42.1–42.6. United States Geological Survey, 2010; Moore Stephens, *Independent Reconciliation Report for the Year 2009, op. cit.*; PriceWaterhouseCoopers, *Independent Reconciliation Report for Year End December 2008, op. cit.*; http://www.cnmc.com.cn/detailen2.jsp?article_millseconds=1318946120329&column_no=011501 http://www.kcm.co.zm.

CONCLUSIONS

Both cases show that it is the structure of resource extraction that conditions the way in which the extractive industries affect host countries rather than merely the companies' origin (or just the mere fact of resource exploitation). Oil needs to be extracted by companies — they provided the link to the foreign world and the Government of Sudan would not have benefited without the companies. But foreign companies also come with strings attached, and once the conflicts in Sudan threatened both business and China's reputations, the government ceased to be a active supporter or at least bystander in what had previously been considered an internal affair. In contrast to Talisman, China's oil companies were not subject to domestic criticism, but the lack of pressure at home did not mean that there was no pressure — the global nature of activism and its targeting of financial markets, Governments and China's reputation had created a situation which forced the Chinese government's hand.

In contrast to Sudan, the presence of foreign investors in Zambia is in itself not harmful — mining investment, above all CNMC's helped revive the economy in Zambia's Copperbelt, even though the investment benefits were heavily skewed towards the companies. The Zambian case has less of an international dimension: a weak regulatory environment and inadequate enforcement mechanisms, allowed Chinese and other companies to operate under low standards, though they do not appear to be consistently worse than their more established counterparts. As would be expected from the discussion in Chpater 1, they comply with domestic regulation (even though it might be inadequate), and in order to counter criticism directed at their operations, they have instituted responsibility programmes, improved salaries and addressed casualisation of labour. Not only have they moved beyond compliance, but they have also endorsed civil regulation in the form of the EITI. Zambia also shows that there is a great deal of variation across investors, regardless of their origin, but on most aspects of operations and responsibility programmes, Chinese companies appear hardly distinguishable from their western counterparts. In Zambia the issues are mainly labour related, although here — again — the sector as a whole appears to be the culprit rather than the actions of individual companies. In fact, their presence is what kept Zambia's copper mining going during a severe downturn in 2008. The Chinese operations were plagued with the same problems of those of other investors, but conflict crystallised around the Chinese.[170] Like in Sudan, there is an interest in protection of investments. Chinese companies, like western ones, need to maintain their social licence to operate, and the improvements in CNMC's conduct in Zambia need to be seen as a reaction to increased anti-Chinese sentiment in the country.

Activists initially focused on the Canadian company Talisman's role in the conflict between Sudan and South Sudan, but later (and after Talisman's divestment) shifted their attention to CNPC/PetroChina. As Talisman ultimately left the country, the tools of activists might have seemed to be blunted, given fewer reputational concerns of Chinese

[170] LEE, *Raw Encounters, op. cit.*, p. 149.

companies at home, fewer investors and less interest of their home government to constrain their companies' operations abroad. However a) western Governments' take-up of pressure was limited and b) China's firms were in a process of internationalising and were, in fact, hard-hit by the success of the divestment campaign which happened just as they were to float their subsidiaries on the international financial markets. Civil society activists were able to inform the public about human rights abuses in Sudan, linking them directly to oil operations. One means of pressure was the call for divestment, i.e. convince investors, be they private individuals or pensions funds, to sell stock they held in companies that did business in Sudan's oil sector. NGOs managed to publicise human rights abuses of companies and their complicity in the Government of Sudan's war effort, prompting a reaction of (western) Governments. China's early activities in Sudan as well as its initial reluctance to pressure the Sudanese government, surely do fit with the generally-held views of China as an irresponsible power that does everything as long as it can get its hands on oil. This is hardly surprising, given that Sudan has been the case from which much of the criticism of China has been derived. Direct pressure was less successful with respect to China and Chinese companies, but international awareness of the Darfur issue threatened China's reputation and meant that China could no longer ignore the issue.

The fact that regulation and pressure work and capture a large part of the industry, says nothing about the effectiveness of these measures: oil still flows and human rights abuses still continue. Patey blames the activities of Chinese companies and its Asian partners for the fact that Sudan is still an oil producer (rather than being isolated and placed under embargo) and that Asian oil companies serve as "roadblocks" for civil society activists.[171] Similarly, even though there have been improvements in the Governance of Zambia's mining sector, working conditions and the economic benefit of mining are still far from ideal.

An emphasis on sovereignty and non-interference or non-compliance with standards, works as long as relations are shallow, but once ties become closer, China's engagement also changed, as the episodes in Sudan and Zambia show. Investment and hard-won reputation needs to be protected. Still, China is pursuing "hard, realist interests" in Sudan, which forces the country to relax its non-interference stance, so conflict resolution was self-interested.[172] With increased pressure on Sudan, the prospects of the split of the

[171] Patey, *Against the Asian Tide, op. cit.*, p. 552f.
[172] Large, *China's Sudan Engagement, op. cit.*, p. 619.

country, and a deepening of economic ties, China had to deepen its political role, moving away from simply being a sponsor of the regime in Khartoum.[173]

In sum, both episodes show that China's integration in markets and the regulations that govern them is moving ahead: deepening economic ties with countries, the need to protect the country's or the companies' reputation as well as the reliance of companies on their social licence to operate and the need for financing mean that China and its companies are not simply performing a hit-and-run market entry. They do *not* just "come in, take out natural resources, pay off leaders, and leave"[174], and their support of authoritarian regimes has boundaries.

[173] Large, *China & the Contradictions of 'Non-interference' in Sudan, op. cit.*, p. 98; Large, *China's Sudan Engagement, op. cit.*, p. 611.

[174] Clinton, *Interview on Africa 360, op. cit.*

CONCLUSIONS

The aim of this thesis was to enhance the understanding of the impact of China's rise on governance in the extractive industries in resource-rich developing countries. China's need for natural resources and the growing international spread of Chinese enterprises, paired with its initial hands-off approach in foreign affairs have made it conceptually appealing to assume that access to natural resources accounts for the country's (and its companies') putative reluctance to submit itself to established rules and drives most of China's actions in foreign affairs and development.

The dominant narrative assumes that there is a grand strategy on the part of the Chinese government that successfully integrates diplomatic, economic and financial support with corporate strategies. The narrative also assumes that over the past 15 to 20 years there has been no change in that strategy from its early projects in Sudan, Zimbabwe or Angola and thus over-generalises from few cases. China's early ventures were indeed fraught with problems, and set the tone for the debate amongst commentators, policy-makers and to some extent, academics — but many assessments about China's motivations, strategies, or impact on governance are no longer accurate given China's increasing integration into global markets. Chinese investors are undergoing a change that took their western counterparts some 80 years to achieve. Neither "types" of investors — and to some extent their home governments — operates to the highest of standards, but this is not due to their different origins.

The first hypothesis related to the "China threat theory" and held that the rise of China and the impact of Chinese companies is not considerably different from that of established actors (anymore), that China was not a monolithic actor in which government and companies act effectively in concert, and that the behaviour of Chinese companies goes unchecked. Indeed, many of the purported negative consequences of China's rise are myths, and China is not the largely uncooperative, obstructionist spoiler it is often made out to be. First, internationally, energy security concerns are overblown — at least in the medium term, as increasing exploration and production (as well as production in states from which western investors have shied away) — increase energy security. Second, China's quest for natural resources does not necessarily lead to the propping up of undemocratic regimes (though late market entry forced companies to deal with and adapt to unsavoury regimes). Third, companies have become increasingly competitive, and rely less on finance and diplomatic support from their home government but make recourse to global markets. Competitiveness and commercial orientation, in turn, expose companies to markets, the regulations that govern them and the expectations of participants in those markets. This changes companies' incentives. As Chinese companies become more international and commercially oriented, they not only adjust to the — changing — regulatory environment they are exposed to but also start embracing it — though this process is by far not complete.

At root, there are two processes that account for the changed behaviour of Chinese companies in the extractive industries. First, a change within China (which nonetheless appears to be rooted in reputational concerns at an international level) that accounts, inter alia, for the adoption of CSR and broader regulation by the home government and is indicative of nascent internalisation of norms. Second, there is a change in the rules that govern the extractive industries globally. Increasingly, forms of civil regulation, in which the state plays only a secondary role captures corporate activities in the extractive industries. These part overlapping, part complementary rules make it increasingly difficult for large companies, irrespective of their origin, to escape them. In civil regulation on extractive industries transparency, markets are central: the unfettered markets and deregulation in resource-rich developing countries have contributed to much of the problems of resource extraction. At the same time, NGOs have to some degree injected a conscience into global markets, and it is those markets to which globally operating companies must adapt. But market-based regulation does not only mean the creation of incentives to which companies more or less voluntarily respond. Regulation is not only based on markets, it works through them and even though their operations might be global and thus in a hard-to-regulate space, large companies are anchored in financial markets which have become a vehicle for regulation.

The second hypothesis related to the explanation of why conventional wisdom on the impact of China's rise in the extractive industries is largely inaccurate, and why they behave increasingly like their western counterparts. As commercially-oriented enterprises (rather than tools of foreign and economic policy), they respond to similar incentives and increasingly operate in or rely on the same markets. This in turn means that they too are exposed to formal and civil regulation which they must abide by in order to maintain their reputation, and social licence to operate.

Most of the mechanisms which are usually cited as reasons behind these putative negative effects of China's rise rest on the assumption that the country is a single, coherent player that stops at nothing in its quest for overseas expansion and is untouched by outsiders' perception of it. This is inadequate as multiple interests and actors — sometimes competing, sometimes overlapping — are involved in China's overseas investment in the extractive industries. While China is certainly no headless chicken, the strategy is more aspirational than effective and resources do not merely flow to China because of the government's wishes but because the companies' strategies coincide with those of the government. China's rise is increasingly broad-based and not limited to resource-seeking investment anymore. At the same time, as an investor that has become more similar to its established counterparts, China and Chinese companies are ever more concerned about their reputation.

Market orientation and internationalisation change a company's incentives and exposure to regulation, and markets themselves have been — at least to some extent — tamed by the emergence of good governance in the extractive industries as a norm. While most of formal legal frameworks are ultimately implemented by states, they are rooted in activist pressure. Most new regulation ultimately works through market forces, be they reputation, a company's social licence to operate, or access to finance and CSOs can leverage companies' concerns about these. Large, visible and commercially-oriented companies with global aspirations cannot affort not to comply and cannot remain outside the emerging governance framework, and China is no exception. Over time, as the scope of their operations becomes wider, Chinese investors have adopted western ways, in terms of commercial behaviour, adherence to standards and technology.

Thus, there has been considerable convergence in norms and practices. This is the result of the way these companies are structured and run as commercially-oriented companies as well as an increase in scope of regulation of various forms that affect a broader range of companies (e.g. an improvement in host country regulation, or listing requirements in stock markets, and increasing responsiveness to reputational concerns). A change in norms accounts for the fact that even though often they are not formally part of co-regulation, they implement these regulations substantively and there is an embryonic cooperation and engagement with the civil regulatory framework. The disciplining qualities of markets and the emergence of good governance in the extractive industries as a norm facilitate regulation of any company that makes recourse to these markets. Interestingly, the institutionalisation of these norms also relies on the market as civil society actors have successfully leveraged reputational concerns which ultimately affect a company's commercial position and therefore induce companies to comply with existing regulation or to go "voluntarily" beyond compliance.

Chinese companies are becoming socialised into western markets and the process of China's socialisation is on-going and is accelerating. China's natural resource enterprises are here to stay, which has important implications for their behaviour. They adapt not only to local contexts, but also to existing global practices — even though the latter still leave much to be desired. Rather than inducing a regulatory downward spiral, Chinese companies are racing to the middle as international markets become better (if not well) regulated. Their commercial and long-term outlook precludes the adoption of a hit-and-run strategy that would ignore their social licence to operate. Still, Chinese companies do differ from established players — who themselves are not a homogeneous group — as well as amongst themselves.

Even those Chinese companies that still do not formally cooperate (proactively) in these forms of regulation are subject to it. The way much of this new regulation is structured, increasingly captures Chinese investors as well, as it works through markets. Regulation is market-based in two senses: In the general sense, Chinese companies do business in markets that, by virtue of NGO intervention have come to demand socially responsible behaviour. More specifically, their internationalisation and need to raise finances exposes them to financial market places, the most important of which are subject to formal regulation mandating transparency and socially and environmentally sound business practices. Thus even though China is reluctant to take an active role in multilateral regulatory efforts, Chinese companies do play along and emphasise compliance with local standards and indirectly become subject to multilateral regulatory regimes.

SUMMARY

Different resources affect institutions in different ways and overall, the effects of natural resources appear to be ambiguous and dependent on context. Although the approaches have yielded some useful conceptualisations of the mechanisms linking natural resource wealth and institutional and economic development, resource curse theorising alone does

not do justice to the complexity of the systems in which natural resources are extracted. Natural resources can weaken institutions. It is this weakened institutional context in which the private sector operates. Resource-curse theorising has mainly limited itself to the resource-rich state, and is mostly concerned with the corrosive effect of natural resource revenues on institutions. While this — apart from the provision of revenues — is largely independent from corporate behaviour, rentier states provide the context in which companies operate and to which they adjust. Resource extraction often occurs in the context of weak governance and companies (as well as their home governments' involvement) can exploit institutional weakness and might well perpetuate low levels of development in resource-rich countries. Neither natural resource production nor companies alone are responsible for economic and governance failures in resource rich countries.

To understand the effects of resource exploitation on development it is necessary to move beyond the resources and address the interrelationship between the agents exploiting these resources or benefiting from their exploitation. Rather than limiting the analysis to the physical characteristics of resources, the linkages with governments, communities, companies and other countries should be addressed when seeking an understanding of the role of different resources. Natural resources do not have agency and what impacts development is not simply a matter of whether a country produces oil, gold or diamonds. Rather than the resource itself, a determinant is the confluence of institutional quality and mode of production, the geographic location, physical characteristics such as lootability, and value and the social linkages and financial flows that are associated with the resource. Ultimately, these extractive systems do not stop at a country's border.

Natural resource wealth and development are often studied in reference to the state as a unit, which appears to be an inadequate approach: those who extract resources and the way in which they extract them matter. However, the lines of distinction appear to be not primarily along the origin of investors, but other factors such as sector or size, which are only partly — if at all — conditional upon home countries. While the Introduction to this thesis noted that the question of *who* extracts resources is often treated as secondary, one finding is that the *who* needs to be qualified: it appears that in a global market that is increasingly governed by the same principles, it is not so much the origin of a company that matters, but rather the size, sector and business strategies of those doing the extracting. While these in turn might well be co-determined by the origin; origin itself would appear to be not a very good predictor of corporate behaviour.

A company's impact is a function of the institutional environment in which it operates. Context matters more than the origin of the company — oil resources have been developed comparatively well in Canada, the US, Norway and the UK for instance, by some of the same companies that are associated with systematic violations of environmental standards, human rights abuses and corruption elsewhere. Conversely, supposedly high-standard companies such as BP or Exxon have caused considerable harm in the presumably well-regulated US. Not all negative aspects of resource extraction are the result of corporate behaviour, which also means that "not all the (under) development outcomes of mining or oil extraction activities are traced back to their 'Chineseness'."[1] The extent of the damage done is in no small part determined by the existing institutional weaknesses. As the dependence on large-scale mineral or oil production often centralises the state, the relationship between the state and foreign investors is managed by an elite whose interests might be more aligned with those of the investors than with citizens.

Extractive operations have been associated with environmental degradation or labour and human rights violations and mineral extraction often fails to generate the expected economic and fiscal benefits. The perceived unattractiveness of frontier areas leads governments to make significant concessions in their licensing rounds, often designing fiscal and other regulatory systems which are very favourable to investors but generate little revenue for the government and fail to correct the externalities of resource extraction. Some of these issues are intrinsic to mining and oil production (and can be mitigated) whereas others are a result of resource-rich states being unable to design or enforce regulation that would force companies to internalise the externalities associated with their operations. The extractive industries as such can be quite harmful. This thesis did not aim to assess whether the impact of China is positive or negative, but whether — given the track record of the industry — China is consistently significantly worse than other players, who themselves are often poorly performing. This is not the case: given the fact that established investors are hardly beacons of good conduct and that there are examples of Chinese companies submitting themselves to (self-) regulation and behaving according to best practice, this assumption is untenable: even though China's early foreign investment, China and Chinese companies are paying increasing attention to responsible (business) practices. Often, standard industry practice in terms of labour, the environment or transparency does not mean "best practice". Environmental degradation, corruption, human rights abuses and support for authoritarian regimes occur on both sides of the aisle, but

[1] González-Vicente, *Development Dynamics of Chinese Resource-Based Investment, op. cit.*, p. 47.

equally, efforts to constrain corporate behaviour and to make corporate conduct more responsible are found both amongst Chinese and established investors.

Natural resource extraction is more than a bilateral affair between host governments and companies, and other actors, parent governments, donors or NGOs are entering the equation. Donors and NGOs provide advisory services to improve the bargaining position of governments and their capacity to regulate the sector. NGOs have successfully lobbied companies to renegotiate agreements and act as providers of technical assistance in negotiation processes. While donors and NGOs seek to strengthen government capacities to oversee the sector and increase benefits from resource extraction and improve a country's bargaining position, the involvement of parent governments often has more adverse effects: given the relevance of raw materials supplies for home governments and the high economic stakes involved, governments of importing countries often become politically or economically involved in resource-producing regions. Given the importance many governments attach to raw materials security, on numerous occasions, the companies' home (or parent) governments have become involved in the politics of host governments or aimed to facilitate foreign direct investment of companies domiciled within their territory. Access to raw materials is a security issue for states and a commercial necessity for companies operating in the extractive industries. Even though business interests and home government's raw materials insecurity have at times determined foreign policy, it is all too convenient to reduce everything to "resource diplomacy" as the dominant narrative on China presented in the Introduction would have it.

Although home governments' foreign policy is not solely determined by access to raw materials, there are numerous instances where home government policy have not only directly benefited elites in resource-rich countries but have also helped companies to gain or maintain a competitive advantage. As a result, in the past host countries have often been relegated to the status of client states. All this would make it seem that the emergence of new actors would affect the nexus between resource extration and economic or developmental prospects of resource-rich countries. There is ample evidence that industrialised countries have at times tried to exert pressure for reform on authoritarian governments in resource-producing states, but often enough home government policy was characterised by inaction in order to ensure continued flow of raw materials. Such behaviour is not confined to China, even though its relationship with developing countries (many of which are abundant in natural resources), is usually framed that way. The negative effects of resource extraction are either largely independent of the origin of those who extract resources — even though Chinese policies and Chinese company behaviour have at times been detrimental, the Chinese are not alone in doing so.

With the rise of non-traditional investors, and the resulting increased competition for access to raw materials, power is shifting towards host governments, who suddenly find themselves in a position to choose between investors, donors and development models. China's investment and aid policies are not primarily driven by institutional quality in resource-rich countries and there is no systematic evidence that its trade and investment in raw materials are the main drivers of the country's aid giving. China's business and foreign policy ties are broadening and claims that China's drive to gain access to resource weakens the international aid regime or systematically supports human rights abusing regimes cannot be maintained.

Businesses do not fully control governments or vice versa, even if those businesses are state-owned and could presumably be agents of their home government. Raw materials investments cannot be studied in isolation of home governments but firms should not be seen as mere extensions of their governments. Although public and private interests may often coincide, companies and their home governments may have conflicting goals. Companies from emerging economies, including China, have been suspected of gaining "unfair" advantages over their western competitors as it is often assumed that the strategies of state-owned companies is bound to be linked more closely with the foreign policy goals of their parent government. It is at least conceivable that China's extractive industries are implementing the governments raw materials strategy — but the way Chinese companies relate to their home government and their organisational structure mean even those state-owned companies are not merely an arm of their government that implements a master plan to gain access to natural resources abroad.

The actions of Chinese enterprises are often identified with the interests of the government. Being government-backed, in turn, would give them the opportunity to behave anti-competitively and pursue Chinese foreign policy objectives. This masks the fact that Chinese companies are powerful not because of the support of their home government but because they are important to the government at home and increasingly because they are becoming economically powerful players abroad. Despite being state-owned, Chinese NOCs and mining companies are far from being fully under the control of the government. The congruence of the government's energy security strategy and the companies' strategy to gain access to concessions does not mean one controls the other. Where there are links between the government and the oil companies, these are defined by the companies rather than the government: at times it appears as if it were the oil companies, rather than the state who drive Chinese investment abroad. All of this is not to say that support is absent: for large projects companies have — just like their established counterparts — been able to draw on diplomatic and financial support.

The commercial character of these enterprises helps to explain the fact that they do not (anymore) behave in a way that would distort competition disproportionately or rely on government support for their commercial survival. That the Chinese government is far from having full control over the strategies of companies goes a long way in refuting some of the claims for the reasons of their behaviour. Financially, Chinese companies do receive aid from the government, but given profitability and ability to access finance elsewhere they are less dependent on home government support than commonly purported. Many of the criticisms directed at Chinese companies, their alleged freedom from public opinion and unconditional government support do not hold for what are now mostly commercial enterprises. They have privatised subsidiaries, which makes them more responsive to commercial considerations and more market-driven. In fact, at times the investment decisions of companies have created headaches for the Chinese government. Chinese NOCs are thus becoming rather similar to traditional investors. Their increasing commercial outlook as well as the resulting fact that they are put under scrutiny — globally, but also at home as the government's concern with the reputation of Chinese businesses and the consequent adoption of home government regulation shows — similar to that of their IOC role models, goes a long way in explaining why they increasingly conduct their business according to the nascent global practices. This goes against arguments that the foreign companies are only able to grow because of their home governments' support. Both companies and the government have learned and adapted to western standards when it comes to operations.

Oil and mining companies increasingly attach a great deal of importance to their social and environmental impacts at home and abroad and attempt — with varying success — to mitigate the negative impacts of their operations and promote development in the communities in which they operate. They started doing so mainly as a response to activist pressure that publicised corporate wrong-doing and forced companies to protect their reputation, though increasingly CSR has become an operational necessity. Chinese companies have ceased to be the exception: their exposure to (western) markets has meant that reputational concerns are increasingly relevant for Chinese companies and the government — they need to take into account their social licence to operate, and their reputation with those with whom they do business. Their established counterparts went through a phase of NGO and consumer pressure that ultimately led them to adopt socially responsible business principles. By now, CSR has become an industry standard, and Chinese companies have emulated this strategy, even without a great deal of public (or home government) pressure.

Some of the negative impacts of resource extraction are — with varying success — actively by companies though CSR strategies. CSR strategies and corporate codes of conduct designed at the level of a company's headquarters do not always translate well into changes of corporate conduct at the operational level and their effectiveness in fostering development remains questionable. Companies can be a positive force, but often enough the effectiveness of CSR in terms of mitigation of problems caused by a company's operations differs strongly from the success of CSR as a marketing instrument.

Western companies do not set the bar very high but Chinese are following, albeit belatedly. CSR in China is by no means non-existent, but it is not as developed as amongst IOCs, and the implementation of CSR programmes is a fairly recent phenomenon and their scope and reporting practices continue to lag behind. For Chinese companies (and the Chinese government) CSR is used explicitly as a tool to improve their reputation. Whereas the western CSR was largely the result of external, NGO-led pressure, in China, it is the Government that, for the most part, drove the agenda by mandating socially responsible business practices . While this applies to Chinese firms at large, it is somewhat different with respect to the oil companies, who, in their drive to internationalise and emulate western companies were — by Chinese standards — early adopters of the CSR agenda (though Chinese companies' did historically have social roles, these differed from western-style CSR and social reporting). Chinese oil and mining companies are entering a mature industry which has already largely embraced CSR. The oil companies' CSR reporting is also a reflection of their strategy to become more like established companies: they need to embrace CSR to compete, maintain or build their reputation, not least to access capital but also to maintain their "social licence to operate". For commercial and reputational reasons, Chinese companies have had to submit themselves to what had become international norms for corporate conduct. CSR stops short of formal standards or even industry self-regulation and the vagueness of the concept and different interpretations of it allow companies, regardless of their origin, to reduce CSR to tokenism.

Change in business practices is not limited to CSR and numerous other forms regulation have emerged. Civil regulation provides a regulatory framework in which NGOs and other civil society actors are included next to state and corporate actors. Though China is behind the curve in terms of participation in these initiatives, the way they are designed means Chinese companies are subject to them. The emergence of transparency as norm is incomplete and China played virtually no role in its emergence. The institutionalisation of the norm however, captures Chinese companies. Thus Chinese companies are by far not unregulated, but neither is their regulation complete. They have opened themselves up to regulation. Given China's still limited embrace of the emerging norms and the country's preference for state-based regulation, the extent to which these new regulatory efforts capture of Chinese companies still largely depends on NGOs', or indeed western companies' ability to incorporate states that govern those market places on which extractive companies rely. However, change — however embryonic it may be — is under way: while China remains largely passive in the global governance frameworks and mostly mimics and adjusts to developments of civil regulation, there are signs of increasing acceptance of emergent norms. A key finding of this thesis is that companies are becoming less reliant on their government and more market-based and internationalising, and this internationalisation drives their responsiveness to norms that govern these markets. The differences between oil and mining companies from China in terms of application of voluntary standards appears to match this observation. Chinese mining companies have fewer international operations and less exposure to international practices, and they appear to be lagging behind their petroleum-extracting counterparts.

IMPLICATIONS FOR FUTURE RESEARCH

This thesis has shown that the nexus between natural resources and development is conditioned by much more than the host governments' institutions and the type of resource extracted. The presence of foreign investors as well as the notion that current governance arrangement in the sectors are inadequate imply that a complex network of actors and interests shape resource extraction and that knowledge of these actors, their interests and their relationships is crucial to understanding the impact of natural resource extraction. The findings of this thesis help generate new hypotheses for further research. While the origin of a company — at least in the case of China — does not play a major role, its place in the international market does. Companies that rely on expansion and the market need to consider reputation, even if reputational concerns are only indirectly imposed on the company.

This thesis has put forward an argument that accounts for change in the behaviour or impact of Chinese companies in the extractive industry, namely an international (or at least western) norm emergence on extractive industries transparency and the subsequent implementation of regulations. This is fairly specific, and the extent to which this result is generalisable would need to be tested. As outlined in the introduction, initially the scope of this thesis would have included companies from other origins, e.g. Russia, India or Malaysia. These state-owned companies are much less studied[2] and scrutinising their operations, policies and exposure to regulation can help test the external validity of the arguments presented here.

SIZE MATTERS Chapter 2 has briefly touched upon different modes of extraction. While certain raw materials are bound to be extracted by large multinational companies, some others give rise to different modes of production. Smaller deposits tend to be less attractive to large concerns. This research still leaves a considerable gap — company size. As reputation (or vulnerability to reputational pressures) or access to finance in international markets matter, small companies can fly under the radar. China's rise has also seen the emergence of "a myriad smaller, independent entrepreneurs".[3] While the latter are not the subject of this thesis, one important finding indirectly relates to them: whereas I argue that the large Chinese SOEs are becoming more and more similar to large private western companies, this is not necessarily the case for smaller enterprises (regardless of origin). These can "fly under the radar" much more easily, have fewer incentives to comply with civil regulation, and generally less capacities to behave as good corporate citizens. POWER ET AL. note that Chinese investment needs to be deconstructed, i.e. that there are differences according to size and ownership of the investors, all of which are likely to have different impacts.[4] Ultimately it is less the origin of a company that matter in the long-run, but its size (and sector). Once operations become large enough, companies become embedded in global finance, regulation and public opinion, which provides them with commercial opportunities but limits their options of not playing by the rules. Smaller companies on the other hand do not face this problem. They may not receive government support, they are also out of the eye of activists due to their lower profile and campaigners have little to gain from expending resources on such companies. Stock-

[2]Though see: DAVID VICTOR, DAVID HULTS AND MARK THURBER, (eds.), *Oil and Governance. State-Owned Enterprises and the World Energy Supply*, Cambridge University Press, 2012.

[3]POWER ET AL., *China's Resource Diplomacy in Africa, op. cit.*, p. 17.

[4]*ibid.*, p. 205f.

market regulations might not apply if they have not issued securities and there might be less technological expertise or willingness to comply. In those situations the drivers of corporate behaviour are likely to change. Chapter 1 noted that some, smaller and generally privately owned companies might have less sustainable business strategies, and small privately held (and not listed) companies have little incentives to care about issues of transparency or development.[5] Without need for access to financial markets and little public exposure smaller mining companies are likely to be able to fly under the radar. While the origin of a company would be an increasingly unreliable predictor of corporate standards when it comes to large projects, it could still be a driver with respect to smaller, private enterprises.

EFFECTIVENESS OF REGULATION This thesis has not addressed the operational impacts of Chinese corporate activities (or that of any company) in great detail. Numerous sources of information and initiatives have only come into being recently and the wealth of information that these provide has only partly found its way into this thesis. Governance failures are being more thoroughly documented and once Chinese (and other) companies have operated long enough, researchers can assess their impacts on governance. The emergence of norms on extractive sectors governance is incomplete and their institutionalisation seems to be stuck at the lowest common denominator; companies are reluctant to go beyond it and are averse to mandatory and more formal regulation. Although the concept of transparency is popular amongst NGOs and donor agencies, the effectiveness of transparency regulations in the extractive industries is far from assured and while initiatives such as EITI have found broad acceptance amongst donors and companies, NGOs campaign for stricter standards and argue that transparency in itself is not sufficient to enable accountability.[6] In any case, by its very nature transparency is a boon for researchers, and in time it will be possible to assess the effectiveness of extractive industry regulation.

INDIVIDUALS AND NORM EMERGENCE Norm shifts are also supported by personal ties and the boundaries between donors, companies, NGOs and academia are rather permeable. What is the role of individuals and how do they relate to the successful promotion of norms? For what reasons? There is considerable overlap and exchange between

[5] *Interview*, Francisco PARIS, EITI.
[6] *Interview*, Marinke VAN RIET, PWYP.

the realms of academia, donors and NGOs.[7] The business conflict literature notes the personal ties between governments and the private sector[8], and similar arguments can be made for NGOs and norm entrepreneurs, where NGO staff join the social responsibility departments of mining companies, or donor staff become campaigners.

THE DOMESTIC CONTEXT For this thesis, the analysis of the domestic context has largely been limited to the institutional weaknesses in host countries which provide a fertile ground for mismanagement of natural resource revenues and lax regulation. Regulation has relied on home or donor governments supporting (or imposing) and implementing what the INGOs as norm entrepreneurs have demanded. I have not addressed the civil society networks in detail: while INGOs have made use of domestic actors to collect and disseminate information about their cause and to legitimise it, the relationship between these is under-explored. To what extent are these groups driven by those INGOs with which they are linked? How do ideas and practices spread? Existing modes of regulation may have these actors as participants, but the effectiveness of these regulatory initiatives (which this thesis was not concerned about) crucially depends on the involvement and capacities of civil society in host countries.[9] While there may increasing convergence between Chinese and western companies at large, there appears to be a great deal of within-group heterogeneity. Every company and every project operates in a different context. In the context of this thesis an in-depth study at project level would have precluded generalisable results about the drivers of Chinese behaviour in general. The study of domestic extractive networks — along the dimensions identified above and throughout this thesis, i.e. ownership and size of company, interests and individuals, corporate practices and foreign involvement — will advance the understanding of the links between natural resources and development.

[7] Anecdotal evidence from this author's personal experience with the German Government's support for EITI would suggest that rationalist explanations exist alongside conviction: Once others took over and German exposure as a driver for EITI was on the wane, little was to be gained from actively supporting the issue (rather than just continuing support for its slightly inadequate incarnation).

[8] Gibbs, *The Political Economy of Third World Intervention, op. cit.*

[9] Aaronson, *Limited Partnership, op. cit.*

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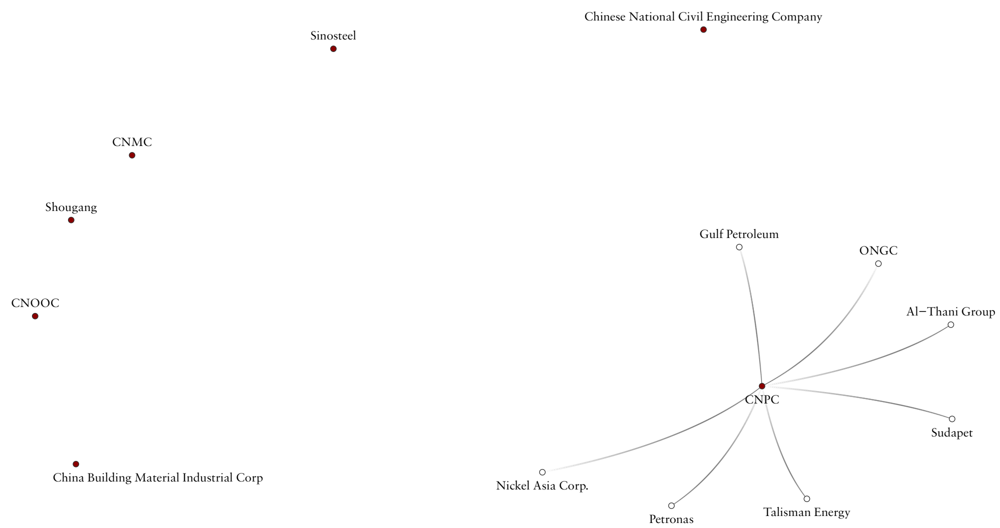
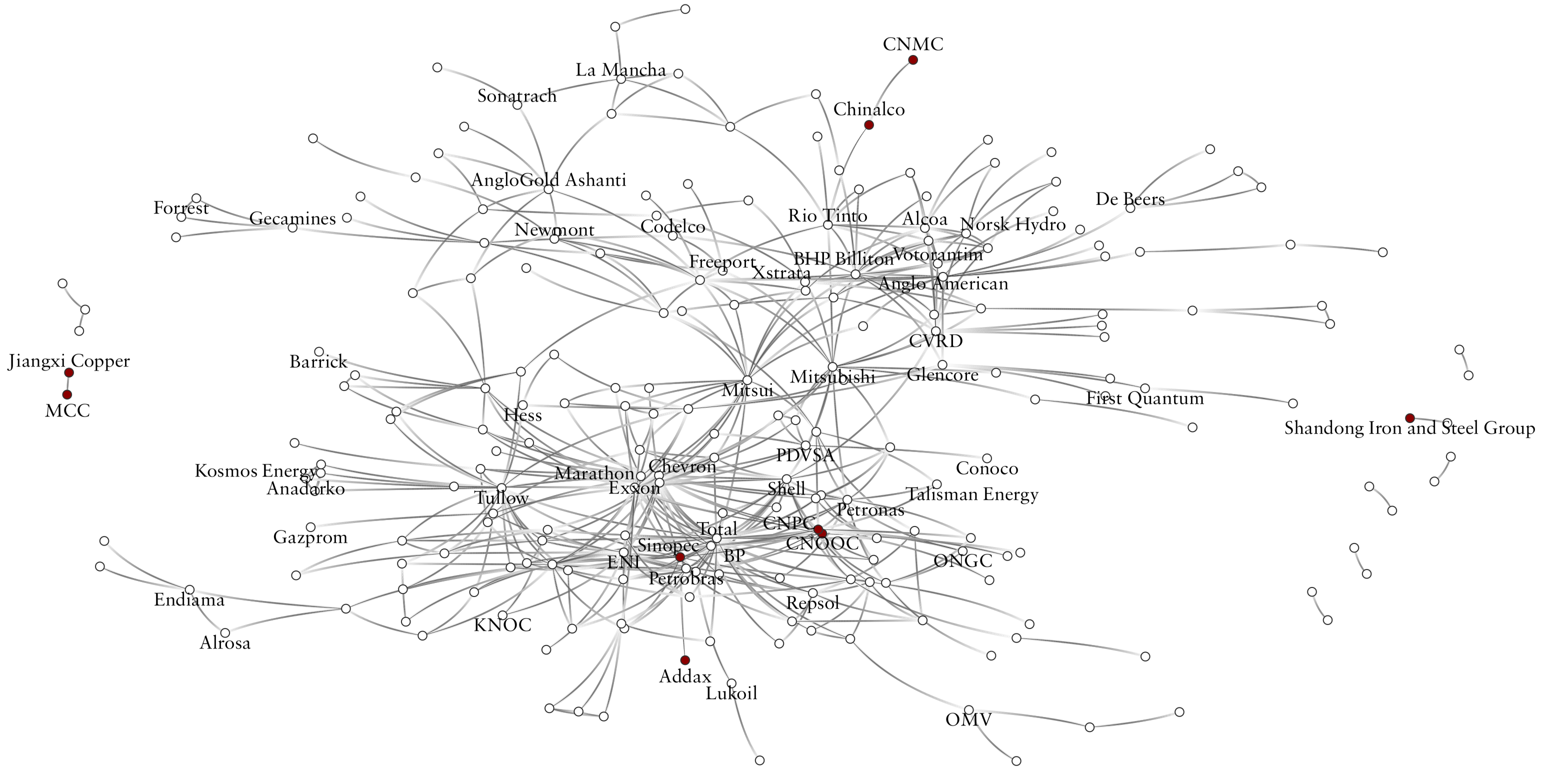
APPENDIX

Figure A.12: Cooperation Involving Chinese Companies up to 2006



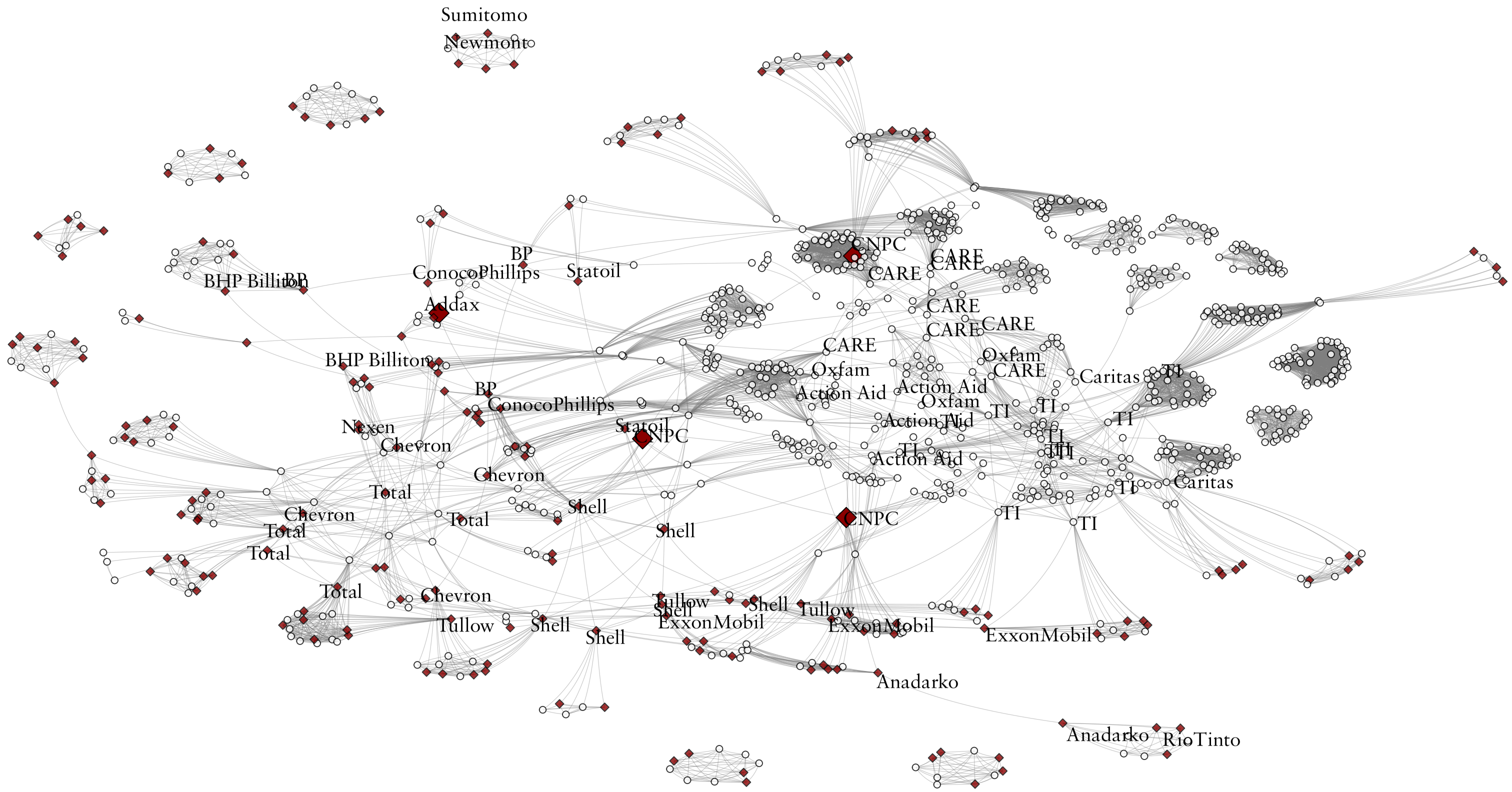
Source: AA.VV, USGS *Minerals Yearbook*, vol. III Area Reports — International, *op. cit.* The graph shows cooperation of Chinese companies abroad up until 2006, and is a counterpart of Figure , which shows what the network displayed here had grown into by 2011.

Figure A.13: Cooperation in the Extractive Industries



Source: AA.VV, USGS *Minerals Yearbook*, volume III Area Reports — International, United States Geological Survey, [various]. The graph shows China's companies in the context of extractive industries in developing countries. Isolates (i.e. companies for which not cooperation could be found) are not displayed. The graph's layout is the result of a force-directed algorithm, i.e. better connected vertices are placed in each other's neghbourhood. As a result, mining companies tend to be in the upper part of the graph, whereas oil companies are clustered in the lower half. Chinese mining companies appear to be less well integrated than their petroleum-extracting counterparts.

Figure A.14: CSOs and Companies in EITI Stakeholder Groups



The figure shows part of the civil society and company network that has evolved around the implementation of EITI. It graphs the contacts between NGOs and companies in EITI Multi-Stakeholder Working Groups. The small clusters represent so-called cliques, i.e. small sub-networks, in this case, the country working groups, which are composed of companies (diamonds) and NGOs (circles, government representatives are not shown). Ultimately the network is much vaster, as in practice it includes donors/IFIs working on extractive industries transparency. At the same time, some of the nodes displayed might have little or no active role and merely passive supporters or absent altogether. CNPC is member in 3 working groups (in Iraq, Mogolia and Chad), whereas the much smaller Sinopec is represented in Cameroon's working group. By that metric, CNPC is about as involved as BP, ExxonMobil, Perenco or Tullow, which are also represented on three working groups, while Chevron, Total and Shell are members in 4, 5 and 6 EITI country processes, respectively. Thus, at least with respect to oil companies, the claim that China is passive when it comes to civil regulation would appear to be untenable. Similarly, average degree centrality for CNPC is 58.6, whereas those for Exxon and BP stand at 44 and 48, meaning that CNPC is somewhat better integrated in local EITI processes (Shell, Total and Chevron fare better than CNPC).

Table A.24: Robustness Checks — Chinese Investment and Human Rights

	Dependent variable:	
	FDI	Chinese Companies
	OLS	*zero-inflated count data*
	(4)	(5)
log(GDP)	0.593^{***}	0.208^{***}
	(0.045)	(0.026)
log(Trade)	0.919^{***}	0.113^{***}
	(0.093)	(0.033)
log(Distance)	0.303^{*}	
	(0.177)	
Physical Integrity	−0.099	0.028
	(0.097)	(0.044)
Resource Exports	0.008	−0.004
	(0.053)	(0.017)
Rule of Law		-0.159^{*}
		(0.094)
Political Rights	0.278^{***}	0.031
	(0.074)	(0.035)
Political Terror	-0.330^{*}	-0.152^{*}
	(0.194)	(0.090)
Physical Integrity * Resources	0.001	−0.0005
	(0.005)	(0.002)
Rule of Law * Resources		0.0002
		(0.003)
Political Rights * Resources	-0.010^{**}	-0.003^{**}
	(0.004)	(0.001)
Political Terror * Resources	0.012	0.009^{***}
	(0.010)	(0.003)
Constant	-12.102^{***}	-4.153^{***}
	(2.354)	(0.866)
Observations	631	1,627
R^2	0.318	
Adjusted R^2	0.308	
Log likelihood		−1,229.277
Residual Std. Error	2.021 (df = 620)	
F statistic	28.975^{***} (df = 10; 620)	
Note:		$^{*}p<0.1$; $^{**}p<0.05$; $^{***}p<0.01$

Table A.25: Model Summary — Chinese Investment and Human Rights over Time

	Dependent variable:	
	log(FDI)	
	(before 2007)	(2007 onwards)
log(GDP)	0.767***	0.622***
	(0.037)	(0.064)
log(Trade)	0.677***	0.666***
	(0.069)	(0.147)
log(Distance)	−0.466***	−1.034***
	(0.144)	(0.260)
Physical Integrity	−0.038	0.300**
	(0.074)	(0.143)
Resource Exports	−0.110***	−0.132*
	(0.042)	(0.075)
Political Rights	−0.321***	−0.404***
	(0.060)	(0.106)
Political Terror	−0.651***	−0.047
	(0.155)	(0.265)
Physical Integrity*Resource Exports	0.002	−0.002
	(0.004)	(0.007)
Resource Exports*Political Rights	0.012***	0.018***
	(0.003)	(0.006)
Resource Exports*Political Terror	0.008	0.011
	(0.008)	(0.015)
Constant	6.626***	11.993***
	(1.846)	(3.427)
Observations	848	406
R^2	0.536	0.432
Adjusted R^2	0.530	0.417
Residual Std. Error	1.985 (df = 837)	2.266 (df = 395)
F statistic	96.620*** (df = 10; 837)	30.017*** (df = 10; 395)
Note:		*p<0.1; **p<0.05; ***p<0.01