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EASTERN DONORS AND WESTERN SOFT LAW: TOWARDS A DAC DONOR PEER REVIEW OF CHINA AND INDIA

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ABSTARCT

Despite the fact that the emergence of major developing nations such as China and India have significantly altered the global economic landscape, the international system is still controlled by a normative framework developed by international organizations under the auspices of primarily OECD countries. The international system is still controlled by a normative framework developed mostly by OECD nations, particularly in the area of development cooperation soft-law norms. However, the increasing importance of "Eastern donors" is eroding its effectiveness, raising the issue of how compliance with these criteria can be ensured in a shifting donor environment. Despite attempts to incorporate developing nations into the OECD Development Assistance Committee's (DAC) conventional method to monitoring compliance via peer reviews, the future aid architecture may be a hybrid of old and new techniques.

KEYWORDS: *DAC Peer Review, Development Co-Operation, Emerging Donors, Global Aid Architecture, Soft Law.*

1. INTRODUCTION

Emerging nations are still mainly outside of this established framework, casting doubt on its efficacy. This is especially true in the area of development cooperation and international norms that govern interactions with developing nations. The emergence (or reemergence) of significant new actors in the donor community has alarmed existing donors. The list of possible negative effects (actual or imagined) resulting from increased aid-giving by donors who aren't members of the OECD's Development Assistance Committee (DAC) is long: from "rogue aid" to "free-riding" allegations to basic worry about the donor landscape fragmentation. Alternative sources of financing, on the other hand, are warmly welcomed by many developing-country governments, who see them as a way to gain greater policy flexibility. With the increasing involvement of non-DAC contributors, whomever is correct in this debate, some sort of coordination and shared understanding around standards is required. It seems to be a precondition for the poor world to properly profit from the new donors' possibilities[1].

The transfer in economic power to China, India, and other developing economies raises a fundamental issue, not least in terms of the OECD's "business model": what does it take to ensure worldwide compliance with international soft law? Even before the global financial crisis of 2007-2009, it was clear that new official contributors needed to be included in global development cooperation governance. Nonetheless, it was often seen as a question of incorporating them into existing DAC and other Western agreements. The balance of international power has irreversibly changed as a consequence of the crisis, with China becoming the world's largest creditor; the G20 London meeting represents this transition. Rather than just integrating the new official contributors, the future governance of global development cooperation may become a mix of new and current methods. The potential for the DAC Peer Review process to establish international norms in a dynamic and expanding donor community is examined in this essay.

1.1. The emergence (or re-emergence) of new official donors:

Aid has always been the domain of wealthy nations. It's still the case in the majority of cases. Donor organizations have always worked together in the OECD's Development Assistance Committee to establish assistance delivery standards and best practices. However, as another indication of ‘Shifting Wealth,' the number of non-DAC nations providing assistance increased dramatically throughout the first decade of the twenty-first century, reaching more than 30. Brazil, China, India, Malaysia, Russia, Thailand, and a number of oil-rich nations are included in this figure (Saudi Arabia, Venezuela). These benefactors are now a major source of funding. Non DAC donors provided almost $6 billion in ODA in 2007, according to the DAC. Non-DAC donors submitting their ODA to the DAC are not included in this number. In 2006, Middle Eastern nations contributed US$2.5 billion in aid, with Saudi Arabia providing US$2.1 billion (as reported to the DAC). China is the second-largest (after Saudi Arabia) and probably the most powerful non-DAC contributor, but data openness is difficult to achieve since Chinese assistance is often given in exchange for goods. According to Qi, China's assistance more than quadrupled between 2001 and 2007, rising from less than 5 to more than 10 billion renminbi. It's also tough to figure out how much India contributes to international development. In 2007, India pledged a one-billion-dollar yearly budget for development cooperation. 4 In 2007, Brazilian authorities assessed the country's assistance package to be worth $437 million dollars. With US$210 million and US$61 million in 2007, Russia and South Africa are far lesser participants. As a result, non-DAC donors' development aid for 2007 may have been approximately US$9 billion notwithstanding the difficulty in getting accurate statistics for most developing donors[2]–[5].

In terms of overall assistance given, so-called developing donors continue to lag behind the DAC, which received US$120 billion in 2008. However, these donors' assistance quantities are already equivalent to those of some of the DAC's most active members. Saudi Arabia outperforms Belgium and Austria in terms of DAC statistics and estimates for non-DAC donor assistance budgets; China's foreign aid is similar to Switzerland's; India is comparable to Finland or Ireland, and Brazil to Portugal or Greece.

However, the aforementioned assistance statistics grossly underestimate China's and India's financial influence in the poor world, as well as Arab donors' aid efforts. Only a small portion of Middle Eastern donors' development aid is transparent and disclosed to the DAC. The majority of the money comes from their national ministries of finance or hidden funds, rather than from recognized assistance organizations. As a result, actual assistance numbers may be much higher. In the case of China and India, their distinct forms of development cooperation – in which ODA is part of a larger package of economic cooperation – must be considered.

Unlike conventional donors, the new bilaterals do not provide much in the way of debt reduction (due to their low outstanding obligations) or technical assistance (as the domestic consulting industry is small). As a result, a larger portion of their assistance comes in the form of initiatives and programs. China, one of the biggest new contributors, offers turnkey projects in which it provides planning, money, personnel, and training to fully execute projects. The funds are channeled via the Export-Import Bank of China, rather than a development agency. The overwhelming bulk of China's infrastructure financing for Africa comes from Exim Bank loans, not assistance. The financial assistance is usually linked to the involvement of Chinese contractors, which is consistent with the premise of boosting trade. China's financial support to Africa, in the form of loans and credit lines, is estimated to be worth $19 billion by the IMF.

The Chinese government's lack of openness has promoted "China bashing." There is also a misunderstanding of the words "technical cooperation," "investment," and "help." The China Statistical Yearbook lists the value of revenues generated by these economic cooperation initiatives on a country-by-country basis (‘value of business completed'), but does not explain how they are funded. Because Chinese businesses contract to supply Chinese labor for Mauritian (and Chinese) manufacturing enterprises in Mauritius, the number for labor cooperation in Mauritius is the highest in Africa. The private-sector businesses that engaged Chinese labor teams are fully responsible for these costs. Another issue comes from imprecise distinctions between ‘proposed,' ‘agreed,' ‘under construction,' ‘concluded,' ‘realized,' and ‘(un)confirmed' in news coverage on China-Africa technological cooperation.

Financial openness is difficult to achieve since many businesses operate on a barter basis. Consider the Angola Mode, in which funds are not directly lent to the recipient country, but instead a Chinese construction company (which typically receives a support credit from China Exim) is mandated by the Chinese government to complete the construction works after the recipient country's approval. The borrowing government will then grant a Chinese company operating in the field of natural resources (mostly oil or minerals) the right to mine natural resources in exchange for the infrastructure provision, either through the acquisition of equity stakes in a national oil company or the acquisition of production licenses.

Note the unique Chinese commercial model for resource extraction: a package that combines a component of assistance, is not separately priced, contains a promise to infrastructure investment, and generally bypasses the local public service. The Chinese method has unique advantages: the unbundled Western approach to resource extraction has issues such as capture by special interests and diversion towards consumption, implementation obstacles, and corruption. Furthermore, China's diaspora in Africa, which is approaching one million individuals, may provide tighter monitoring on the ground, especially because Chinese charity workers live at (or below) local standards, particularly in rural regions. Former Botswana President Festus Mogae undoubtedly spoke for many African monarchs when he said, "I find that the Chinese regard us as equals." We are treated like former subjects in the West.' 8 To be true, as assistance has come from a broader variety of sources, low-income countries have had additional funding choices; small nations, in particular, have discovered that non-DAC bilateral help may be substantial. Traditional funders, on the other hand, have been skeptical of the new assistance providers[6]–[9].

1.2. Concerns about Western Policy:

Former DAC Chairman Richard Manning identified three key risks for low-income countries arising from the (re-)emergence of new donors: they jeopardize their debt situation by borrowing on unfavorable terms, they use low-conditionality aid to postpone necessary adjustment, and they waste resources on ineffective investments. To be clear, old-donor policy concerns emerging from new donors do not place the risks solely on the shoulders of recipient nations' policy failings. The following is the result of a collection of blames, severely tapered in the phrase "rogue aid":

- Aid is delivered in fragmented ways.
- noncompliance with company and national governance guidelines
- Debt reduction is a free-for-all

- business rivalry that is unjust
- a resource curse and a rush for extraction rights

Fragmentation: The proliferation of aid projects may overburden recipient governments with reporting requirements, donor visits, and other administrative overheads, diverting scarce domestic recipient resources, such as tax revenue or skilled government officials' time, away from directly productive use. While the arrival of new donors may exacerbate the fragmentation issue, China has focused its assistance on its own excellent experience of infrastructure project management, and prides itself on quick project planning and execution times when compared to conventional donors. However, the rapidity with which Chinese assistance is deployed and delivered comes at the expense of aid being linked to Chinese businesses, even if competitive international bidding may not show more cost-effective bidders than Chinese companies. Before the 2008 Accra Third High-Level Forum on Assistance Effectiveness, Jan Cedergren, Chairman of the OECD-DAC Working Party on Aid Effectiveness, voiced his worry regarding aid effectiveness: ‘A shifting development environment will be discussed in Accra: assistance is not the same as it was in 2005. There are contributors beyond the DAC circle, like as China, India, Brazil, Mexico, the Arab nations, and others. They must be a part in international cooperation talks.'

Governance: Another Western worry about emerging donors is that their financial resources allow countries to refuse assistance tied to strong governance conditions. In the areas of labor, the environment, transparency, and assistance tying, violations of corporate and national governance norms are often alleged. The effect of new donors' economic operations, such as mining, lumber, and construction, on already fragile social standards, the preservation of tropical forests, and corruption in Africa that may result from violations of corporate social responsibility (CSR), are all topics of considerable attention[10].

Debt sustainability: As emerging creditors increase their aid and lending to low-income countries (LICs), concerns have been raised that new official lenders will undo years of international efforts to rein in Africa's over-indebtedness, reduce the continent's exposure to foreign currency-denominated debt, and encourage good governance by making loans conditional on political and economic reforms. Furthermore, in the past, (Western) government-sponsored export credit agencies have exacerbated developing nations' external debt issues, and there has been worry about China Exim Bank and other emerging-lender institutions' lending standards.

Unfair competition: An alternative to the claim that emerging lenders increase the risk of risky lending is that they benefit from subsidized capital costs, thus destroying a level playing field for international bidding in low-income countries and gaining an unfair competitive advantage at the expense of non-subsidized bidders. To be clear, the majority of Chinese entities providing foreign aid are state-owned businesses, and support that is conditional on being linked is akin to subsidies to Chinese companies establishing operations abroad. The push overseas has a basic macroeconomic explanation: excessive capital creation has lowered capital returns, forcing Chinese firms to deploy capital abroad to combat the law of declining returns. The US business community has urged the US and Africa to hold China responsible for leveling the playing field by adhering to WTO and perhaps OECD standards (i.e. presumably on export credits). There are concerns that the Chinese will not lend pursuant to the OECD Arrangement for Officially Supported Export Credits' financial criteria and conditions. Chinese export credits may fall under the Arrangement's "forbidden loans" category, which includes loans that are neither "export credits" as defined by the Arrangement nor "sufficiently concessional," but fall somewhere in between. Furthermore, such loans may, in theory, jeopardize debt sustainability in nations with a low debt tolerance.

The integration of the Asian giants into the global economy has resulted in a significant increase in the prices and trade volumes of fossil fuels, industrial metals, and soft commodities. This has sparked a new wave of resource exploration, particularly in Africa, where the low value of found natural assets may indicate that, assuming a random distribution throughout the globe, the continent still has more to find than the worldwide average. While this may help impoverished resource-rich nations in theory, they have a history of low development and high poverty rates, particularly when institutions and the rule of law are weak. The growth of China has exacerbated the perception of energy shortage and heightened the competition for extraction rights, possibly fueling resource rents and therefore corruption. Because greater resource rents tend to lead to more public expenditure, which is locked in by bureaucratic inertia and powerful lobbyists that profit from that spending, resource income are not harnessed for development without strong governance.

2. DISCUSSION

The Western donor community has made a concerted effort to involve China and other developing economies in policy discussions. The OECD, whose business model is founded on international soft law and peer review, is particularly interested in the integration of new players in existing frameworks of standards and best practices. It becomes ineffectual if such soft legislation does not have a worldwide reach. As a result, the OECD Ministerial Council Meeting on Enlargement and Enhanced Engagement (EE) in May 2007 agreed to start talks with five developing countries. The Development Assistance Committee had started an outreach plan two years before in order to promote discussion and cooperation with non-DAC donors, which had been updated after the 2007 Ministerial Meeting (OECD/DAC, 2008). To be clear, adherence to DAC standards is not included in the roadmaps for expansion nations, much alone EE countries, to join the EU. The OECD has been trying to form a China-DAC Study Group since the fall of 2008, with the goal of improving communication and mutual understanding between China (International Poverty Reduction Centre in China – IPRCC) and DAC contributors. The Group has agreed on two work themes:

- A collaborative assessment of China's poverty reduction efforts and the role of international development; and
- A joint examination of selected elements of China's development cooperation in Africa and their effect on poverty reduction.

More peer-review instruments are included in the DAC outreach plan, which may help promote collaboration and mutual learning with non-DAC contributors. These tools, such as peer review observer ship and special reviews (OECD/DAC, 2008:7/8), must be differentiated from full-fledged peer reviews, which need a clearly defined community of ‘peers' who are ready to evaluate and be reviewed. These institutions, like the DAC-China Study Group, may, nevertheless, serve as stepping stones toward deeper cooperation. Non-DAC donors' complete involvement in DAC Peer Reviews would eventually need a redefining of the community of "peers" as well as the criteria upon which the review is based.

3. CONCLUSION

While value sharing and assessment potential seem to offer a solid basis for successful peer review and peer pressure, openness is not a top priority for new Eastern donors. Transparency is a necessary component of Western democracies founded on accountability, checks and balances, and press freedom. Transparency is also a key component of a successful DAC peer review. Neymayer emphasizes the "Arab reluctance to submit to the norms of openness, peer review, and open discussion that characterize the OECD's DAC" in relation to the secrecy of a significant portion of Arab assistance programs. While India shares many of the characteristics of Western democracies in terms of openness, its development strategy is not. In the case of Chinese aid, the Chinese practice of packaged deals, in which aid cannot be isolated and computed with any precision, makes transparency difficult to achieve; the components of the package are not individually priced, and it is difficult to distinguish aid from general economic cooperation. How to get at a combined peer assessment of China and Western donors without jeopardizing the Chinese model of assistance packaging would thus need more clever solutions than just asking China to join a joint transparency effort, as the G8 has proposed in the past.

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