A revised DR Congo mining code could lead to a decrease in Chinese investment in the country

As China shows indications of being willing to fall in line with international standards on procuring conflict minerals, Sophie Wintgens examines the strategic issues facing China as DR Congo seeks to revise its mining code.

In comparison to its strong historic ties with the rest of sub-Saharan Africa, China's entry into DR Congo came late but it was swift and sudden. For instance, China's investment in the mining industry rose sharply from 10% in 2005 to 50% by mid-2013, reportedly including over 90% of exports from the mineral-rich province of Katanga[1]. Since the 2000s, China's active diplomacy in DR Congo has been part of its foreign policy, which involves searching for commodities in new markets abroad in order to pursue its economic development and maintain its own political and social stability.

Minerals are vital for China's development, which explains its strong interest in the Central African country's copper, cobalt, diamond, platinum, and manganese ore[2]. The partnership blossomed after Joseph Kabila won democratic presidential elections in 2006 and needed investment to rebuild the country[3]. The Chinese then delivered on a promise of "alternative" assistance to Western development aid to meet Kinshasa's interests.

This convergence of national interests led to deepening economic ties and a "friendly and co-operative relationship" between the two countries. Between 2007 and 2009, the Congolese government and a group of Chinese state-owned enterprises signed "resources for infrastructure" deals: a number of public infrastructure projects financed with Chinese loans; and to guarantee reimbursement, a Congolese-Chinese joint venture was created to extract and sell copper, cobalt and gold. While this created new windows of opportunity – and even increasing room to manoeuvre – for DR Congo as China gave the conflict-torn country a "competitive leverage" afforded by its financial capacity to "replace" Western aid, it also created the risk of generating a new South-South dependency. Not only is China DR Congo's top buyer, accounting for 90% of total mineral fuel exports, but sharp increases in dependency can also be observed in the year on year increase of DR Congo's exports of copper and base metals to China.

Beyond Congolese and international polarising debates around the real or perceived value of China's partnership in DR Congo, the most current issue is the following: has China really got a normative influence on the production of Congolese industrial and commercial standards? This would include norms on "conflict minerals" or "blood minerals" due to the coercive nature of their extraction. While USA implemented the Section 1502 of the Dodd-Frank Act enacted in January 2013 and the European Union (EU) is developing regulations on conflict minerals6, China recently revised its regulations for foreign investment management. On 24 October 2014, the China Chamber of Commerce of Metals, Minerals & Chemicals Importers & Exporters (CCCMC) launched the Guidelines for Social Responsibility in Chinese Outbound Mining Investments. These guidelines, which comprise standards on labour, environmental protection, supply chain due diligence, community engagement and human rights, are the first comprehensive

guidance for Chinese mining companies operating abroad. By endorsing almost the same norms as USA, China's new standards closely reflect and are drawn from guidelines published by the Organisation for Economic Co-operation and Development (OECD) and the UN4. Is this really a sign that China wants to become a responsible player by preventing the financing of conflict and corruption linked to the mining sector?

What is certain is that China is a major player in conflict-affected or high-risk regions such as DR Congo which, from the Chinese perspective, are markets with low-entry barriers. From January to July 2014, China and Hong Kong-based firms imported all the tantalum and over 80% of tin leaving the North Kivu conflict-affected region with a net worth of US$11.9 million. But mineral-trading routes out this area are often subject to tax by rogue elements of the Congolese army and partially-integrated militia. Therefore, Congolese and international consultants are currently preparing recommendations for the government ahead of a revision of the country's mining code which was enacted in 2002. Despite its mineral wealth, the DR Congo needs an especially attractive mining code to compensate for its deficits in other areas. But this revision aims above all to maximise financial gain from the country's expanding mining sector resources by increasing royalties from mining companies. As one of the principle investors in DR Congo4, China is expected to take part in the negotiations over the new mining code. In May 2012, the Congolese government sanctioned two Chinese-owned tin trading houses, *Huaying Trading* and *Congo Minerals and Metals*, for not carrying out proper supply chain due diligence, accusing the two firms of indirectly supporting rebel groups through their mineral purchases. After pulling out in 2012, China's Exim Bank has revived its financing deal for mining and infrastructure projects. One reason for this could be that the Congolese Parliament adopted a law safeguarding the tax exemptions provided to Sicomines in February 2014.

Changes in the DR Congo's jurisdiction could impact the business of Chinese companies in the country. That is why China, as DR Congo's top buyer of mineral resources, is indirectly putting pressure onthe revised code to ensure increase in its own investment. But responsible sourcing initiatives, that may impact Chinese companies, are also emerging in other jurisdictions around the world – coming from Central Africa, US legislation, European Union legislative proposal, and industry initiatives. Less than a norms maker in the making, China is adopting regulations and standards to shape company behaviour in order to stay in the race with its western competitors.

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The views expressed in this post are those of the author and in no way reflect those of the Africa at LSE blog or the London School of Economics and Political Science.

[1]IMF Trade Data; Economist Intelligence Unit, « Congo (Democratic Republic) », June 11, 2013.

[2] UNCTAD, *Economic Development in Africa Report 2012. Structural Transformation and*

Sustainable

Development in Africa, New York and Geneva, UN, 2012, p. 46.

[3] Gizenga's Government Programme for 2007-2011 is focused on five measures to which priority importance

must be attached: infrastructures, employment, education, water and electricity, health. DRC, *Programme du*

Gouvernement (2007-2011), Kinshasa, February 2007, p. 68.

4 The guidelines propose to reduce operating risks for Chinese mining and mineral trading companies overseas

and to ensure that they do not trade in conflict minerals – minerals that are mined or traded in a way that fund

rogue groups or rogue army elements that commit violence against local people in countries such as Myanmar,

DRC and Colombia. CHINA CHAMBER OF COMMERCE OF METALS, MINERALS & CHEMICALS

IMPORTERS & EXPORTERS, *Guidelines for Social Responsibility in Outbound Mining Investments*, Beijing,

October 2014.

5 Chinese companies own about 80% of the mineral-processing plants in the Katanga province and nearly 90%of the minerals extracted from these mines are exported to China. KPMG GLOBAL MINING INSTITUTE,

“Democratic Republic of Congo. Country mining guide”, *KPMG Strategy Series*, 2014, p. 20.

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