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An Analysis of China-Kenya Bilateral Relations on Infrastructure Development

Esther Mulinge

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THE KENYA INSTITUTE FOR PUBLIC POLICY RESEARCH AND ANALYSIS (KIPPRA)

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An Analysis of China-Kenya Bilateral Relations on Infrastructure Development

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Kenya Institute for Public Policy
Research and Analysis

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Abstract

Chinese activity in Africa is increasing at an exponential rate and Kenya is no exception. As the Kenyan government embraces the "Look East" policy, it has to deploy strategies to ensure that its engagements with China are truly win-win. These engagements bring both positive impacts and key challenges for African countries. Over the past decade, Chinese construction activity in Africa has been dramatically enhanced with the launch of China's 'going out' national strategy and the support and coordination of the Chinese government, business associations and banks. This study explores the increasingly important economic and business relationship between the People's Republic of China and Kenya. The focus is on how this partnership manifests itself in infrastructure development. As the Kenyan government continues to open its doors to China, particularly to help it with its infrastructure development agenda, it needs to be cognizant of the need to ensure that Chinese firms do not benefit at the detriment of Kenyans and indigenous firms, and that the China-Kenya socio-economic relationship is perceived as a win-win outcome with equitable bilateral trade and positive societal perception.

This study seeks to examine the impact of increased China-Kenya cooperation on infrastructure development. In addition, the study will identify infrastructure development projects where China is actively engaged as well as evaluate the gains/losses emanating from China's involvement in delivering these projects. Based on the existing evidence and data analysis, this study will explore why and how China is so economically active in Kenya and the socio-economic and political impact of Chinese activities on Kenya. This study relies predominantly on secondary and limited primary data. Secondary data especially on China's investment practises, general business practises of CCFs in Africa and case studies on CCFs and other Chinese-owned firms in Kenya has been obtained from existing academic and policy literature. To understand the gains and loses emanating from China's involvement with Kenya's infrastructure sector, and the associated policy issues, analysis of the data is undertaken with particular focus on contribution and impact to the local economy; infrastructure creation and contribution to Vision 2030 goals; financial growth of local enterprises; technology transfer, capability and capacity enhancement for local firms; and employee rights.

The study found that China is funding and willing to fund infrastructure projects in Kenya, injecting real money into real economy and contributing towards economic development. Thus, the study recommends the development and implementation of a communications policy aimed at creating awareness and understanding within the wider Kenyan population of the value and positive impact that China is bringing to Kenya. Chinese construction companies have significant positive traits such as being very commercially competitive, delivering quality work and having the discipline to deliver to or ahead of deadlines, which in turn helps Kenya achieve its infrastructure development goals. Therefore, the Kenyan government should develop policies aimed at leveraging on the positive traits of Chinese construction companies and driving knowledge and technology transfer through either 'alliancing 'or joint venture arrangements between Chinese construction companies and their Kenyan counterparts, or having a target percentage of technical and managerial staff on infrastructure projects. The study also reveals gross violation of workers' rights and disregard to their health, safety and welfare within Chinese construction companies. There are existing strong legal provisions for the protection of the Kenyan worker. It is therefore recommended that the Kenyan government, through the Ministry of Labour, implements and enforces a robust regime to drive compliance with these legal provisions via robust monitoring and surveillance and enforcement of extremely punitive measures for those who violate these legal provisions.

Abbreviations and Acronyms

ACET	African Centre for Economic Transformation
ADS	Approved Destination Status
AERC	African Economic Research Consortium
BWGC	Blue Wave Group of Companies
CCF	Chinese Construction Firms
CNPC	China National Petroleum Corporation
COF	Chinese-Owned Firm
EXIM	China Export-Import
FOCAC	Forum on China-Africa Cooperation
GDP	Gross Domestic Product
GWDC	Great Wall Drilling Company
ILO	International Labour Organization
IMF	International Monetary Fund
KBC	Kenya Broadcasting Corporation
KBCTFAIE	Kenya Building, Construction, Timber Furniture and Allied Industry Employees Union
MoFAPRC	Ministry of Foreign Affairs' of the People's Republic of China
NARC	National Rainbow Coalition
ODA	Official Development Assistance
OECD	Organization for Economic Cooperation and Development
PNOC	Energy Development Corporation of Philippines
SOEs	State-Owned Enterprises
TAZARA	Tanzania–Zambia Railway
UAE	United Arab Emirates
UN	United Nations
UNCLA	United Nations Economic Commission for Latin America
UNESCO	United Nations Educational, Scientific and Cultural Organization
WTO	World Trade Organization

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1. Introduction

1.1 Background

The People's Republic of China is an important and influential player in Africa. It is increasingly becoming the source of financial support for many African governments, particularly in funding infrastructure projects in resource-endowed countries, as well as in states that China considers to be of geo-strategic significance. According to the African Development Bank (2011), China overtook the United States as Africa's number one trading partner in 2009.

China's journey to becoming an influential player in Africa can be traced back to August 1979. China's State Council introduced legislation permitting specialized Chinese companies to operate overseas. Prior to this, Chinese companies operating overseas were restricted to projects that provided economic and technical aid, with funds provided by the Chinese government (Stellenbosch University Centre for Chinese Studies, 2006).

China's international expansion intensified in the new millennium, with China's central government encouraging domestic companies to think globally and invest overseas. In 2001, the head of the National People's Congress (Wu Bangguo) encouraged "competitive enterprises" to invest abroad and "go global,"[1] commencing the official "Go Out" policy.

The "Go Out" policy selects some of the state's best performing state-owned enterprises, which then receive government benefits to help "develop these corporations" technological skills and know-how, exploit China's comparative advantages, gain access to key inputs, open new markets abroad, create global Chinese brands and assist China to avoid becoming over-dependent on export-led development. A critical component of this policy is to "lock-in" resources that China would otherwise have to purchase on the open market (Executive Research Associates, 2009).

With the "Go-Out" policy in action, Chinese state owned and private companies are making significant inroads into African economies' construction and infrastructure sectors. China's state-owned

[1] *People's Daily* (2001), China Launches Two-Way Investment Strategy, September 21. http://english.peopledaily.com.cn/english/200109/12/eng20010912_80006.html, Accessed on Feb. 24, 2012

enterprises (SOEs) in the construction sector are active in almost every African economy. While the construction and infrastructure sectors in Africa have traditionally been dominated by European and South African companies, Chinese companies are now playing a prominent role (Stellenbosch University Centre for Chinese Studies, 2006).

On the other side, Kenya has been building new economic partnerships with African, Middle East and Asian countries since the early 2000s. The NARC government which took over in January 2003, has pursued a "Look East" policy targeting the intensification of trade relations with Eastern countries. The government has entered into trade and economic partnerships with five countries in the Middle East and Asia, including China, Iran, United Arab Emirates, Japan and Singapore, but the key economic partner has been and is China (African Economic Outlook, 2011)

The result of the China "Go-Out" policy and Kenya's "Look East" policy has enhanced economic relations between Kenya and China, that began in 2005 with President Kibaki's visit to China (a trip that culminated with a five-part agreement covering: ODA for infrastructure and energy, extended aviation services, technical assistance for assessment and industrial products' classification and standards, and modernization of equipment at the Kenya Broadcasting Corporation-KBC. As a result of the agreement, Kenya's imports from China grew by 224.5 per cent from Ksh 23.0 billion in 2005 to Ksh 74.5 billion in 2009. Imports from China between January and November 2010 amounted to Ksh 110.1 billion (African Economic Outlook, 2011).

With the enhanced economic relations between China and Kenya, Chinese Construction Firms (CCFs) have gained significant ground in the infrastructure construction sector, particularly in road and energy development projects. Chege (2008) estimates that there are about 44 Chinese construction firms operating in Kenya, the large ones being Jiangsu International Economic and Technological Cooperation Company, Sichuan International Economic and Technological Cooperation Company, and China Road and Bridge Construction Company.

Despite the growing economic ties between Kenya and China, the overall impact of China's trade with Kenya is mixed, with possible significant gains and losses (Onjala, 2008). This outcome is important for trade and development policy in Kenya.

This study seeks to contribute to the China-Kenya economic relations by enhancing the existing body of knowledge in the area of infrastructure development through an analysis of the China-Kenya bilateral relations on infrastructural development between the period 2003 and 2011. The analysis entails an examination of the gains and losses of these relations and the policy implications emanating from them.

1.2 Statement of the Problem

Many African leaders have welcomed and hailed Chinese investment as a partner that demolishes colonialism (Hu, 2011). African nations are happy to find an alternative to Western nations that have exercised unrivalled influence in the region since the fall of the Soviet Union. In Kenya, the western influence has been enormous since independence. Though seemingly in the ascendant, China's pursuit of deep and wide scale involvement in Africa, particularly in the infrastructure development sector, is becoming increasingly problematic.

Several Chinese economic practices, including heavy reliance on imported Chinese labour despite generally high unemployment among indigenous populations, indifference to workers' rights, little or no knowledge transfer, local corruption, support and collusion with corrupt and/or dictatorial regimes, to name a few, are fostering grassroots resentment, which may significantly undermine China's popularity, hence weakening its ability to continue business with Africa in the long term.

As the Kenyan government continues to open its doors to China, particularly to help it with its infrastructure development agenda, it needs to be cognizant of the need to ensure that Chinese firms do not benefit at the detriment of Kenyans and indigenous firms, and that the China-Kenya socio-economic relationship is perceived as a win-win outcome with equitable bilateral trade and positive societal perception.

1.3 Objectives of the Study

This study seeks to examine the impact of increased China-Kenya cooperation on infrastructure development. The specific objectives are:

(a) To identify infrastructure development projects in Kenya where China is actively engaged

(b) To evaluate the gains/losses emanating from China's involvement in delivering infrastructure projects

(c) To suggest policy options for Kenya that could lead to win-win outcomes of China's contribution in infrastructure development

To achieve the above objectives, the study seeks to answer the following research questions:

(a) To what extent is China involved in Kenya?

(b) What gains/losses are emanating from China's involvement in delivering infrastructure projects?

(c) What are the policy implications?

1.4 Justification of the Study

Broadening and deepening understanding of China's foreign policy and Chinese companies' business practices in Kenya is an important economic development issue. This study will attempt to analyse and examine Chinese soft power policy towards Kenya in the last nine years, with focus on China's efforts in expanding its partnership in the country's infrastructure. Based on the existing evidence and data analysis, this study will explore why and how China is so economically active in Kenya and discuss the socio-economic and political impact of Chinese activities on Kenya.

Central to this study is the hypothesis that although China portrays its involvement in Africa as pure and selfless, current Chinese policies towards Africa are mainly driven by China's need for natural resources and promotion of trade to satisfy the robust economic growth at home. While China's investment in infrastructure has contributed towards Kenya's economic development, Chinese policies and practices have also raised significant socio-economic issues.

Therefore, as the Kenyan government takes steps to open its doors to China even further, it should also be careful not to allow foreign firms to benefit at the expense of its citizens, and should formulate and implement policies aimed at:

(a) Growing the Kenyan human capital;

(b) Supporting local entrepreneurs that can partner with Chinese counterparts;

(c) Protecting the rights of the Kenyan worker, particularly in respect of wage, health, safety and welfare; and

(d) Creating awareness and understanding of China's value addition to Kenya, in particular where there is need to bring in Chinese for highly skilled specialist positions.

2. Literature Review

2.1 Theoretical Literature

The scope of this study is grounded in the field of international relations. The dominant theories in international relations are marxism, liberalism and realism. These theories are useful for explaining states' behaviour in international relations. It will be shown, however, that China's involvement in Kenya can be well explained from a realist perspective in international relations, since it is the theory that most aptly explains China's foreign policy stance towards Kenya. In addition, from the perspective of political economy, the theory of economic nationalism is most applicable for the explanation and understanding of the political economy of China's involvement in Kenya.

Neo-classical realism

Realists believe that states are in constant competition with each other for position and prosperity in the international hierarchy, and that they are dedicated to the promotion of their own interests at the expense of other states.

The intellectual root of this theory can be traced to Italian theorist Niccolo Machiavelli and English philosopher Thomas Hobbes. They believe that international politics revolves around the pursuit of power, acquiring it, increasing it, projecting it and using it to bend others to one's wish.

To better explain the relationship between Kenya and China, one needs to examine neo-realism. This theory, which contains the basic concept of realism, was founded by Kenneth Waltz. He contends that states do not differ in the tasks they face in the international arena, only in their capabilities across units, which are states (Kenneth, 2000). This theory assumes that there is no differentiation of function between different units. Neo-realists argue that power is more than the accumulation of military resources and the ability to use this power to coerce and control other states in the system. Waltz and other neo-realists see power as the combined capabilities of a state. Power gives a state a place or position in the international system, and which shapes the state's behaviour.

China has embraced this theory. Besides, its foreign policy of expanding trade links and mutual benefit between African countries and itself, it is doing this in order to increase its influence and power in this continent. China anticipates positive reception and more trade because Africa has increasingly faced unfavourable trading terms from the western countries. Thus, by giving much flexible trade and low interest rates on development loans unlike their donor parties, China hopes to create a wider market for its domestic products within the African countries, while at the same time increasing its power and therefore position in the international system.

Dependency theory

Building on dependency theory, the American sociologist Immanuel Wallerstein refined the marxist aspect of dependency theory, and called it the “world-system.” The world system divides the world into core, semi-periphery, and periphery nations.

The key characteristics of the core nations are that they are economically diversified, wealthy and powerful (economically and militarily), have strong central governments, controlling extensive bureaucracies and powerful militaries, have more complex and stronger state institutions that help manage economic affairs internally and externally, are highly industrialized (produce manufactured goods rather than raw materials for export), and have significant means of influence over peripheral nations (Halsall, 1997).

Looking at the key characteristics of how Kenya relates with China, it is evident that China is a core nation, while Kenya is a peripheral nation. In the China-Kenya relationship context, “world-system” dependency theory may arguably be used to exemplify how China may be using its economic power to fund infrastructure projects to ensure that Kenya and other African countries remain technologically, mechanically and economically depedent on it than its western developed counterparts, in effect ‘the second scramble for Africa’.

2.2 Empirical Literature Review

2.2.1 China’s motivation for increased presence in Africa

China’s interests in Africa are not new. It has long viewed itself as the leader of the developing world, and was involved in Africa as far back as the late 1960s and early 1970s, providing development aid to African socialist regimes, and supporting anti-colonial insurgencies (Butts and Banku, 2009).

The People's Republic of China established diplomatic relations with the Republic of Kenya in December 1963. After 1965, diplomatic relations of the two countries were degraded to chargé d'affaires level and towards the beginning of 1970s, full diplomatic relations restored. In 1978, when President Daniel Arap Moi came into power, diplomatic relations between the two countries gained momentum. With frequent mutual visits at high level, the friendly cooperation witnessed outstanding achievements in many fields. By the end of 2002 when a new government was formed after Mwai Kibaki was elected President of the country, he expressed the willingness to further deepen and expand the friendly cooperation between the two countries (Onjala, 2008).

More recently, particularly post-2006, China has rapidly accelerated its presence in Africa. By the end of 2006, China had, according to Chinese government statistics, invested US$ 11.7 billion in Africa, mainly in infrastructure. However, in May 2007, China announced that it will provide about US$ 20 billion in infrastructure and trade financing to Africa over the next three years, signalling its renewed focus on the continent.[2]

China's renewed push into Africa is part of its foreign policy strategy to secure access to natural resources, expand export markets and reassert itself on the global stage (Moss and Rose, 2006). For the purposes of this paper, we will expound on the first two motivations.

Access to natural resources

The key reason for China's renewed focus on Africa has been and continues to be the need for access to Africa's natural resources, predominantly energy and mineral resources. Davies (2007) highlights that China's so called "March into Africa" is to a large extent linked to its economic growth.

Over the past two decades, China has experienced rapid urbanization as well as a phenomenal economic growth rate averaging 10 per cent per year, equivalent to doubling in size every eight years (Figure 2.1 and 2.2). This period, and in particular between 1990 and 2010, has also witnessed China's economy rapidly transitioning from agriculture to industry. The share of agriculture in GDP fell from 27 per cent in 1990 to 11.3 per cent in 2008. In the same period, the share of industry increased from 42 per cent to 49 per cent of GDP (Kaplinsky and Farooki, 2010).

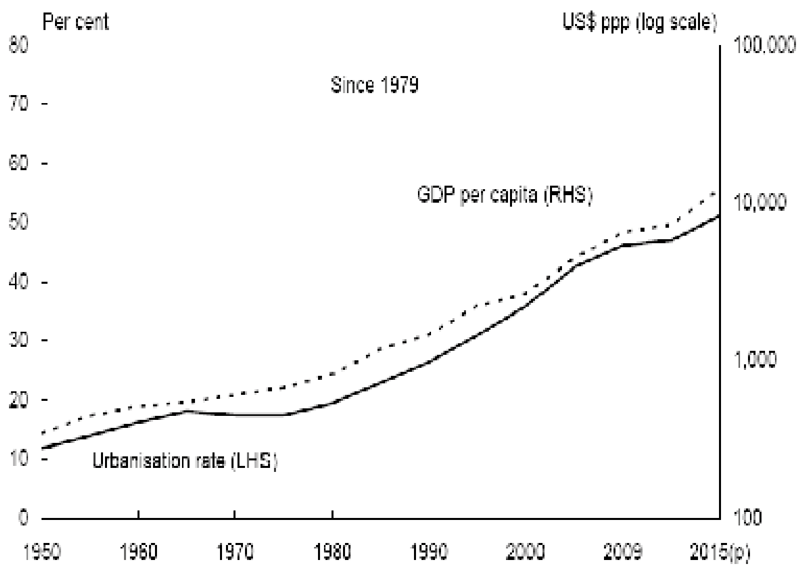
[2] *Financial Times*, May 17 2007

The process of urbanization has seen growth in demand for infrastructure in general, and new infrastructure and housing in particular, which are mineral commodity intensive. In addition, the growth of China's manufacturing sector has also made intensive use of commodities, particularly hard commodities and energy. To a considerable extent, this is reflected in the metals and minerals-intensity of China's rapidly growing manufactured exports, which comprised the bulk of exports between 1990 and 2006 as illustrated in Figure 2.3 (Kaplinsky and Farooki, 2010). Similar observation was made by Liu and McDonald who summed up the situation by stating that this economic growth and urbanization convergence has had tremendous impact on China's demand for mineral resources (Liu and McDonald, 2010).

During the second half of the 1990s, China's mineral resource balance began to shift, with domestic consumption beginning to systematically outpace domestic supply. By 2008, China's demand for chromium, cobalt, copper, iron ore, manganese, nickel, petroleum and potash were well exceeding domestic supply, and by 2009 China even became a net importer of coal as shown in Figures 2.4 and 2.5 (Wyk, 2010).

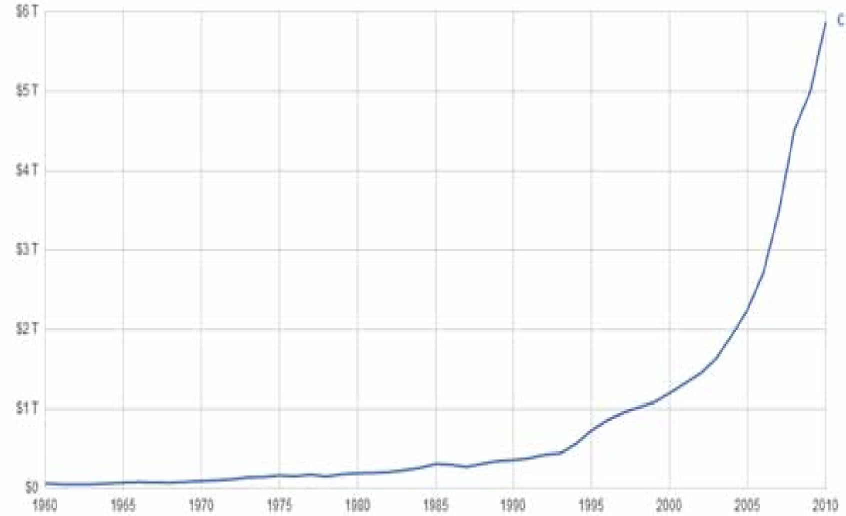
According to Wyk (2010), to provide much of the natural resources

Figure 2.1: Urbanization and GDP per capital in China



Source: Liu and McDonald (2010)

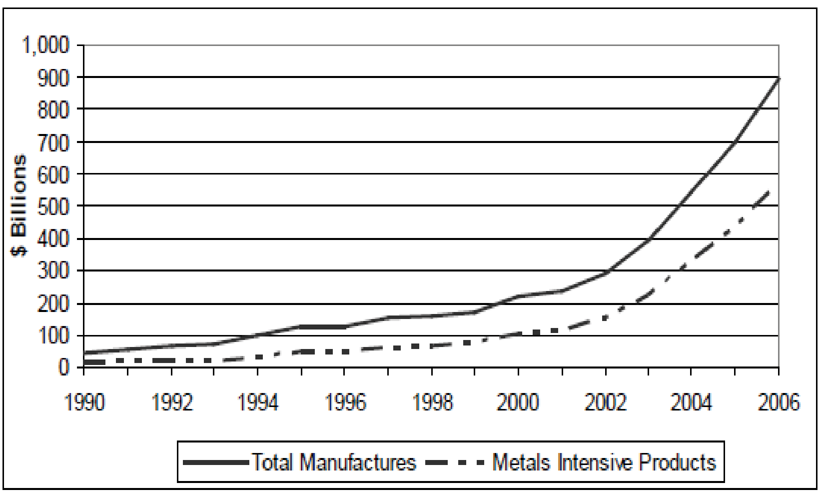
Figure 2.2: China's gross domestic product



Source: World Bank (Various) World Development Indicators

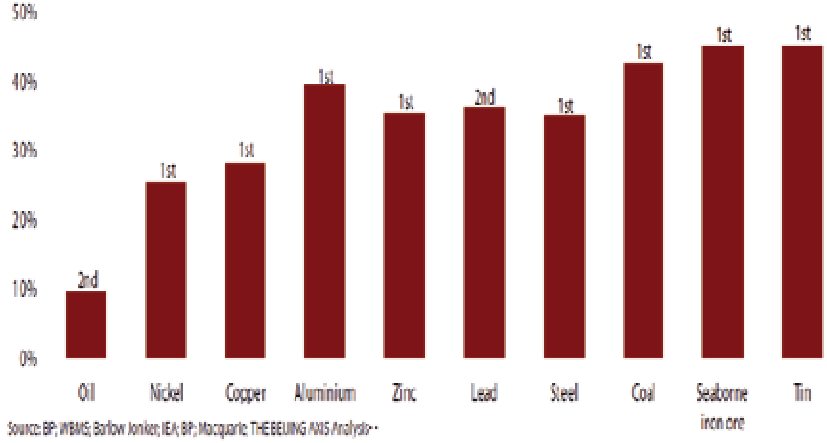
that the economy requires, China needs to look outside its borders to secure resources, relying predominantly on large mostly state-backed corporations to 'go out' and make the mineral acquisitions. In fact, by the end of the 2000s, Chinese investment in oil and mineral resources through companies such as China National Petroleum Corporation (CNPC), could be found in virtually every global location with proven or suspected oil and mineral reserves.

Figure 2.3: China's metal and minerals intensive exports in total manufactures exports (1990-2006)



Source: Kaplinsky and Farooki (2010)

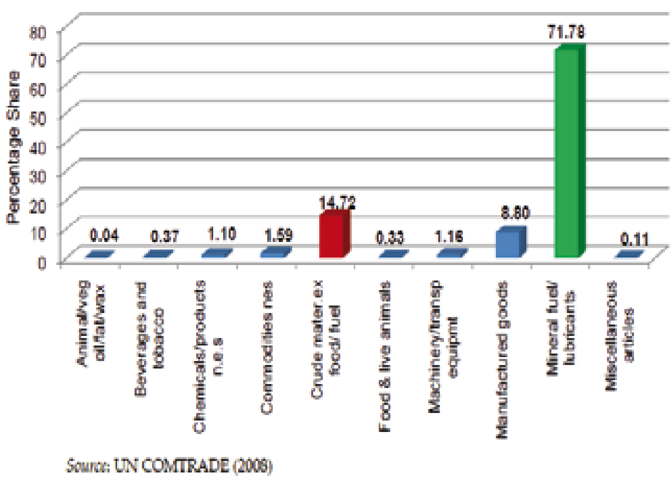
Figure 2.4: China's demand for and production of natural resources, 2009



Source: Wyk (2010)

On the other hand, Africa is well endowed with mineral resources. It harbours the world's largest mineral reserves of copper, platinum, gold, diamonds, chromite, manganese, and vanadium which China needs. In addition, the continent produces about 17 per cent of the world's uranium and has vast quantities of oil reserves. Table 2.1 illustrates Africa's mineral potential and production in global terms.

Figure 2.5: China's consumption of natural resources as a share of world total; World ranking 2008



Source: Wyk (2010)

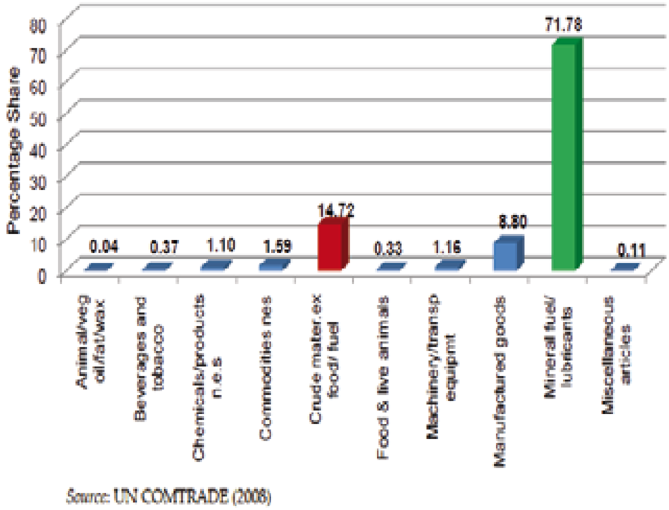
Table 2.1: Some leading African mineral resources

Mineral	African % of world production	Rank	African % of world reserves	Rank
Platinum group metals	54	1	60+	1
Phosphate	27	1	66	1
Gold	20	1	42	1
Chromium	40	1	44	1
Manganese	28	2	82	1
Vanadium	51	1	95	1
Cobalt	18	1	55+	1
Diamonds	78	1	88	1
Aluminium	4	7	45	1

Source: UNESCO, 2009

Africa is an important source of natural resources for China. Wyk (2010) sums it up by stating that China views Africa as its central cog in its globalization. This partnership has enabled China access Africa's natural resources, while expanding its commercial and political links with the continent (Wyk, 2010). A similar observation has been made by Cook (2008) who aptly summed up China's motivation for expansion in Africa by reiterating that China's voracious appetite for resources, especially energy resources, is widely viewed as the primary motive for its expanding outreach to Africa. In their policy brief, Osei and Mubiru (2010) disaggregated Africa's exports to China by product in 2007

Figure 2.6: Africa's exports to China by product, 2007



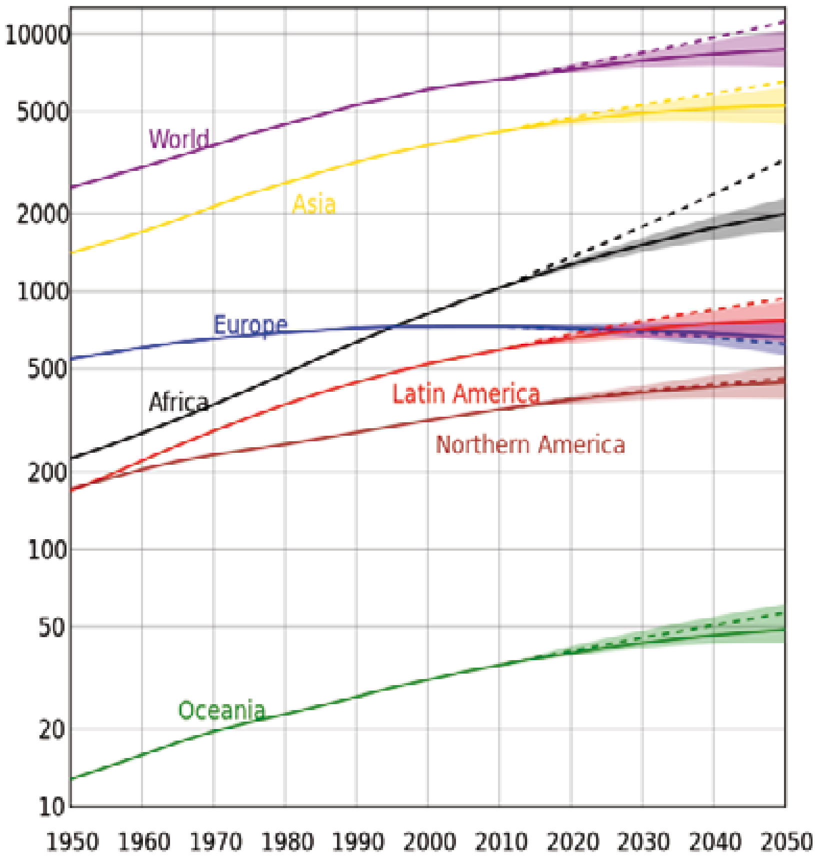
Source: Osei and Mubiru (2010)

and the results conclusively proves that China's presence in Africa is predominantly about oil and mineral resources, with 72 per cent of registered exports being crude oil and 15 per cent being raw materials (Figure 2.6).

Expansion of export markets

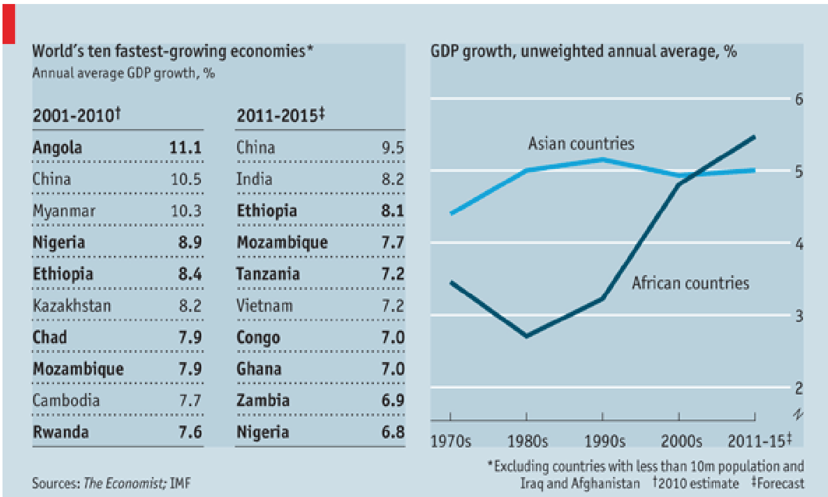
Africa is experiencing a rapid population growth and will soon pass the one billion people mark and most likely double its population to 2 billion by 2050. This makes it the fastest growing continent, and Africa's rapid growth will also shift the global population balance. By 2050, Africa will be home to more than 20 per cent of the world's population (Fengler, 2010).

Figure 2.7: Estimates of population evolution by continent, 1950 to 2050



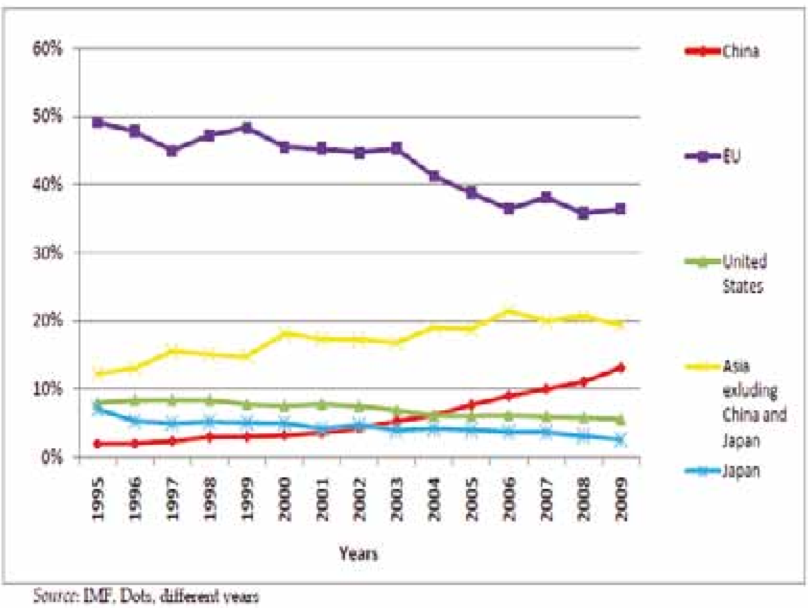
Source: United Nations

Figure 2.8: Africa's economic growth relative to Asia



Source: The Economist (2011)

Figure 2.9: Distribution of African imports among the major blocs, 1994-2009



Source: Osei and Mubiru (2010)

At the same time, its countries are experiencing some of the fastest economic growth in the world. According to *The Economist* (2011), much has been written about the rise of the BRICs and Asia's impressive economic performance. But an analysis reveals that over the ten years until 2010, six of the world's ten fastest-growing economies were in Sub-Saharan Africa (Figure 2.8). On IMF forecasts, Africa will take seven of the top ten places over the next five years. Over the past decade, the simple unweighted average of countries' growth rates was virtually identical in Africa and Asia. Over the next five years, Africa is likely to take the lead (*The Economist*, 2011).

For Chinese companies, Africa offers new commercial prospects. Lafargue (2005) points out that although trade between China and the countries of Sub-Saharan Africa is still comparatively marginal, China sees Africa not only as a source of raw materials but also as a market for its manufacturing industry. He contends that China sees in Africa a market which allows it to test its industrial products and to offer them to less demanding customers.

Looy (2006) observes that Africa is a new and an interesting market with excellent conditions for the Chinese, with many potential customers for cheap Chinese products. The imported goods are mostly household utensils, mechanical and electronic products, textiles and clothes. China is focusing its exports on countries with large populations, for example South Africa, Nigeria, Egypt, Morocco and Algeria. These five countries, with their relatively high purchasing power by African standards, account for 58 per cent of African imports from China.

This theme is echoed in an African Development Bank policy brief in which Osei and Mubiru (2010) reveal that China's emergence as a major trading partner for Africa is likely to continue to grow. The authors submit that data shows that even though European countries still remain Africa's leading partners, things are gradually changing and it is very likely the growth in imports from China will continue to increase, while those from traditional markets in the United States and Europe will remain either stable or decline (Figure 2.9).

China's motivation for cooperation with Kenya

Kenya is the leading economy in East Africa. Its strategic location and its well developed business infrastructure make it a natural choice for investors, and many international firms have made it their regional hub. Investing in Kenya also provides access to the larger regional market of the East African Community, which has 93 million consumers, as well as the Common Market for Eastern and Southern Africa which has 385 million consumers (Kenya-China Economic and Trade Cooperation, 2012).

In addition, Kenya is a politically stable country with fully liberalized economy and a pro-investment government. Although Kenya does not have the concentration of the natural resources that China requires, it offers a strategic gateway to the East and Central African region. According to Kieyah (2011), China is seeing Kenya as a gateway to the East Africa Community.[3]

Onjala (2008) echoes Kieyah's view and aptly describes the motivation for China's focus on Kenya. He points out that China views Kenya as a gateway to the region and it has become a key focus of China's trade and economic strategy in Africa. Being a relatively stable country politically, Kenya is an ideal regional base for Chinese investors to expand their business in Africa.

2.2.2 Soft power: A powerful entry strategy

Soft power, a term coined by Nye (1990), is used in international affairs to imply the ability to obtain what one wants through co-option and attraction rather than use of coercion and payment. The primary currencies of soft power are an actor's values, culture, policies and institutions and the extent to which these "primary currencies," are able to attract or repel other actors to "want what you want" (Nye, 2004).

China's soft-power approach in Africa has been multifaceted: professing solidarity with Africa in international forums on trade and human rights issues; forgiving more than US$ 1 billion in debt from African countries; training more than 100,000 Africans in Chinese universities and military institutes; sending more than 900 doctors to work across Africa; and making major investments in infrastructure, agriculture and energy (Pan, 2006).

The China African policy (2007) was published in January 2006 by the Ministry of Foreign Affairs of the People's Republic of China (MoFAPRC),[4] in which the Chinese government presents the objectives of China's policy towards Africa and the measures to achieve them, and its proposals for cooperation in various fields in the coming years, with

[3] Accessed from http://www.npr.org/2011/06/21/137185048/will-kenyan-superhighway-also-benefit-china
[4] http://www.fmprc.gov.cn/eng/zxxx/t230615.htm

a view to promoting the steady growth of China-Africa relations in the long term and bringing the mutually-beneficial cooperation to a new stage.

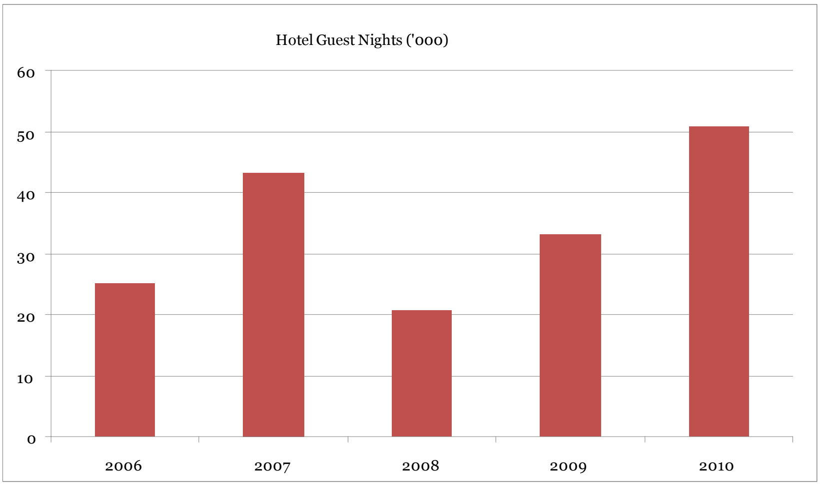
In the policy, China sees sincerity, equality and mutual benefit, solidarity and common development as the principles guiding China-Africa exchange and cooperation and the driving force to lasting China-Africa relations. The policy sets out specific plans for cooperation in:

1. Politics through high level visits, exchanges between legislative bodies, exchanges between political parties, cooperation in internal affairs and exchanges between local governments;
2. Education, science, culture, health and social fields through cooperation in human resources development and education, science and technology cooperation, cultural exchanges, medical and health cooperation, media cooperation, disaster reduction, relief and humanitarian assistance; and
3. Financial field through trade, investment, financial cooperation, agricultural cooperation, resource cooperation, debt reduction and relief, multilateral cooperation, economic assistance and infrastructure.

Indeed, China has been proactive in implementing this policy in Kenya. In the field of culture, Kenya was granted Approved Destination Status (ADS) by China in 2004, as promised at the FOCAC summit in 2003. Since then, there has been a dramatic increase in the number of affluent Chinese tourists who have visited Kenya. Available statistical data shows the number of hotel guest-nights occupied by Chinese tourists, which increased by 102 per cent between 2006 and 2010 (Figure 2.10).

The policy is very strong on infrastructure, spelling out that “the Chinese government will step up China-Africa cooperation in transportation, communication, water conservancy, electricity and other infrastructure. It will vigorously encourage Chinese enterprises to participate in the building of infrastructure in African countries, scale up their contracts, and gradually establish multilateral and bilateral mechanisms on contractual projects. Efforts will be made to strengthen technology and management cooperation, focusing on the capacity-building of African nation” (MoFAPRC, 2011).

Figure 2.10: Total hotel guest-nights occupied by Chinese tourists



Source: Government of Kenya (Various) Statistical Abstracts, 2006–2010

China has significantly stepped up its funding infrastructure projects in Kenya, mainly in energy generation, modernization of power distribution, rural electrification and water and renovation of an international sports centre (Greenway, 2009).

Coyet (2010) reports that Kenya has received around US$ 381 million in interest free and preferential loans since announcements at the third FOCAC summit in 2006 of doubling aid and extending soft loans. In his speech during the signing of the loan agreement of Ksh 7.5 billion for the Olkaria IV Geothermal Field Production Wells Drilling Power Project on 13 April 2010, the Minister for Finance (January 2009 to Jan 2012) stated that over the years, Kenya had benefitted substantially from development cooperation through financial and technical support extended by the Government of the People's Republic of China.

In another speech at the signing ceremony for a concessional loan agreement for the Kenyatta University Teaching and Referral Hospital project, the Minister for Finance spells out the importance of China-Kenya cooperation, and in particular providing development assistance. He points out that the development cooperation between Kenya and China has grown from strength to strength and, to date, China is one of Kenya's major donors, supporting economic development with a cumulative official development assistance amounting to Ksh 57.442 billion.

Table 2.2: Recent infrastructure projects funded by China

Project	Loan Value	Comments
Olkaria IV Geothermal Field Production Wells Drilling Project	Ksh 7.5 billion	Concessional loan[5]
The Nairobi Southern Bypass Road Project	Ksh 16.9 billion	Preferential buyer credit loan to cover 85% of the project construction cost[6]
The Nairobi Northern and Eastern Bypass Roads Project	Ksh 8.5 billion	Concessional loan for 85% of the project construction cost[7]
Kenyatta University Teaching, Research and Referral Hospital Project	Ksh 9.85 billion	Concessional loan[8]
Kenya Power Distribution System Modernization and Strengthening	Ksh 1.4 billion	Type of loan could not be verified
Nairobi Thika Highway Improvement Project (Lot 3)	Ksh 9.4 billion	Type of loan could not be verified

Table 2.2 summarizes recent and ongoing infrastructure projects that have been funded by China through concessional and preferential loans to Kenya.

The Ministry of Foreign Affairs of the People's Republic of China views the year 2010 as friendly and when cooperative relationship of long-term stability and mutual benefit between the People's Republic of China and the Republic of Kenya enjoyed further and in-depth growth. In its website,[9] it states that 'exchanges and cooperation between the two countries in economy, trade, culture, education and health were

[5] Speech by Deputy Prime Minister and Minister for Finance (2009-2012) Hon. Uhuru Kenyatta, at the signing of Loan Agreement for Olkaria IV Geothermal Field Production Wells Drilling Power Project on 13 April 2010.

[6] Statement by Deputy Prime Minister and Minister for Finance (2009-2012) Hon. Uhuru Kenyatta during the signing ceremony of the loan agreement for the Nairobi Southern Bypases Project on 29 December 2011.

[7] Speech by H.E. Hon. Mwai Kibaki C.G.H, M.P., President and Commander –in-Chief of the Armed Forces of the Republic of Kenya during the official launching of the construction of the Nairobi Eastern and Northern Bypass Roads on 21 August 2009.

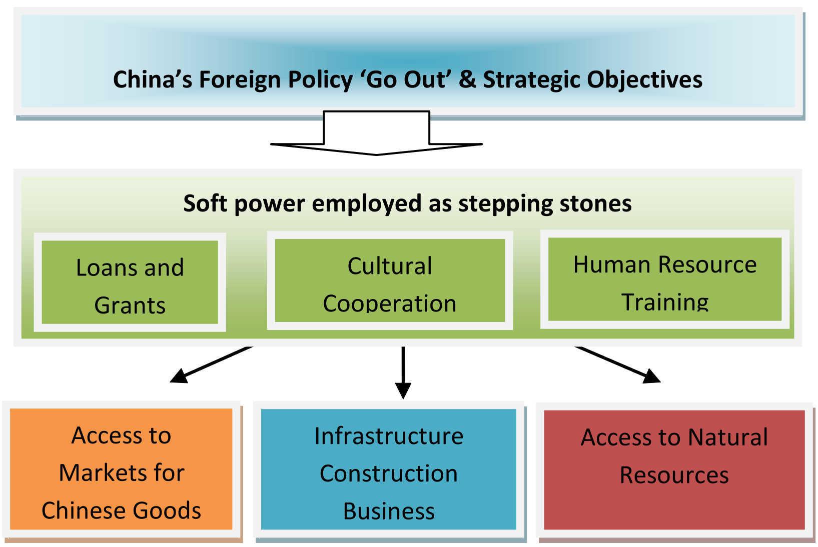
[8] Speech by the Deputy Prime Minister and Minister for Finance (2009-2012) Hon. Uhuru Kenyatta during the signing ceremony for a concessional loan agreement for the Kenyatta University Teaching and Referral Hospital Project

[9] http://www.fmprc.gov.cn/eng/wjb/zzjg/fzs/gjlb/3014/-Accessed on 20/02/2012.

expanded. Amongst other things, the two rural schools China built for Kenya under the FOCAC framework were handed over to Kenya, and Moi International Sports Centre Repair Project was officially started. The two sides signed a loan agreement on the Olkaria IV geothermal production well-drilling project. In June 2010, the Confucius Institute at Kenyatta University in Kenya was officially inaugurated.'

By focusing on technical and financial cooperation, including funding of infrastructure projects in Kenya, it can be argued that China is using soft power to strengthen the relationship with Kenya, and use that relationship as a stepping stone for gaining and fostering its presence in the wider East Africa. Ngau (2011) summarizes the situation by stating that the Chinese are trying to buy favour. One of the biggest challenges in African countries has been poor infrastructure. African people are happy with them because the roads are better. Chinese roads are not only building good will but they are also helping Chinese businesses penetrate the continent.[10]

Figure 2.11: Soft power use to access markets and natural resources



Source: Author

[10] Accessed from http://www.npr.org/2011/06/21/137185048/will-kenyan-superhighway-also-benefit-china

2.2.3 China's African infrastructure investment practices

The Chinese model for outward investment brings Beijing's strategic economic growth objectives and foreign policy together, guiding investment decisions in Africa along the lines of 'no strings attached' financial and technical assistance (Zafar, 2007).

The depth of the 'no strings attached' approach is set in China's African Policy (2006), which makes it clear that China respects African countries independent choice of the road of development and will provide and gradually increase assistance to African nations with no political strings attached (MoFAPRC, 2011).

At the FOCAC summit of November 2006, President Hu Jintao stressed that Chinese assistance to Africa is sincere, unselfish and has no strings attached. China's only condition for political and economic cooperation is the "one China principle", in that African partner governments may not have official contacts with Taiwan.

Delivery of Chinese funded projects

While the "no strings attached approach" has been welcome by African nations, Beijing's development assistance is closely linked to its trade and investment interests. Chinese government aid funds are administered by China Export-Import (Exim) Bank, which requires at least 50 per cent of funds to be distributed to Chinese enterprises. Thus, most of infrastructure construction projects offered under governments ODA programmes require that Chinese firms are construction contractors and equipment and material suppliers (Hellstrom, 2009). Hellstrom's conclusion is strengthened by the fact that Exim is a government bank under direct leadership of the State Council, which professes that it offers a complete set of financial products – low rate loans - and associations with skilled Chinese building companies that are guided towards building or rebuilding local infrastructure, equipment, and offshore stations which meet dual Chinese and African interests (Eximbank, 2011).

Publicly available information shows that majority of China funded infrastructure projects in Kenya are delivered by Chinese Companies as illustrated in Table 2.3.

Table 2.3: Funding and contractor details for infrastructure projects in Kenya

Project	Contractor	Project Cost (Ksh)	Funding
Nairobi-Thika (A2) (Lot 1)	China Wu Yi Co. Ltd	8.1 billion	AfDB/GoK
Nairobi-Thika (A2) (Lot 2)	Synohydro Corporation Ltd	8.6 billion	AfDB/GoK
Nairobi-Thika (A2) (Lot 3)	Shengli Engineering Const. Group Co. Ltd	9.4 billion	China/GoK
Isiolo-Merille (A2)	China Wu Yi Co. Ltd	4.9 billion	AfDB/GoK
Athi River-Namanga (A104)	China Overseas Engineering Group Co. Ltd	6.2 billion	AfDB/GoK
Dundori-Olkalau-Njanini (C66)	China Wu Yi Co. Ltd	3.5 billion	
Emali-Oloitoktok (C102)	Synohydro Corporation Ltd	4.2 billion	BADEA/OPEC Fund/Gok
Londiani-Fort Tanan (C35)	Jiangxi Zhongmei Engineering Co. Ltd	4.4 billion	GoK
Marsabit-Turbi (A2)	Jiangxi Zhongmei Engineering Co. Ltd	13 billion	AfDB/GoK
Northern and Eastern Bypass Roads Project	China Roads and Bridges Corporation (K)	8.6 billion	China/GoK
Southern Bypass Roads Project	China Roads and Bridges Corporation (K)	16.9 billion	China/GoK
Oginga Odinga Road Section 58, Nakuru	China Roads and Bridges Corporation (K)	369 million	
Olkaria IV Geothermal Field Production Wells Drilling Project	Great Wall Drilling Company of China	7.5 billion	China/GoK
Kenyatta University Teaching, Research and Referral Hospital	China Jiangxi Company	9.85 billion	China/GoK
Kenya Power Distribution System Modernization and Strengthening	China CAMC Engineering Co. Ltd	1.4 billion	China/GoK

Source: Various. See footnotes to Table 2.2

Corruption and human rights issues

China's "no strings attached" approach brings with it a potential for undermining the fight against corruption and human rights abuses. The Chinese government considers that human rights abuse to be internal affairs and entertains close economic and political relations with resource-rich countries such as Burma, Sudan, Uzbekistan and Zimbabwe in spite of the massive repression of opposition forces and ethnic minorities (Bosshard, 2007).

The UN Convention against Corruption commits the signatory governments to take effective measures to prevent and prosecute corruption, including the bribery of foreign public officials. China ratified this Convention in January 2006 and is making strong efforts to clamp down on corrupt practices at home. However, the same cannot be said of its international economic activities. The Bribe Payers Index of Transparency International, which assesses the propensity of companies to bribe abroad, ranked companies from China 29 out of 30 countries in October 2006 (Bosshard, 2007). In September 2006, a task force of the African Union identified 'the need to ensure that Chinese investment practices do not undermine Africa's efforts to promote financial transparency and combat corruption' as one of the challenges in Africa's new partnership with China (African Union, 2006). As if to drive this concern home, Alfred Mutua, a spokesperson for the Kenyan government, in June 2005 was quoted saying: "The Chinese do not peg their economic activity or aid to political conditions. You never hear the Chinese saying that they will not finish a project because the government has not done enough to tackle corruption" (Bosshard, 2007).

General Business Practices of CCFs in Africa

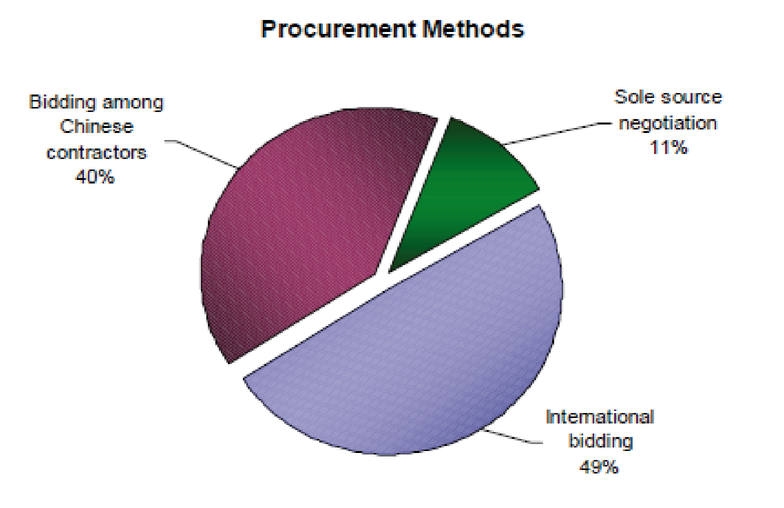
Competition and impact on local businesses

Botha (2006) highlights several implications of Chinese economic involvement in Africa. Botha highlights Chinese Construction Firms (CCFs) in Africa as being known for "submitting bids below cost in an effort to break into the market and being aggressive to the point of alienating domestic competitors."

An evaluation of CCFs in Africa by Chen *et al.* (2009) found that International bidding is the principal procurement method, representing slightly less than 50 per cent of contracts won in Africa by CCFs. However, he reported that bidding among Chinese contractors for projects that are financed by Chinese funds constitutes almost 40 per cent of the projects followed by sole source negotiation at about 11 per cent.

Chege (2008) highlights that Chinese construction firms have been accused of undercutting competitors through financial subsidies from

Figure 2.12: Procurement methods for CCFs executed projects in Africa



Source: Chen (2009)

their government in one form or another. All these complaints relate to "behind the border" reforms of the type identified by Broadman, which are best settled by compliance to international standards established by the WTO and the International Labour Organization (ILO). Reforms of that kind, not least within Kenya, would go a long way in economic relations between Kenya and China leveling the playing fields and establishing a fair basis of competition.

Moss and Rose (2006), in a Centre for Global Development note identified that the use of Exim bank and other official agencies to effectively subsidize China's firms undoubtedly impacts competitors. The fact that many of the Chinese firms are state-owned, they may also not be under the same shareholder pressure for profitability as long as they are serving some foreign policy goal.

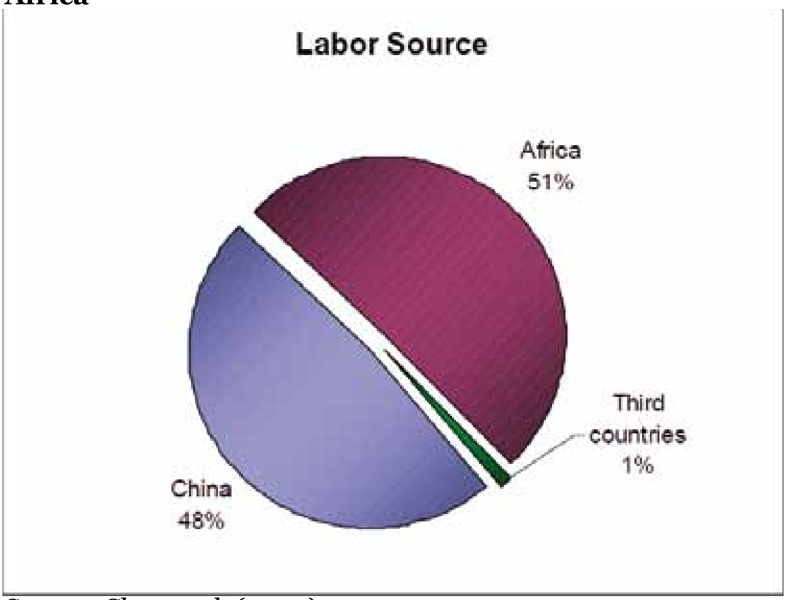
Munyi (2011) identifies that the discontent about continued stiff competition by Chinese firms resulting in edging out African firms in domestic tenders, local import trade and major business sub-sectors is slowly rising as demonstrated by these few recent examples from East, West and Southern Africa. While most governments have been lauding China–and readily awarding construction tenders to Chinese firms–many locally-owned businesses are strongly feeling the pressure from Chinese competition.

Amongst the case studies presented by Munyi (2011) is one in the Kenyan construction sector titled 'China's march to Kenya upsets local firms' in which a report by 14 universities in Africa under the aegis of the African Economic Research Consortium (AERC) warned that increasing investment, foreign aid and diplomatic ties with China would hurt Kenya. The researchers felt that Chinese firms are undercutting local companies and that the latter may collapse. They estimated that more than 50 per cent of construction activities in Nairobi, both private and state-sponsored, had been captured by Chinese construction firms usually preferred for projects ranging from roads, water systems, power generation and hospitals.

Equipment and material sources

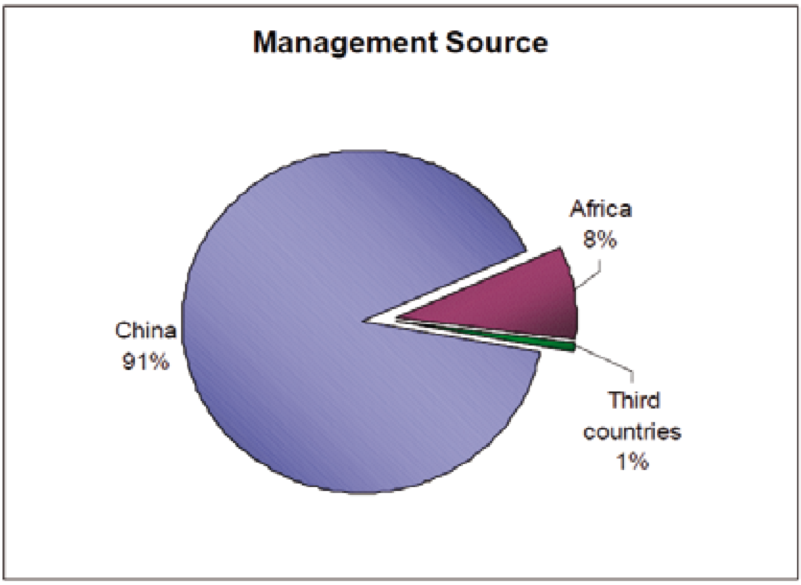
Equipment and material supply is a big issue. An empirical study by Chen *et al* (2009) found that CCFs in Africa generally buy equipment from Chinese manufacturers. They quote one CCF interview saying "more than half of our equipment is made in China. There are various reasons, one of them being that they are cheaper there and another is a source of accessories" (Chen *et al*, 2009).

Figure 2.13: Labour and management source for CCFs Africa



Source: Chen et al. (2009)

Figure 2.14: Management source for CCFs Africa



Source: Chen et al. (2009)

Human resources

Another key issue that has been documented by scholars and policy makers is the limited use of local human resources by CCFs delivering projects in Africa, particularly management and skilled resource. In their empirical survey of CCFs in Africa, Chen *et al.* (2009) found that, on average, CCFs employ equal number of Chinese and local labour but overwhelmingly resort to Chinese nationals for managerial positions (Figure 2.14). Indeed, less than 10 per cent of the skilled work force positions were found to be occupied by locals.

Munyi (2011) continues to highlight that fears have been raised about threats to engineering talent and skills and the collapse of local construction companies due to invasion of Chinese construction firms. In addition, the report by the University of Nairobi Institute for Development Studies, states that the structure of employment is changing, with an increasing proportion of foreign employees in Chinese enterprises. This phenomenon was reinforced by Moss and Rose (2006) observing that Chinese firms often import their own labour, which limits the economic spillover effects.

Employee rights

Labour conditions at COFs in general have generated intense interest among international policy makers, labour movement activists and development agencies. Some of the conditions at CCF are union-bursting, arbitrary pay cuts, no written job contracts, and no maternity pay. Masta (2009) observed that the dehumanizing treatment being meted out to workers in Kenya is reminiscent of the condition of work in pre-industrial revolution Britain. Moreover, Kenyan workers' health, safety and dignity are being violated despite the existence of new labour laws. The Chinese bosses seem to violate workers' rights with impunity (Masta, 2009).

CCFs business practices in Kenya: Case studies

Case 1: Great wall drilling company–Awarding Chinese funded projects to Chinese companies only, questionable procurement and variation of contract

An article by Rigby (2012) appearing in the *Nairobi Law Monthly* presents a very strong case of questionable procurement and possible corruption by KenGen and the Great Wall Drilling Company (GWDC), which is a subsidiary of China National Petroleum Corporation (CNPC).

The article documents that KenGen advertised for drilling of six geothermal appraisal wells. Three companies submitted bids, namely: Central Resources International of Australia (bid of US$ 40.2 million), PNOC–Energy Development Corporation of Philippines (bid of US$ 70.2 million and GWDC (bid of US$ 20.9 million). All companies passed technical appraisal and the contract was awarded to GWDC on the basis of both technical and financial evaluation.

However, after the contract was awarded, KenGen gave a further 15 wells to drill at an additional cost of US$ 82 million (a 300% variation to contract) without competitive tendering and in contravention of the Public Procurement and Disposals Regulations 2006, "contracts awarded through tender can in law be varied to a maximum of 15 per cent of the original contract value." In addition, Rigby (2012) states that when the Permanent Secretary in the Ministry of Energy appeared before the Parliamentary Committee on Energy in December 2012, he was quoted saying "China Exim Bank was granting loans to Kenya on condition that Chinese firms were awarded the contracts."

Case 2: SINHYDRO Corporation - Employee rights and negotiation in bad faith

The 2011 annual survey of violations of trade union rights–Kenya, published by the International Trade Union Confederation reports the case in which Construction of the Thika Road Highway was disrupted on 23 August 2010 when 400 workers went on strike demanding better pay, working conditions and medical cover, an end to exploitation, long working hours and the illegal withholding of drivers' licenses.

The Kenya Building, Construction, Timber Furniture and Allied Industry Employees Union (KBCTFAIE) sought in vain to reach an amicable negotiated solution with the SINHYDRO Corporation. According to the union, tripartite negotiations failed because of lack of good will on the part of the employer. The Company's management called in the police to disperse the workers who went on strike.

In September 2010, the Industrial Court of Kenya ordered the SINHYDRO Corporation to commence negotiation of a collective bargaining agreement with KBCTFAIE to be concluded within 45 days (International Trade Union Confederation, 2011).

Case 3: China Road and Bridges Corporation–Shortfall in schedule performance and irregular payments

The report of the auditor general on appropriation accounts, other public accounts and the accounts of the funds of the Republic of Kenya for the year 2009/2010 highlights a number of audit observations and issues related with the Eastern and Northern by-pass roads project being constructed by China Roads and Bridges Corporation.

Amongst the key observations are that the project was behind target and the progress report for June 2010 reflected physical progress of 29.6 per cent compared to a target of 33.9 per cent, while the project time that elapsed was 47.6 per cent, which is not in accordance with the conditions of the contract, which require that works are planned and expected to achieve quarterly targets set in the programme of works. The audit report also highlights irregular payments of Ksh 6.9 million for expenditure incurred by the contractor in respect of payments to Kenya Power for removal of power poles which contrary to Section 27(2) of the Kenya Roads Act 2007, which stipulates that the provider of a utility located within a road reserve is required to relocate it at no cost to the roads authority.

Chinese non-construction company business practices

Masta (2009) details two case studies of gross violation of workers' rights by Chinese-owned companies in Kenya.

Case 1: Blue Wave Group of Companies (BWGC)

Blue Wave Group of Companies (BWGC) with headquarters in Nairobi, Athi River and Mombasa employs a 250-strong workforce including ten managerial staff (two Kenyans and eight Chinese). However, none of the workers has an employment letter or contract. As such, no worker can claim to be part of the company staff. The monthly minimum wage for the factory workers is Ksh 4,200 (US$ 53.20). The Kenyan managerial staff earn Ksh 50,000 (US$ 632.9) monthly, while their Chinese counterparts take home Ksh 55,300 (US$ 700) monthly, excluding other allowances estimated at Ksh 9,270 (US$ 117.30) per week. In BWGC, workers' salaries are deducted when they go on maternity leave. For instance, a quality control manager was not paid at all during maternity leave and when she resumed work, her monthly salary was reduced for no justifiable reason. In addition, there has never been a workers' union at BWGC. As a result of the demand for a workers' union, the entire workforce was dismissed in June 2008.

Case 2: Rubber Products Company Ltd, Nairobi

In September 2007, about 29 workers at the company on night duty were killed when their factory caught fire. The company policy was to lock the workers inside the factory at night without any outlet in case of emergency. This was in sharp contrast to Section 77(9) of the Kenyan Occupational Safety and Health Act (2007). The Act states that "while any person is within a workplace for the purpose of employment or meals, the doors of the workplace, and of any room therein in which the person is, and any doors which afford a means of exit for persons employed in the workplace from any building or from any enclosure in which the workplace is situated, shall not be locked or fastened in such manner that they cannot be easily and immediately opened from the inside." This case shows that health and safety, and welfare standards are not in place in most of these Chinese companies.

3. Methodology, Data and Analysis

3.1 Data Sources

The data was obtained from Ministry of Finance, Kenya National Highways Authority (KeNHA), Kenya Urban Roads Authority (KURA), Kenya Rural Roads Authority (KURRA), International Trade Union Confederation (ITUC), African Labour Research Network (ALRN), Kenya National Audit Office (KENAO), Kenya National Bureau of Statistics (KNBS), United Nations, The Economist as well as empirical studies by others published in refereed journals.

3.2 Methodology

The nature of this study is primarily descriptive in the sense that it provides a detailed account of China's involvement in infrastructure development in Kenya within a particular time period of 2003 and 2011. This study relies predominantly on secondary and limited primary data. Secondary data, especially on China's investment practises, general business practises of CCFs in Africa and case studies on CCFs and other Chinese-owned firms in Kenya has been obtained from existing academic and policy literature.

Although most of this literature is not specific to Kenya, particularly in respect of CCFs business practises, it is expected that business practises of Chinese companies are driven by an underlying culture and the way they operate back at home in China, and is strongly indicative of what is happening in Kenya. Therefore, a key assumption to the analysis is that CCFs practises in other African countries are likely to be replicated in Kenya and, therefore, the losses and gains accruing are likely to be similar.

To understand the gains and loses emanating from China's involvement with Kenya's infrastructure sector and the associated policy issues, analysis of the data is undertaken with particular focus on contribution and impact to:

- The local economy
- Infrastructure creation and contribution to Vision 2030 goals
- Financial growth of local enterprises

- Technology transfer, capability and capacity enhancement for local firms
- Employee rights

3.3 Analysis

China-Kenya relations in infrastructure development have significantly increased in the last ten years. Though seemingly beneficial, China's involvement in the Kenyan infrastructure scene has resulted in some significant benefits as well as drawbacks that need to be addressed by a more targeted and robust policy regime.

3.3.1 Benefits

China is contributing significantly towards Vision 2030

The Economic Pillar of Vision 2030 seeks to improve the prosperity of all regions of the country and all Kenyans by achieving a 10 per cent Gross Domestic Product (GDP) growth rate by 2012. To achieve this, Vision 2030 strategy focuses on reforming eight key enablers, infrastructure being one of them.

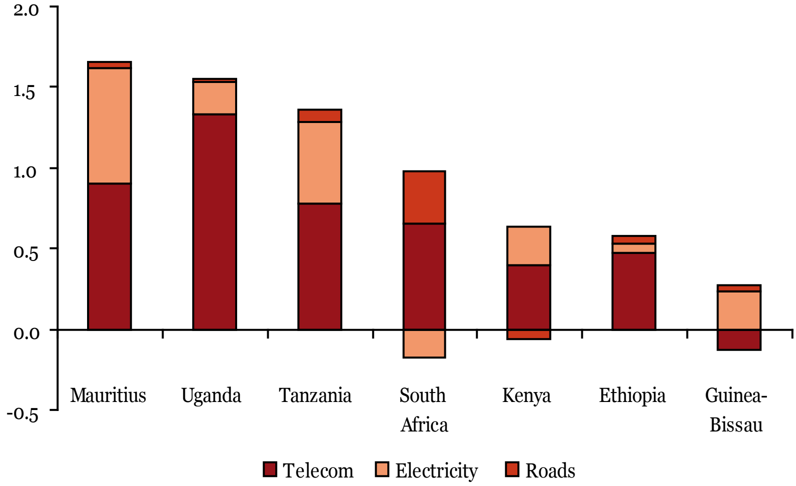
As already highlighted, by 29 December 2011, Kenya had received cumulative official development assistance amounting to Ksh 57.442 billion, majority of it going towards infrastructure projects. Available data shows that China has funded many projects that have been successfully completed, including Moi Sports Centre, Kasarani; Moi Teaching and Referral Hospital; Rehabilitation and Widening of the JKIA–Uhuru Highway–UNEP Road; Mama Lucy Kibaki Hospital in Nairobi Eastlands; and the Kenya Power Distribution System Modernization Strengthening Project. In addition, China is funding £53.7 billion of ongoing infrastructure projects.

African Infrastructure Country Diagnostic data for Kenya (World Bank, 2010) gives two very strong signals:

(a) Infrastructure's contribution to growth in Kenya has been less than in other African countries (Figure 3.1); and

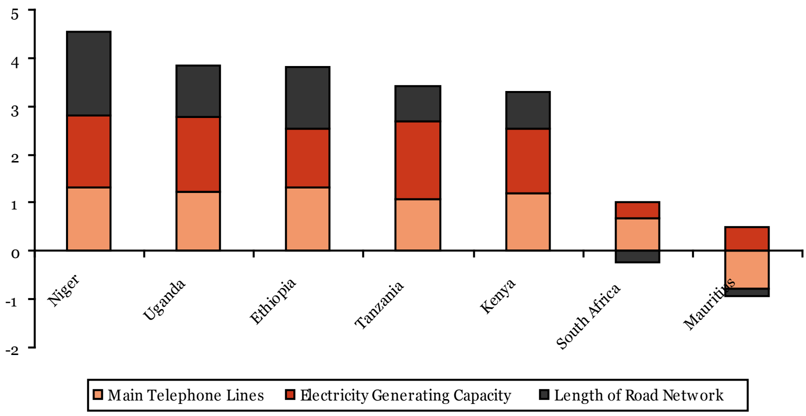
(b) As a result, Kenya has a lot to gain from improving its infrastructure (Figure 3.2).

Figure 3.1: Changes in growth per capita due to changes in infrastructure 2001-5 vs. 1991-5



Source: World Bank, 2010

Figure 3.2: Potential changes (%) in growth per capita from improving infrastructure to level of African leader (Mauritius)



Source: World Bank, 2010

Therefore, by funding Kenyan infrastructure projects through bilateral lending, China is contributing to a key enabler of Vision 2030 and economic growth of the country.

China is helping Kenya break dependency on the West

Kenya, like many other African countries, has relied on western donors to fund its budgetary deficit, and majority of infrastructure projects. More often than not, this aid has always had severe political and economic conditions attached to it, which result in negative social economic effects such as inflationary pressures, mass redundancies, unemployment and high income inequality associated with the World Bank and International Monetary Fund initiated Structural Adjustment Programmes of the 1990s, as well as loss of power for Kenya to prioritize and manage its economic programmes.

The loss of the power to prioritize its infrastructure and economic programmes based on its own vision has often meant that Kenya has had to look for consent or approval of the programmes from donors and it can be argued that this has had adverse role by crippling the psychological independence of Kenyan policy making.

China is helping Kenya break its dependency from the west and forge its economic destiny. By providing lending for infrastructure development with no or few conditions attached, it can be argued that what China is bringing to the table is something new, a straight forward business based on mutual interest and non-interference in the internal affairs of its allies.

In effect, China is giving practical and tangible contribution towards Kenya's economic development. Economic development is about people, and more precisely improvement of the quality of life of the people. By investing in infrastructure projects, China is developing much needed infrastructure and affecting the lives of Kenyans through direct employment and provision of a key business, hence enabling creation of jobs.

China in bringing efficiency

Another good facet to China's presence in the Kenyan infrastructure scene is that it is bringing with it the speed, tenacity, dependability and technical capability of Chinese construction companies. This was summed up by Wahome Gakuru, a director of Vision 2030, "Chinese companies are very competitive, the quality of work they do is very good. They deliver before deadlines and never ask for extensions, while Kenyan companies ask for extension after extension after extension."

These positive traits of Chinese construction companies are helping Kenya achieve its infrastructure development goals in a much faster way, unlike in the past where it took years and years to create and upgrade infrastructure. In a nutshell, China's involvement in Kenyan infrastructure through investment is a constructive and positive contribution towards Kenya's development agenda. It is worth noting that this contribution comes at a time when most other developed nations are turning away from Kenya as a reliable trade partner, while demeaning and patronizing her with heavy sanction tied development aid which, in some ways, is even worse.

3.3.2 Drawbacks

China is edging out local businesses

Chinese government funds are administered by China Export-Import (Exim) Bank, which requires at least 50 per cent of funds to be distributed to Chinese enterprises. The availability of subsidies to CCFs from the Chinese government means that CCFs can submit bids that are very commercially aggressive. This continued stiff competition by CCFs edges out Kenyan firms in domestic tenders and many locally owned businesses are strongly feeling the pressure from Chinese competition, leading to a feeling of discontent. Munyi (2006) pointed out that, currently, 50 per cent of public and private-sponsored construction work in Nairobi is being delivered by CCFs, indicating a significant amount of local businesses having been edged out of the market, which is detrimental to local entrepreneurship.

Majority of Chinese funding leaves the country

Chen (2009) identified that majority of CCFs generally procure a significant amount of project equipment and materials from China. He also identified that they generally employ at least 50 per cent of labour and 91 per cent of the higher paid management resource from China.

These practices have a significant consequence on capital flight. Virtually all China's investment funds in the Kenyan infrastructure, whether loans or grants, end up leaving the country through equipment and material purchases, repatriation of CCFs profits and Chinese employee wages, instead of being introduced into the local economy. The implication is that Kenya is borrowing money that largely goes back to the lender, but she still has to pay the loan and associated financing charges. With other development aid approaches, particularly those employed by Western lending agencies, a chunk would have left the country for management fees, but there would also be a substantial percentage retained in the local economy and taken home by local workers, companies and material suppliers.

China is not contributing to knowledge transfer and local capability building

The practices already identified have a second implication in that with Chinese companies undertaking majority of the large infrastructure projects using Chinese managerial and technical expertise, knowledge transfer to local firms is not happening. As a result, when construction is complete, all the experience also leaves the country and even when the CCFs win another project within the country, the experience is still retained with the Chinese and not transferred to the local people.

The traditional argument was that foreign companies would at the very least be training local workers in construction (or some other skill) building capacity in the country. Whether or not this has ever been effective is debatable. China's aid projects disregard this aspect of aid, and their projects often seem to serve as a means of reducing their own domestic unemployment. While China appears to the Kenyan government as the attractive partner for infrastructure development, loss and extinction of technical capability could lead to dependency for future projects, which could place Kenya at a susceptible position of being charged premium rates to develop or upgrade its infrastructure.

CCFs are violating workers' rights

Perhaps the most significant issue associated with presence of CCFs in the infrastructure sector in Kenya is that of gross violation of workers' rights and disregard to their health, safety and welfare.

While statistically significant documented data for the infrastructure sector is not available, there is evidence of the manifestations of this violation of rights at Chinese construction companies delivering infrastructure in Kenya. The case study on SINHYDRO and that of two Chinese non-construction companies in Kenya, Blue Wave Group of Companies and Rubber Products Company Limited (Section 2.2.4.2), indicate what would appear to be systemic, if not corporate cultural disregard of employee rights, which contravenes the Kenyan law.

Could Kenya be accumulating unsustainable debts?

Accumulation of high and unsustainable debt is perhaps the most damaging issue to economic growth and political independence of Kenya, associated with China's presence in the Kenyan infrastructure sector. With Kenya having high need and affinity for infrastructure development and China being a willing creditor on concessionary terms, it could create a wave of new and unsustainable debt accumulation, which could trigger a debt crisis or, in the very least, put Kenya in an unbreakable yoke of dependency that could have negative effects on economic growth and potentially make Kenya a puppet of China.

Chinese mass migration and local discontent

While Chinese construction companies are bringing Chinese people to work on construction projects, there is growing evidence of Chinese migrants or former labourers on construction sites opening shops, using their contacts to get cheap goods from China, driving local businesses to the verge of extinction, and permanently staying once the projects are complete. This is breeding the 'Chinese are taking what is ours' sentiment, which in some countries such as Zambia, Lesotho and DRC have triggered anti-Chinese violence (Baah and Jauch, 2009).

3.4 Summary of Key Policy Issues

Analysis of China's presence in the Kenyan infrastructure scene reveals seven key policy issues that need to be addressed.

(i) Capitalization of China's willingness to fund Kenya's infrastructure projects and leveraging Chinese technical capability to support infrastructure development and Vision 2030

(ii) Lending capital flight

(iii) Low technology and skills transfer

(iv) Uncompetitive practices edging out local businesses

(v) Violation of Kenyan workers' rights

(vi) Debt sustainability

(vii) Mass Chinese migration to Kenya and the associated societal implications

4. Summary, Conclusion and Policy Recommendations

4.1 Conclusion

The study found that China is funding and willing to fund infrastructure projects in Kenya, injecting real money into the real economy, and contributing towards economic development, hence the journey towards realization of Vision 2030. The second aspect highlighted in the study is that Chinese construction companies have significant positive traits such as being very commercially competitive, delivering very good quality work, and having the discipline to deliver within or ahead of deadlines, which in turn helps Kenya to achieve its infrastructure development goals. However, they employ an overwhelmingly high number of Chinese staff, particularly on technical and managerial positions, and use equipment originating from China. This practice stifles knowledge and technology transfer, which is critical to a developing nation and significantly reduces the funds permeating to the local economy.

The study also identified evidence of gross violation of workers' rights and disregard to their health, safety and welfare within Chinese construction companies. There are existing strong legal provisions for the protection of the Kenyan workers. These include the Employment Act (2007), which covers issues such as prohibition against forced labour, discrimination in employment, sexual harassment, employment relationships (such as employment contracts, collective agreement and employee rights), protection of wages, rights and duties in employment such as hours or work, maternity leave, annual leave, sick leave, etc; and the Kenyan Occupational Safety and Health Act, 2007, which covers Health and Safety at the work place, and Labour Relations Act (2007) which covers freedom of association, trade unions and employers associations. It is the implementation, strict adherence, policing and reprimand of those who do not meet the requirements of these legal instruments that is weak or lacking. New policies or legal frameworks will not significantly improve this issue.

4.2 Recommendations

The Kenyan government through the Vision 2030 Secretariat and the Office of Public Communications need to develop and implement a specific communications policy aimed at creating awareness and understanding within the wider Kenyan population of the value and positive impact that China is bringing to Kenya by being involved in the development of the Kenya infrastructure.

It is recommended that Kenya, through the Ministry of State for Planning, National Development and Vision 2030 develops policies aimed at leveraging on the positive traits of Chinese construction companies and driving knowledge and technology transfer through either alliancing or joint venture arrangements between Chinese construction companies and their Kenyan counterparts, or having a target percentage of technical and managerial staff on infrastructure projects being Kenyans. It is appreciated that these policies may have a negative impact on China's willingness to fund Kenyan projects, and therefore need to be developed through 'adult to adult' discussions and negotiations with the Chinese government and Exim Bank, in particular.

Lastly, the study is recommending that the Kenyan government through the Ministry of Labour implements and enforces a robust regime to drive compliance with these legal provisions through robust monitoring and surveillance, and enforcement of extremely punitive measures for those who violate these legal provisions.

4.3 Further Work

Within the constraints of this study, the issue of debt sustainability could not be robustly investigated. It is recommended that further work focusing specifically on China's lending to Kenya and its contribution to the overall sustainability of Kenya's debt be undertaken before policy recommendations are made. In addition, Chinese migration associated with China's involvement with Kenya's infrastructure development and the associated societal and economic implications should be studied.

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