Caribbean Journal of International Relations & Diplomacy
Vol. 3, No. 1, March 2015: pp.65-76

ANALYTICAL NOTE

Environmental Policy and Chinese Finance in the Caribbean: The Tale of Jamaica's Goat Islands

Danielle Edwards
Dominica State College

Abstract: *China's growing profile in Latin America and the Caribbean mirrors its rise to geopolitical prominence within the wider international community. As China-Caribbean diplomatic relations have grown deeper and closer, assistance through Chinese development finance has increased. Projects financed through Chinese investment are often associated with significant environmental and social impacts, as highlighted by the proposal for a logistics hub and strategic trans-shipment port in an ecologically sensitive area off the coast of Jamaica in 2013. This paper briefly compares the guidelines that currently govern Chinese investment, with reference to internationally established environmental safeguards and accountability mechanisms. A case is made for the implementation of similar mechanisms to facilitate greater social and environmental accountability in Chinese-funded projects throughout the Caribbean.*

Keywords: Jamaica; China; Development Assistance; Environmental Policy; China-Caribbean Relations

Since the beginning of the 21st Century, the People's Republic of China (PRC) has established a strong presence in the Western Hemisphere. China's growing profile in Latin America and the Caribbean is consistent with its rise to geopolitical prominence and its rapidly growing economic power. As diplomatic relations between China and the Caribbean have grown deeper and closer,[1] development finance has become a highly visible feature of China-Caribbean relations.[2] Indeed, Ellis notes that

> [a]part from Costa Rica, the vast majority of Chinese construction work performed as "gifts" from the PRC have been done in the Caribbean, with typical projects including sports stadiums, government buildings, roads, hospitals and clinics.[3]

These 'gifts' include a $35 million cricket stadium in The Bahamas and a $55 million cricket stadium in Grenada named Queen's Park.[4] More recently, the Government of Jamaica revealed plans to lease two cays known as the Goat Islands to China Harbour Engineering Company (CHEC) to develop a trans-shipment port at a cost of US$1.5 billion.[5]

Chinese foreign policy continues to be driven largely by an interest in penetrating important markets within the Caribbean region.[6] The impetus for China's growing economic presence has been documented by several scholars, including, internationally, Kevin Gallagher[7] and Richard Bernal[8], and, from within the region, Annita Montoute. All note the importance of how China's thirst for resources drives its economic diplomacy. In its quest to continue strengthening diplomatic ties with Latin America and the Caribbean, China is undoubtedly poised to continue serving as a major source of development finance for the LAC region.[9] To this end, China has entered into bilateral treaties with Jamaica, Cuba, Trinidad & Tobago and Barbados for the purpose of facilitating investment opportunities with these Caribbean territories.[10]

THE ROLE OF INTERNATIONAL LENDING INSTITUTIONS IN STRENGTHENING ENVIRONMENTAL SAFEGUARDS

External assistance is a popular instrument of Chinese diplomacy, and all those developing countries that enjoy relations with Beijing receive offers of zero-interest loans or grants.[11] These are sourced from financial institutions based in China with mandates for international development. Currently, the majority of the country's international lending is derived from the China Development Bank and the China Export-Import Bank (EximBank). Both were the subjects of reform in 1994, when the Chinese government restructured them to be 'policy banks', or 'tools of the government'.[12] The objective of these reforms was to facilitate the availability of loans for the purpose of explicitly supporting the Chinese government's policy objectives.[13]

Often, Chinese loans are used to finance development projects in environmentally sensitive industries, such as mining, or on infrastructure projects in developing countries with low environmental standards.[14] In this regard, the role of financial institutions engaged in international development programs, such as the China Development Bank, is a rather significant one.[15] As lenders, such banks can promote corporate compliance with widely accepted environmental practices through the terms of credit provision.[16] Where environmental and social policies are instituted and implemented by development finance organizations, these policies play a critical role in the mitigation of unanticipated environmental and social harm which could otherwise undercut the long-term success of a development project.[17] As Bradlow observes of international financial institutions: 'legally the structure of the[ir] transactions shares many characteristics with the private sector's financial contracts'.[18] However, these institutions are parties to transactions which involve recipient states. These states, in turn, are governed by the international legal principles applicable to international agreements.[19]

The global community has placed great emphasis on the need to manage environmental risk in the context of sustainable development. In a remarkable policy shift, The World Bank Group developed 'safeguard' policies following a wave of protests by civil society against environmentally harmful projects such as the construction of dams in India's Narmada Valley. The Narmada Valley project, which was first funded by financing from the World Bank 1985, led to the displacement of more than 300,000 people.[20] The World Bank's safeguard policies which exist today are designed to identify, avoid, and minimize such harm to people and the environment. Notably, institutions which borrow funds from the World Bank are required to conduct environmental and social impact assessments and consult with local communities.

The World Bank Inspection Panel, first established in 1993, is charged with the responsibility of investigating projects funded by the International Bank of Reconstruction and Development and the International Development Association which are both part of The World Bank Group. The Inspection Panel is responsible for oversight of these bodies' compliance with the policies and procedures in the design, appraisal, and execution of projects funded by The World Bank Group. In 2006, the International Finance Corporation (IFC), which is also part of The World Bank

Group, released its own environmental policies, known as 'Performance Standards on Environmental and Social Sustainability'. The Compliance Advisory Ombudsman (CAO), with duties quite similar to those of The Inspection Panel, is the watchdog for projects funded by the IFC and the Multilateral Investment Guarantee Agency (MIGA).[21]

The CAO investigates complaints stemming from projects funded by the World Bank Group. The CAO's self-proclaimed mission 'is to address complaints by people affected by IFC/MIGA projects and to enhance the social and environmental accountability of both institutions'.[22] It was established for the express purposes of resolving disputes arising from complaints of project-affected communities about the social and environmental impacts of projects funded by the IFC or MIGA, and to assist parties in finding alternatives for the resolution of the environmental and social issues.

With all of this in mind, then, and given their prominent role in regional development in the Caribbean, it is far from unreasonable to expect that Chinese lending institutions should lead by example in promoting environmental and social risk management, as well giving priority to accountability in development projects in the Caribbean.

THE TALE OF JAMAICA'S GOAT ISLANDS

The 2013 proposal for a trans-shipment point on Jamaica's Goat Islands, in the heart of an ecologically sensitive area, has highlighted the complex issues arising where environmental risks are associated with prospective Chinese investment in the Caribbean.

Jamaica's Goat Islands are small uninhabited cays which contain 30,000 acres of mangroves. They are situated in the Portland Bight protected area, which spans more than 200 miles of land and 524 miles of sea. The Portland Bight protected area has been designated as a nature reserve since 1999. The Goat Islands also feature four dry limestone forests and they are a prospective sanctuary for the Jamaican iguana.[23] The construction of the proposed port has been cited as an opportunity to exploit Jamaica's 'ideal central position in the Caribbean and proximity to the Panama Canal'[24] to create a logistics hub. But, given the ecological significance of the Portland Bight protected area, the proposal for a trans-shipment port to be built in this area has provoked fears among Caribbean environmental activists as well as members of the international community.

In a letter dated October 8th 2013, a representative from the United Nations (UN) to Jamaica, Dr Arun Kashyap, noted the major environmental challenges faced by Small Island Developing States (SIDS) in the quest for sustainable development, while grappling with the threat of climate change.[25] He highlighted the work of the UN in the 'delicate ecosystems of Jamaica' geared towards safeguarding livelihoods and 'enhancing protective benefits of the biodiversity-laden and wetland areas of Jamaica'.[26] He also pointed out that 'This work is being accomplished through resources obtained from the Global Environment Facility, Climate Change Adaptation Fund, private sector banks and other Environmental funding sources including core resources of the UN Agencies'. More notably, Kashyap warned that the proposed development project in the Goat Islands would 'be contrary to the principles and objectives' of several international instruments including the Cartagena Convention and the Convention on Biodiversity. Another international organization actively involved in the field of nature conservation, the International Union for Conservation of Nature (IUCN) documented its concerns that the proposed transhipment port would endanger fifty species of plant endemic to Jamaica in official correspondence to the Jamaican government. The IUCN also noted that seventeen of these endemic species are endangered.[27]

Notwithstanding the concerns expressed by the UN and the environmental activists, in 2014 the *Jamaica Gleaner* reported that the Regional Director of the China Harbour Engineering Company was poised to proceed with the construction of the logistics hub 'and has never harboured any thought of jumping ship'.[28] Two professors of the University of the West Indies - Dr Kurt McLaren and Dr Byron Wilson – have also expressed concern that the continuation of the project

> would send a strong message that [the Jamaican] Government is not committed to mitigating climate change or to protecting biodiversity; nor can they be trusted to participate in carbon trading initiatives, because they could make a decision to destroy the target site before the end of the offset period.[29]

The international community has recognized the potentially destructive impact of shipping - through spills of oil and other hazardous materials - in The International Convention on the Prevention of Pollution from Ships 1973 as modified by the

Protocol of 1978 (known as MARPOL 73/78). This is the chief international instrument drafted with the aim of preventing pollution of the marine environment, whether from accidental or operational means.[30] According to its preamble, MARPOL 73/78 was drafted to address the 'need to improve further the prevention and control of marine pollution from ships, particularly oil tankers'.[31] Therefore, it must be noted that the environmental concerns over the proposed trans-shipment port and development in Goat Islands have not been exaggerated.

The China Harbour Engineering Company, which has been carded to construct the proposed trans-shipment port is a subsidiary of China Communications Construction Company Ltd known as CCCC.[32] The CCCC is owned and run by the government of China, and it is the first Chinese transportation infrastructure group to enter the overseas capital market.[33] Like other subsidiaries of the CCCC, the China Harbour Engineering Company is principally engaged in developing and implementing plans for the construction of transportation infrastructure, dredging and manufacturing heavy machinery.[34] It is not a newcomer to projects within the Caribbean: since the commencement of the wave of development finance between Beijing and the region, it has worked on the construction of a series of roadworks and bridges in the Bahamas, including a bridge to link the Little Abaca and North Abaco islands. These were valued at $40 million dollars.[35]

The China Harbour Engineering Company was also involved in the construction and rehabilitation of a road to connect Jamaica's capital Kingston to the main international airport on the island. This project was valued at $80 million.[36] In Guyana, the China Harbour Engineering Company was slated to be a contractor for the construction of a project for the expansion of the Cheddi Jagan International Airport at a projected cost of $138 million, to be financed by the EximBank. However the Guyanese Parliament eventually stopped funding for the airport expansion project.[37] Ellis suggests that

> Chinese construction and financing is not a monolithic activity, but rather, as with projects involving Western Companies, there are implicit partnerships between specific Chinese banks and their construction partners.[38]

Indeed, numerous projects in which China Harbour Engineering Company is involved have been financed by EximBank, and where Chinese financing is used, it is regularly Chinese firms that undertake construction. The Jamaica Development Infrastructure Program (JDIP) is one such project, which was funded and carried out by these two firms.[39]

To date, no official information has been released on the particulars of the source of development finance in relation to the proposed logistics hub for Jamaica's Goat Islands. Nonetheless, as a financier of projects in which China Harbour Engineering is involved, EximBank and the China Development Bank have a responsibility to the affected communities, and the international community, to ensure that they comply with globally accepted standards and best practices for environmental risk management.

Exim Bank is also governed by 'Green Credit Guidelines' issued by the China Banking Regulatory Commission in 2012 for local offices, policy banks, state-owned commercial banks, joint enterprise group finance companies, and financial leasing firms directly regulated by the Commission.[40] These guidelines strengthened the 2007 Green Credit Policy which was launched by the China Banking Regulatory Commission, the Ministry of Environmental Protection, and China's central bank. Howell et al observe that

> the Green Credit Policy aims to restrict lending activities to enterprises and projects that violate environmental regulations and limit the expansion of energy-intensive and highly polluting industries.[41]

Pursuant to the Green Credit Guidelines, these Chinese lending institutions should identify, assess, monitor, control or mitigate environmental and social risks associated with business operations.

According to article 4 of the Guidelines, 'environmental and social risks' refer to potential impact and risks brought to the environment and communities by banks' clients and their primary supply chains through construction, production and operational activities, which include such environmental and social issues as energy consumption, pollution, land, health, safety, resettlement, ecosystem protection, climate change.[42] Pursuant to Article 10, Banks are encouraged to 'improve policies, systems and procedures for environmental and social risk management; management' and also to 'identify business focus and priority sectors for green credit investment in accordance with national environmental laws and regulations'.[43]

One major shortcoming of the Green Credit Guidelines is the fact that this policy document lacks sufficient mechanisms to guarantee compliance. Further, there is no grievance mechanism available to facilitate the report of complaints by aggrieved communities, in circumstances where the contracting Chinese company does not comply with either the Guidelines themselves or, indeed, established international procedures to mitigate environmental harm.[44]

In this regard, the Green Credit Guidelines may be considered inadequate when compared to the Inspection Panel and the Compliance Advisory Ombudsman which are responsible for the investigation complaints associated with the International Development Association or the International Finance Corporation respectively. However, Caribbean governments and public interest organizations have a duty to propose China-Caribbean mechanisms to bolster the impact and effectiveness of the existing social and environmental safeguards for projects financed by the People's Republic of China.

CHALLENGES FOR INVESTMENT AND ENVIRONMENTAL POLICY IN THE CARIBBEAN

At times, the sites carded for development projects financed by China may be identified and publicized by Caribbean leaders even before the pre-requisite environmental impact assessments are conducted in accordance with Caribbean domestic laws and regulations, or prior to consultation with environmental policymakers and members of the public.

This was illustrated in the case of Jamaica's Goat Islands, wherein the island's Minister of Transport, Works and Housing, Dr Omar Davies, indicated in May 2014 that the China Harbour Engineering Company would submit terms of reference to the National Environment and Planning Agency for the authorization to conduct an environmental impact assessment.[45] However, the Jamaican Government had already signed a non-binding framework agreement with the company in March 2014, prior to the stage at which the National Environment and Planning Agency, the administrative body for supervision of planning and environmental matters, had become involved. Similar scenarios may create significant challenges for strengthening environmental policy in the Caribbean, as similarly placed domestic institutions may question the significance of their roles in facilitating checks and balances for Chinese-funded projects.

It has also been argued that while Chinese financing institutions are governed by their own environmental guidelines, there are a few disparities between these Chinese environmental policies and those of their Western counterparts, such as the World Bank.[46] According to a Tufts University Report:

> Major infrastructure and heavy industry projects have the potential to create environmental problems in LAC [Latin America & the Caribbean]. In response to civil society efforts to "green" the development banks, many Western banks now have significant environmental guidelines. China has developed similar environmental guidelines for its development banks. However, comparison of those guidelines finds that, despite significant progress in the past decade, China's guidelines do not yet match those of its Western counterparts.[47]

As noted above, China's guidelines do not offer a grievance mechanism for communities affected detrimentally by Chinese investment. On the other hand, the World Resources Institute, an independent global research organization, observes that the policies of the Chinese government 'reveal a growing commitment to environmental and social concerns'.[48] Nonetheless, there is significant scope for continued progress.[49]

Robust environmental and social policies are surely fundamental for the success of projects funded by Chinese financiers. The development and implementation of these policies can also contribute to improved foreign relations with Caribbean states and reduce friction among local communities. However, the role of Caribbean governments is equally important. Regional leaders must not be tempted to circumvent domestic regulations by the lure of development finance.[50] In this regard, it is important that the leaders of recipient states resist pressure to make decisions on development projects in a rushed manner.[51] It is also vital that regional leaders respect the domestic laws and procedures ordinarily required for locally funded construction projects.[52]

Environmental interest groups and the Caribbean community can only wait and see how the proposed port development on the Goat Islands will unfold. However, Chinese policymakers should strive to encourage greater social and environmental accountability by adopting stronger grievance mechanisms for projects such as these. Such policies will promote stronger relationships between affected communities and the Chinese financiers whose contributions are becoming increasingly significant within the Caribbean development process.

NOTES ON CONTRIBUTOR

Danielle Edwards holds an LL.M '14 in International Law with a specialization in International Environmental Law from the American University Washington College of Law. She is a graduate of both the Faculty of Law at the University of the West Indies Cave Hill Campus and the Hugh Wooding Law School in Trinidad & Tobago. She is also a member of The Trinidad and Tobago Law Association and The Dominica Bar Association. Currently, she practices as an Independent Legal Consultant specializing in international environmental law and policy, and an Adjunct Lecturer of Law at the Dominica State College. For all correspondence, please contact Danielle by e-mail at daniellewards@gmail.com.

NOTES

1 U.S.-China Economic and Security Review Commission Staff Report, 'China's Expanding and Evolving Engagement with the Caribbean', Washington, D.C.: U.S.-China Economic and Security Review Commission, 2014, p.2: http://goo.gl/kRfb7S

2 *Ibid*., p.4

3 Ellis, R. Evan, 'China on the Ground in Latin America: Challenges for the Chinese and Impacts on the Region' New York: Palgrave Macmillan, 2014, p.51.

4 *Ibid.,* p.52.

5 Carole Excell and Stephanie Ratté, 'New Tool Reveals How Jamaica's Development Projects Impact People and Planet', *Blog Post*, Washington D.C.: World Resource Institute, 20th November 2014: http://www.wri.org/blog/2014/11/new-tool-reveals-how-jamaica%E2%80%99s-development-projects-impact-people-and-planet-0

6 Annita Montoute, 'Caribbean-China Economic Relations: what are the Implications?', *Caribbean Journal of International Relations & Diplomacy,* Vol. 1, No. 1, 2013: pp.110-126, p. 113.

7 Gallagher, Kevin, Amos Irwin, Katherine Koleski, 'The New Banks in Town: Chinese Finance in Latin America', *InterAmerican Dialogue China and Latin America Program*, Washington, D.C.: InterAmerican Dialogue, February 2012, p.1: http://ase.tufts.edu/gdae/Pubs/rp/GallagherChineseFinanceLatinAmerica.pdf .

8 Richard L Bernal 'China's Rising Investment Profile in the Caribbean' *InterAmerican Dialogue China and Latin America Program*, Washington, DC: InterAmerican Dialogue, October 2013 at 3: http://thedialogue.org/PublicationFiles/IAD9325_Bernal_China_10142.pdf

9 *Ibid* Gallagher et al (February 2012) at p.1; See also Richard L Bernal, 'The Dragon in the Caribbean: CARICOM-China Relations', *The Round Table: The Commonwealth Journal of International Affairs*, Vol. 99, No. 408, 2010, pp. 281-302 June 2010.

10 US-China Economic and Security Review Commission Staff Report (2014), p.3.

[11] Deborah Bräutigam, 'Aid "With Chinese Characteristics": Chinese Foreign Aid and Development Finance Meet The OECD-DAC Aid Regime' *Journal of International Development*, Vol. 23, No.5, 2011, pp.752-764.

[12] See Gallagher *et al* (February 2012), p.3.

[13] *Ibid.*

[14] *Ibid.,* p.20.

[15] Bradlow, Daniel (2010), 'International Law and the Operations of the International Financial Institutions', in Bradlow D., Hunter, D. eds. International Financial Institutions and International Law, Alphen aan den Rijn, Kluwer Law International, 2010, p.1.

[16] Benjamin J. Richardson, 'Environmental Regulation Through Financial Organisations: Comparative Perspectives on the Industrialised Nations', The Hague: Kluwer Law International, 2002

[17] Denise Leung and Yingzhen Zhao, 'Environmental and Social Policies in Overseas Investments Progress and Challenges in China' , *Issue Brief*, Washington D.C.: World Resources Institute, 2013, p. 10: http://www.wri.org/sites/default/files/pdf/environmental_and_social_policies_in_overseas_investments_china.pdf

[18] See Bradlow (2010)at p.1.

[19] *Ibid.*

[20] See Generally, Thomas R. Berger, The World Bank's Independent Review of India's Sardar Sarovar Projects, *American University International Law Review, Vol. 9* No. 1, 1993

[21] A useful overview of the functions of the Compliance Advisor/ Ombudsman (CAO) can be found in a brief description, *'About the CAO', 2009*, available on the official CAO website at http://www.cao-ombudsman.org/about/

[22] *Ibid.*

[23] Goldenberg, Suzanne (2014), '*Iconic Jamaican iguana under threat from $1.5bn Chinese port project'* The Guardian May 23rd 2014, http://goo.gl/x0j6n1

[24] Van den Akker, Pim, Marloes Brands, Wieger Buijs and Louise Hamilton, 'Jamaica's New Transshipment Port', *Report written as part of the multidisciplinary project for the Master Program Civil Engineering of Delft University of Technology, The Netherlands,* under guidance of Smith Warner International Ltd. in Kingston, Jamaica, *Kingston, Jamaica: October 31st, 2013.*

[25] Letter from UN Resident Coordinator to Jamaica, Dr. Arun Kashyap, to Hon. Robert Pickersgill Minister of Water, Land, Environment & Climate Change in Jamaica RC/2013/030 dated October 8th, 2013: http://goo.gl/kSpH30

[26] *Ibid.*

[27] Letter from International Union for Conservation of Nature, Species Survival Commission, to Hon. Robert Pickersgill Minister of Water, Land, Environment & Climate Change in Jamaica dated January 29th 2014: http://goo.gl/Z8qHdY

[28] Spaulding, Gary (2014) *'CHEC Still Eyeing Goat Islands Project'* Jamaica Gleaner September 3rd, 2014: http://goo.gl/bGbqXI

[29] McLaren, Dr. Kurt and Dr. Byron Wilson, '*The dollars and Cents of saving Goat Islands'*, Jamaica Observer, March 3rd 2014: http://goo.gl/dJC1wP

[30] International Convention for the Prevention of Pollution from Ships (MARPOL) Adoption: 1973 (Convention), 1978 (1978 Protocol), 1997 (Protocol - Annex VI); Entry into force: 2 October 1983 (Annexes I and II).

[31] International Convention for the Prevention of Pollution from Ships (MARPOL 1973) as modified by the Protocol 1978 relating thereto (MARPOL 73/78)

[32] The business profile of the China Harbour Engineering Company can be found on the company's official website, '*China Harbour Engineering Company*', 2009 at http://www.chec.bj.cn/tabid/40/Default.aspx

[33] The business profile of the China Communications Construction Company can be found on the company's official website,: 'China Communications Construction Company', 2008 at http://goo.gl/cvmSQ6

[34] *Ibid.*

[35] See Ellis, R. Evan (2014) at p.78

[36] *Ibid.,* p.79.

[37] *Ibid.* p.82.

[38] *Ibid.,* p.78.

[39] *Ibid.*

[40] Notice of the China Banking Regulatory Commission CBRC on Issuing the Green Credit Guidelines, Beijing: The China Banking Regulatory Commission, February 24th, 2012: http://goo.gl/B5WzAX

[41] Howell, Anna, Monica Sun and Hao Su (2012), 'China', in Moore, L. ed. Environmental Risks for Major Projects, London: European Lawyer Reference Series, 2012, p.86; See also International Finance Corporation, *Preview: Green Credit to Bring International Regulators, Central Bankers to Beijing,* Washington D.C.: World Bank Group, 2012: http://goo.gl/YCfi3Q

[42] See The China Banking Regulatory Commission

[43] *Ibid.*

[44] *Ibid.*

[45] Henry, Balford (2014) *'Government Dismisses Uncertainty about Goat Islands Project'* Jamaica Observer, May 15th, 2014: http://goo.gl/zXb8OS

[46] See Gallagher et al (February 2012), p.1.

[47] *Ibid.* p.20.

[48] Denise Leung and Yingzhen Zhao, 'Environmental and Social Policies in Overseas Investments Progress and Challenges in China' , *Issue Brief*, Washington D.C.: World Resources Institute, 2013, p. 23: http://goo.gl/Jfmjdw

[49] *Ibid* at p.23

[50] See Gallagher et al (February 2012), p.21.

[51] Jamaica Environmental Trust, The Goat Islands / Portland Bight Protected Area *The Proposed Site For A Transshipment Port In Jamaica*, Kingston: Jamaica Environmental Trust, 2013: http://goo.gl/XIebTJ

[52] *Ibid.*