COLLABORATIVE LEARNING PROJECTS

"Conflict Management and Compliance Operation" Among Chinese State-Run Enterprises

Beijing, China, September 26, 2012

Foreign direct investment (FDI) in resource-rich but conflict-affected countries often shapes complex domestic interest patterns and fierce competition over the revenues, legitimacy, and resources that FDI introduces. Investments in conflict-afflicted states face tremendous levels of risk due not only to the unpredictable and unstable domestic conditions in such countries, but also because investment projects themselves can impact in unanticipated ways both internal conflicts and the communities that suffer as a result of them. Over the past decade, these risks have become increasingly relevant to Chinese companies, which have become heavily invested in a large number of conflict afflicted, post-conflict and fragile states. In countries such as Myanmar, Sri Lanka, Angola, the Democratic Republic of the Congo and South Sudan, China has become one of the top sources of foreign direct investment (FDI), often through investments in large infrastructure projects, minerals, energy or other natural resources.

Despite notable progress capitalizing on opportunities and addressing risks in complex foreign markets, many companies find it daunting to operate responsibly in such contexts. Chinese enterprises, in particular, have historically been less attuned to the risks of operating in these markets, taking a narrow approach to risk assessment, stakeholder engagement, context analysis, and social risk mitigation. Yet Chinese state-run companies are increasingly held to account for ensuring their international business operations are legal and compliant; recent anti-corruption initiatives of the Chinese Ministry of Commerce are a case in point. Nevertheless, both Chinese enterprises and Chinese experts on foreign investment acknowledge a gap in current business practices and recognize the need for conflict sensitive approaches among Chinese enterprises.

On September 26, 2012, the Beijing-based New-Century Academy on Transnational Corporations (NATC), a think-tank attached to the Chinese Ministry of Commerce, convened a seminar on "Conflict Management and Compliance Operation." The aim of the seminar was to encourage and support Chinese enterprise in its efforts to address and manage conflict issues in foreign markets and to establish a credible image of Chinese companies as responsible overseas investors and operators.

The Corporate Engagement Program of CDA Collaborative Learning Projects, in partnership with NATC, the American Friends Service Committee (AFSC), and independent experts on foreign direct investment in Myanmar and Angola, participated in the seminar, presenting current thinking on the implementation of conflict sensitive business practice and the importance of understanding operational impacts in complex environments. Speakers drawn from select Fortune 500 Chinese Enterprises discussed the challenges and opportunities of integrating compliance and anti-corruption measures into their operations, both in China and overseas.

Presenters stressed the need for compliance and anti-corruption reporting as a critical step towards demonstrating transparency to suppliers, creditors and customers, and thus for building constructive working partnerships with external actors. But while strengthening internal compliance management is a necessary element of responsible business, practical field experience in conflict-affected and high-risk countries has repeatedly shown that a focus on compliance and reporting alone is insufficient to avoid negative outcomes. When companies approach conflict as a compliance issue in complex operating environments, they risk overlooking critical social impacts stemming from their presence and activities.

Many multinational corporations are actively coping with this challenge through the implementation of global conflict management and sustainability frameworks. The Beijing seminar, however, was a milestone for encouraging the implementation of proactive approaches to conflict among specifically Chinese enterprises and financial institutions. The seminar participants - CDA Collaborative Learning Projects, NATC, and the American Friends Service Committee – intend to work together going forward to develop tools and guidance that can positively influence the practices of Chinese companies and financial institutions.

The seminar generated considerable interest in the Chinese press. Two of the articles reporting on the compliance aspects of the seminar are below:

Counselor of the State Council of China: Building a Credit Record System Construction is Necessary for Regulating Overseas Investment and Promoting Compliant Business

http://finance.ifeng.com/roll/20120927/7090884.shtml <Chinese language article>

September 27, 2012

Source: National Business Daily Reporter HU Jian & Intern YANG Rui from Beijing

At the “Conflict Management and Compliant Operations” seminar organized by the Beijing New-Century Academy on Transnational Corporations on September 26, 2012, Mr. Chen Quansheng, a counselor of Chinese State Council pointed out that, “a credit record system needs to be constructed in order to regulate enterprises and ensure that the overseas investments are conducted in compliance with laws and regulations.”

In 2012, of 70 cases of the application of the U.S. Foreign Corrupt Practices Act worldwide, China was involved in 23, accounting for 33% of the total. Chinese enterprises in the petroleum, natural gas, pharmacy and bio-engineering sectors have the worst performance. Chinese enterprises are faced with severe challenges in terms of management and operation compliance.

Mr. Chen said that since the outbreak of the economic crisis, problems brought by globalization had become ever more intense. While the Western developed countries like the United States and Great Britain have come up with plenty of policies and techniques for managing conflict and strengthening compliance of operations in response to the challenges, the majority of Chinese enterprises are at a loss. Chinese enterprises are lack theoretical understanding and practical experience in these regards and relevant Chinese domestic laws and regulations still need to be improved.

Under these circumstances, faced by impacts from one conflicts and dispute after another, China faces serious security risks in its overseas investments, particularly in high-conflict areas. In 2011, a hydropower project invested by China Power Investment Corporation in Myanmar was halted suddenly. In January 2012, Sinohydro Group's road project crews in Sudan were attacked, leaving 20 Chinese workers missing; a few days later, 25 Chinese workers were detained in Egypt. There are a long list of such cases.

In May 2012, to encourage and support better accommodation and implementation of the "Go-Out" strategy by Chinese companies, seven Chinese Ministries, including the Ministry of Commerce and the International Department of the CPC Central Committee jointly released *Several Opinions for Culture Construction of Chinese Overseas Enterprises*, which requires Chinese overseas enterprises to enhance the development of their corporate culture overseas. The basis for Chinese corporate culture is credibility and integrity. Enterprises shall operate in compliance with the principles of credibility and integrity and incorporate them into corporate cultural and behavioral norms.

Chen also suggested that a market credit record system was a must for enterprise conflict management and compliant operations. Such a system, however, needs to be a binding mechanism and offer more than mere education and training. "A credit record system needs to be constructed in order to regulate enterprises and ensure that the overseas investments are conducted in compliance with laws and regulations"

Wang Zhile: Overseas Chinese Enterprises Facing "Compliance Risks"

http://caijing.fx678.com/810379.html <Chinese language article>

September 27, 2012

Source: www.chinanews.com ; Author: FU Yongkang , Editor: XIE Yongli

"The competition among multinational companies has evolved from technology and product competition in the past to competition in terms of responsibility concepts and moral standards," as Mr. Wang Zhile, a research fellow of the Chinese Academy of International Trade and Economic Cooperation of Chinese Ministry of Commerce and director of Beijing New-century Academy on Transnational Corporations, commented. Presently, Chinese enterprises with overseas investments are faced with "compliance risks"; therefore, they should follow trends and enhancing complaint operations by shouldering more social responsibilities and strengthening anti-corruption mechanisms.

On September 26, 2012, a "Conflict Management and Compliant Operations" seminar was organized by Beijing New-century Academy on Transnational Corporations in Beijing. Mr. Wang Zhile, a renowned economist who has conducted years of research on Chinese enterprises "Going out," indicated that in recent years, multinational companies all around the globe have enhanced "operational compliance," which refers compliance with local laws and regulations as well as occupational ethics and moral standards, and most importantly, to eliminate various kinds of business corruption.

"Over the last two years, developed countries such as the United States and Britain and some international organizations represented by the UN are strengthening efforts to enhance compliance of enterprises and anti-corruption all around the globe," said Wang Zhile. He went on to note that as more Chinese enterprises are conducting investments abroad, compliance problems are becoming increasingly obvious.

It was reported that the World Bank had recently released a list of enterprises accused of fraud and bribery, forbidding them from undertaking projects funded by the Word Bank. There were altogether 12 Chinese enterprises included in the "blacklist". This has placed Chinese enterprises in a very passive and unfavorable position in global competition.

Wang Zhile noted that as China's outbound investment grows, Chinese enterprises are faced with intensifying "compliance risks" abroad. Since April 2012, dozens of Chinese enterprises have listed in the U.S. stock markets, after which they have encountered scandals drawing wide attention to this issue.

Currently, encouraged by the Chinese government, Chinese enterprises are following international conventions and many companies have released corporate social responsibility reports. Last year, 531 companies listed on the Shanghai and Shenzhen stock markets issued corporate social responsibility reports. By means of various efforts, Chinese enterprises managed to strengthen a broader range of corporate responsibilities.

Wang Zhile suggested that Chinese enterprises should release "compliance and anti-corruption reports", "and that it could help suppliers and customers to understand the compliance and anti-corruption development of the company, which would in return contribute to the company's partnership building. Meanwhile, the report is a good way to show the company's decision and determination to fight against corruption and enhance compliance and thus help to earn more public trust."

As for how to respond to the "compliance risks", Wang Zhile revealed that, "as a matter of fact, the Chinese government has taken actions. In April 2012, led by the Chinese Ministry of Commerce, the International Department of the CPC Central Committee, the Ministry of Foreign Affairs, the National Development and Reform Commission, the State-owned Assets Supervision and Administration Commission of the State Council, the National Bureau of Corruption Prevention of China and the All-China Federation of Industry & Commerce jointly promulgated *Several Opinions for Culture Construction of Chinese Overseas Enterprises*, with the purpose of encouraging and facilitating Chinese enterprise to better accommodate to the new circumstances, to enhance corporate core values, to establish good images abroad, to play a larger role in implementing the open door strategy, and ultimately to realize the enterprises' healthy and sustainable development overseas."