

A Discussion on the Legal and Ethical Challenges for Chinese Overseas Investment: Risks, Contributors, and Measures

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Abstract: The Chinese economy is becoming more internationalized these years, and Chinese enterprises are stimulated by the current “one belt, one road” initiative, as well as the “going out” strategy to increase their overseas investment, though there are accompanying more risks to deal with. Based on the present situation, this article aims to inform Chinese enterprises of the legal and ethical challenges in overseas investment activities and proposes suggestions on how to achieve sustainable business by identifying the investment risks and analyzing their root causes.

Keywords: Chinese enterprises, overseas investment, legal risk, ethical risk

Introduction

Over more than 30 years of reform and opening up, the Chinese economy has become increasingly internationalized, and the current “one belt, one road” initiative, as well as the “going out” strategy, accelerates the growth of China’s foreign investment. According to the World Investment Report 2014 published by the United Nations Conference on Trade and Development (UNCTAD) on June 24th, 2015, China’s outward foreign direct investment (FDI) tended to exceed its inward FDI in a short time, turning China into a net investor. Data from the International Finance News showed that China’s outward FDI reached US\$116 billion in 2014 with a 15.5% yearly increase. Should the reinvestment of the third place capital be included, the figure could be around US\$140 billion and higher than that of inward foreign investment; thus, China has already been a net exporter of capital in 2014. In stark contrast to the rapid growth of foreign investment volume, Chinese enterprises repeatedly encountered difficulties abroad, and many have suffered huge losses due to the failure of their overseas projects (Fu, 2014). The “one belt, one road” initiative stimulates China’s foreign investing activities and facilitates cross-national cooperation; meanwhile, how to mitigate investment risks turns out to be a top issue on the agenda for Chinese enterprises. In recent years, a number of scholars and professionals have inquired into the legal and ethical risks in Chinese enterprises’ overseas investment with impressive results. The classification and the source of foreign investment risks are among the most concerned research topics, and the study on operational risks is particularly systematic. Based on the present situation of China’s FDI, this article aims to inform Chinese enterprises of the challenges with regard to legal and ethical issues in foreign investing activities and proposes suggestions on how to achieve sustainable business by identifying the investment risks and analyzing their root causes.

Legal and Ethical Risks for Overseas Investment by Chinese Enterprises

Legal Risks for Overseas Investment by Chinese Enterprises

The legal risks of overseas investment that Chinese enterprises are confronted with are related to the general legal environment of the host country, the acquisition project, the target company, the initial

negotiation and bargaining, the terms of the acquisition, the potential default of the counterparty, the changing of applicable laws, the approval of the host government, and the compliance of the operation (Zhang, 2013).

At the operational level, the legal risks to Chinese enterprises investing abroad lie in the following stages of project development and implementation: (1) preparation stage, (2) early stage, (3) mid stage, and (4) later stage.

Legal Risks in the Planning of Overseas Investment

The legal risks during the pre-investment preparation. The legal risks during the foreign investment preparation are mainly the risks of the feasibility of the overseas investment projects itself, especially the investment target selection and the investment location choice.

For the investment target selection, on the one hand, the firms know a little about the liabilities mode and the actual business model of the company, which lead to unsustainable status after completion of the acquisition, and they have to file for bankruptcy. On the other hand, the situation that we consider ill for market access rules leads to the national security litigation, which results in mergers and acquisitions failures. In addition, many factors, such as the credit status of the contract counterpart and other factors, should also be taken into account. Firms may bear the risks of unforeseen conditions about the contract counterpart's credit terms. The typical case is that the enterprise involves in the dispute a third person in the exercise of subrogation or cancellation right. For example, from 2007 to 2008, China Railway Group Limited and the Democratic Republic of Congo signed a joint development agreement. In the agreement, we agreed to pay the entry fee to the Congo for acquiring the mining rights. However, when the third-country creditor, Congo, knew the agreement, it requested the corporation pay to itself the entry fee to cover the debt owed Congo, not to pay to Congo (Higher People's Court of Guangzhou Research Group, 2014).

The legal risks for enterprises' investment location choices are often made while being unaware of the local investment environment and the subjective estimation of their past or similar experience, ultimately resulting in losses. Such legal risks comes from the host and investor country differences about the benefits, traditional culture, and legislative principles of justice, such as litigation due to labor relations. If the "going out" enterprises are not fully informed in advance, in case of disputes, it will be difficult to obtain relief afterwards. In addition, when the political situation changes in the host country, if the hosts unilaterally change or revoke the content of the signed contract, the state invokes the principle of national doctrine of sovereign immunities; foreign-invested enterprises cannot hold the host country accountable for contractual obligations. This unequal status of the contractual relationship brings huge risks to foreign investors, so it is necessary that we should make regional risks assessment before investing.

During the pre-negotiation process. The mainly legal risks come from the terms of the contract, which can be divided into the risks of the content of the contract and the risks of performance of the contract.

As to the content of the contract, many companies focus only on the substance of the order but do not pay attention to the form of the contract, underestimating their contractual obligations or not fully understanding their legal liabilities during the performance of the contract for infringement of third-party rights. In practice, there are often disputes because of the different views on the rights and obligations in the ill-defined contract. Chinese companies often make a compromise in order to complete the transaction, which leads to many vague definitions of the standard, and eventually they lose an action. In addition, many enterprises seriously lack the awareness of the prevention of risks; for example, many enterprises habitually accept the overall terms of the

arbitration clause offered by the other party, which results in an extremely unfavorable position when faced with legal problems. The provisions about the low amount of liquidated damages result in insufficient compensation to cover the losses. When some companies are faced with changes in the law, their response can be adding a "stabilization clause" in the contract, which is also be overlooked.

When referring to the performance of the contract, there are many irregularities of the current Chinese domestic market economy, as it is in its infancy. Enterprises do not perform the contract carefully but interpret the contract flexibly in the grounds of the change of circumstances in order to protect their own interests. However, in foreign countries, especially in developed countries, it's an eternal principle to strictly abide by the contract and respect the validity of the contract, which can be difficult to apply in changing circumstances (Du Xin, 2013).

There are also risks, such as the invalid of the trade protection clause in the merger agreement; a majority of China's M & A are well-intentioned mergers and acquisitions, and, therefore, the agreement does not take effect immediately after it is signed, but first goes to open in the market. If the target company receives a higher acquisition bid from a third party, the original acquiring company may be abandoned, and the transaction costs it has paid are in vain. To reduce this kind of risk, the acquirer is often required to set the trade protection provisions in the merger agreement to prohibit the target company from soliciting bids to a third party. However, such provisions conflict with the goal of maximum interest of the shareholders, thus producing the issue of whether or not the company directors will faithfully fulfill their obligations of the trustee's loyalty. Currently, the guidelines for the review and the result of the trade protection provisions by US courts is a big uncertainty (Higher People's Court of Guangzhou Research Group, 2014).

Mid-term preparations for the implementation of investment projects in the investment process' legal risks. Preparation for the implementation of the investment process is mainly present in the approval and litigation risks of host country government investment projects, such as anti-monopoly reviews, the national security reviews, and intellectual property lawsuits because the entry of foreign companies to a certain extent also threatens the host country's domestic market. Therefore, in order to protect their competitiveness in related industries and safeguard national security and public interests, a growing number of countries have begun to conduct anti-monopoly reviews for multinational corporations. The Chinese common philosophy of "small profits but quick turnover" is likely to be defined as dumping. At present, many countries and regions worldwide have stepped up overseas acquisitions before antitrust merger notification and review procedures. Host countries review of foreign investment in the country's economic lifeline, such as industrial relations in energy and communications, have been very cautious in recent years. Chinese enterprises' overseas investments often face hindrances in national security reviews, such as the 2005 CNOOC bid for Unocal in 2007 and Huawei's acquisition of US 3Com companies, which was hampered by the national security review (Song xue2011). World-famous brand "Coca Cola," "Benz," "McDonald's," "Kodak," "Nestle," "Omega," etc., apply for registration in more than 150 countries and have become trademarks. On the other hand, Chinese enterprises have an extremely weak awareness of trademark issues; the country has a large number of well-known brands that have been registered in foreign countries, including the hero card, Red Star, Beijing TongRenTang, and even White Rabbit, to expand the enterprise, which has had a great impact. Many enterprises were outraged when they were sued, but now most countries have adopted a "registered earlier" principle that whoever registered trademarks in the country will have the exclusive right to trademark and be protected by law in the country. They may pay a high price if they are to regain their trademark. However, if

they do not regain their brand, they will face the fate of being the alleged infringer or be forced to withdraw from the existing market.

The legal risks during late actual operation of the implementation of investment projects. Late actual operation of the process, the risks of labor laws, environmental laws, and expropriation and nationalization are the three main risks of Chinese enterprises overseas investment operations.

About labor laws, many national labor laws clearly state that foreign companies must hire their own workers, and our so-called "cheap labor" will no longer exist. Many European countries laws state that companies can dismiss employees after obtaining the approval of the union. Some European countries require companies to provide retirement welfare, including pensions and medical welfare, which will have a very large influence on the Chinese enterprises labor costs. Many data show that in recent years Chinese overseas labor disputes and labor budgets don't have a close relation. In July 2011, the South African textile industry association sued in the labor court to punish the factories that violated workers' minimum wage regulations. Most Chinese garment factories in Newcastle received huge fines. Due to different national conditions, problems and methods in the process of overseas operations are distinct from those in domestic operations. For Chinese companies, applying internal management often leads to improper handling in collective bargaining, disciplinary measures and working hours. It will not only bring about the risk of legal sanctions, but also cause discontent of local labor, thereby causing host country national resentment for foreign investment enterprises and even home countries. The potential loss will be immeasurable.

About environmental laws, due to our inadequate legal regulation for environmental damage caused by the enterprise management, the environmental awareness and the ability to respond to the crises of Chinese enterprises are very low. In 2009, China invested \$ 3.6 billion to build a dam on the Irrawaddy River in northern Burma and construct the Myitsone Hydropower Station. However, in the process of implementation of the project, China was accused of damaging the local ecological environment, and, ultimately, the project was halted (Gu Liang, 2014). So overseas-invested enterprises must seriously deal with local labor rights protection and ecological environmental protection issues.

Labor legal risks and environment legal risks may both lead to host expropriate the enterprise or make the enterprise nationalization. The existing bilateral investment treaties generally provide the host country with being able to meet the public interest, non-discrimination, be in accordance with national legal procedures, and compensation. Under the four aforementioned premises, the host can take expropriation, nationalization or similar measures on foreign investment. However, the definition of indirect expropriation measures lacks clear and consistent rules in the existing bilateral investment treaties, which enables the host country to take acts of indirect expropriation, which brings about great risks for "going out" enterprises.

Ethical Risks for Overseas Investment by Chinese Enterprises

The overseas stakeholders of Chinese multinational enterprises (MNEs) contain the host government, business partners, local employees and communities, and overlooking labor rights and local environmental protection would most likely lead to ethical disputes.

Domestically, some Chinese enterprises do not sign labor contracts with their employees or the contracts are flawed, providing no information about the duration of the employment or the policies concerning injury compensations, and some articles are even against the labor law in terms of wages and benefits. Besides, some companies do not take collective contracts seriously. As a result, the contract can hardly function effectively in

improving employer-employee relations due to its hollow content and weak enforcement (Li, 2006).

The above misconduct of Chinese enterprises gives rise to ethical disputes in the overseas market. Some companies have prioritized economic interests by lowering the labor standards or compensation, but they ended up with higher losses considering the complaints, criticisms, and strikes. In addition, the local communities are not satisfied that Chinese companies are used to employing non-technical workers from the domestic market. In a nutshell, Chinese MNEs tend to pay more attention to their relations with the local government instead of residents and communities; thus, sometimes, they neglect necessary communication and information disclosure and depend on temporary measures rather than mechanisms to cope with the environmental and social issues based on the principle of prior informed consent (Wang, Liu, & Zheng, 2014).

Capital export inevitably accompanies pollution transfer, and some large Chinese MNEs have suffered environmental crises in recent years. For example, the China-Russia gas pipeline project was criticized as a threat to world-class relics in 2012, and China Aluminum Corporation's copper mine project in Peru was suspended by the local authority as a consequence of water pollution in March 2014. As a matter of fact, Chinese MNEs did not work hard enough on local environmental protection and resource conservation. For instance, some companies focused merely on short-term profit and ignored their social responsibility or predatorily exploited local mineral and forest resources, arousing local complaints and anti-Chinese sentiment.

Jiang (2014) classifies corporate socially irresponsible behaviors into deliberate and unintentional ones. The former include unlicensed pollution, manufacture of inferior products, patents infringement, bribe and neglect of tough working conditions, and the latter refer to unexpected events, such as industrial accidents and oil/gas leaks caused by inappropriate measures. Currently, Chinese enterprises invest in construction, mining and chemical industries, which are featured by high risks concerning safe production and environmental protection, and the ignorance of risk management has created many accidents and lawsuits on product quality, patent infringement, and pollution-intensive activities.

Contributors to the Legal and Ethical Risks for Chinese Overseas Investment

Contributors to the Legal Risks for Chinese Overseas Investment

Chinese overseas investment started late, and its relevant legislation lags behind. China has not legislated a unified foreign investment law yet, and there are only several limited departmental rules and regulations, such as "Foreign labor cooperation management regulations" and "The regulations on the administration of foreign contracted project." All these regulations have a narrow coverage and applicable inconvenience, so they cause great inconveniences for Chinese enterprises engaged in overseas investment. At the same time, in the absence of relevant systems and regulations, there always exist funding problems for Chinese companies' overseas acquisitions. Furthermore, an overseas investment insurance system to protect overseas investment has not been established, which causes great risks for the Chinese overseas investment.

The Chinese foreign investment management system is imperfect and lacks a unified overseas investment management institution; the approval process is cumbersome, as well. The establishment of overseas-funded enterprises, as well as its acquisition of foreign companies must be sent to a number of government departments, which delays the best time for business investment and increases direct risks for foreign investment.

The bilateral treaties signed between China and other countries have defects; all the treaties put more emphasis on providing guarantee for foreign investments' interests, creating a favorable environment to attract

foreign investment, but they neglect protection for Chinese overseas investments. The main provisions of the treaties is to provide principled protection, but they lack of specific recognized standards and operating rules, which makes it difficult to find a uniform standard when putting the treaties into practice.

Many enterprises are unfamiliar with international standard systems and international management but have little knowledge of the investment country's laws and market information, which leads to them to apply domestic system and regime investment decisions at the time of overseas investment, thus valuing essence more than procedure at the conclusion of contract. However, due to the differences between law and different nations' legislative and judicial principles, there have been a series of problems when investing abroad in accordance with domestic laws and regulations.

Contributors to the Ethical Risks for Chinese Overseas Investment

Some Chinese MNEs merely struggle for short-run profit maximization or fail to put the notion of green economy into practices. In general, China has not completely gotten rid of the old pattern of economic development at the price of ecological sustainability, and environmental awareness still needs to be heightened. A number of Chinese enterprises still hold the profit-oriented concept and take environment governance as a responsibility of the government and non-profit sector. Under the market economy conditions in particular, quite a few companies give priority to production efficiency and economic performance for their own survival and development while rarely seeking solutions to pollution without outside pressure.

The meaning of corporate social responsibility (CSR) has not been fully understood in China and is often been viewed as synonymous with philanthropy or political requirement, which is contrary to business goals. It is either regarded as a burden or a cost driver, or it is assumed by some small and medium-sized companies that they are not capable of fulfilling their social responsibilities.

Insufficient international experience and lack of the knowledge about local laws, regulations, customs, culture, etc. can possibly lead to CSR failure, even if a specific company is committed to the notion. One lesson that Chinese MNEs have learned is that the support of local non-governmental organizations (NGOs) is essential to the success of their CSR efforts. For example, the labor unions in Latin America play an influential role in shaping employment relations. However, Chinese MNEs did not excel in negotiating with those organizations and sometimes made it a bottleneck for the local business.

Chinese enterprises commonly hold that it is wrong to wash their dirty linen in public, which leads to their lack of CSR communication. For instance, when the Peruvian iron and steel company went on strike, no voice was heard from the Chinese company, but, instead, the voices of the local labor union, workers, NGOs, and politicians were heard (Zhong & Yang, 2007). This kind of passive response often makes Chinese enterprises lose their power in influencing the public opinion, as well as the judgement of the local government, congress, and judicial department.

The Chinese market mechanism is not fully developed and the CSR standard is virtually a matter of contention. Under such circumstances, some companies compete in unethical ways without taking into account the social impact. As China has just stepped into the transformative period toward intensive development, companies still lack environmental awareness, causing a lot of conflicts between economic growth and ecological sustainability.

China's FDI is often labeled as "China threat," and "neocolonialism" by foreign media, and the low-price strategy is sometimes viewed as dumping. The local people are more or less influenced by those biased reports

and press the government to forbid Chinese projects in the name of environmental protection or resource conservation. Additionally, Chinese MNEs' inadequate efforts to maintain positive public relations further increases their investment risks. Due to historical issues, anti-China sentiment still prevails in Southeast Asian countries, like Indonesia (Li, 2014).

CSR practices are deterred by the current social mechanism in China, and both the legal system and corporate system need improvement. Chinese CSR-related laws and regulations contain no specific definitions or penalties for socially irresponsible behavior yet, and many MNEs have not developed an effective self-regulatory or supervisory system to provide guarantees for labor rights and productive safety in host countries.

Chinese MNEs have not succeeded in crafting and implementing localization strategies in less developed countries. Since the local educational level is relatively low, Chinese MNEs always transfer their personnel and their management model without customization, resulting in deficient interaction with local society, not to mention strategic localization. Furthermore, there exists information asymmetry between the local government and local employee, communities, and labor unions due to Chinese MNEs' overwhelming cooperation with the former.

Suggestions on Legal and Ethical Risk Management in Overseas Investment

Legal Risk Prevention for Chinese Investors

For legal risks faced by Chinese enterprises to invest overseas, many scholars and professionals put forward corresponding countermeasures. Foreign-invested enterprises should fully understand the host country's labor laws to avoid possible risks. Tian Xiaohua (2014) suggested that the Chinese enterprises should be prudent in calculation of labor costs and set aside enough money to cover possible labor disputes. As the subject of overseas investment, Chinese enterprises should seriously study the host country's labor hiring requirements, calculate labor costs, especially for the provisions the state can only be used for the countries which provide domestic labor only, in order to avoid unnecessary labor disputes that may affect investments. Chinese enterprises should strictly obey relevant laws of the host country, the employment contracts, and internal regulations when hiring and managing employees, sign labor contracts, promote the development of enterprises, and pay attention to safeguarding the legitimate rights and interests of employees at the same time. At the same time, Chinese enterprises should keep written materials and records as evidence related to labor management for future labor disputes in order to grasp the initiative in resolving the disputes. Also, actively and properly handling the relationship with labor unions, effectively using relevant laws of the host country when bargaining with trade unions, coordinating the common goals of the company and labor union under the principle of maintaining their own interests, and reaching agreement with the unions on labor matters as soon as possible. Furthermore, companies should enhance operations through active consultations with labor unions, resolving labor conflicts and strikes, carrying out emergency plans when encountering illegal strikes, and timely communications with the relevant government departments to obtain the support of the host government.

Investors should be aware of the local laws on foreign investors' market access mechanisms and resource investment restrictions on investment income tax laws. Meeting with countries whose legal system is not very transparent will cause difficulties for Chinese overseas investors. At this time, we should give full cooperation with local law firms, governments and people, and it is better not to rush into the market.

Chinese enterprises should change their ideas about valuing essence more than procedure when concluding a contract. We should attach great importance to the dispute resolution provisions when concluding a contract. We must carry out the contract with the substantive provisions of serious negotiations and have a prudent attitude towards the dispute-resolution provisions of the negotiations, not remaining unprincipled when accommodating each other in order to facilitate transactions and dispute-resolution issues. Chinese enterprises in the overseas investment process should not only pay attention to their risk of default but should pay attention to liability for breach of contract that may arise. The most common issue is that one party obviously suffered a loss of interest in the actual case, but it cannot be calculated in this case, so the relevant companies must bear the burden of proving, otherwise and bear the consequences (Du Xin, 2013).

We must strengthen the Chinese overseas investment legal system's construction and improvement, and legislate the basic law on foreign investment as soon as possible. Foreign investment law should serve as the basic law to encourage, protect, and regulate Chinese overseas investment, clearly define rights and obligations of government management authority and investors on cross-border investment, and suggest the stimulus or restrictive measures to be taken against cross-border investment. On this basis, to sum up our experience, we need to legislate foreign investment law implementing rules step by step and improve the legal system of China's overseas direct investment. According to their national conditions, phasing out unreasonable restrictions, providing legal support for taxation and finance for cross-border investment enterprises.

Establish an effective regulatory regime of foreign investment. In accordance with the reality of our country, establish a unified foreign direct investment management agency in charge of the Ministry of Commerce that can formulate the Guiding Catalogue of Foreign Investment Industries and the harmonization of approval procedures and standards, coordinate cross-border investment activity from a macroscopic view. In managing, the agency should regulate and control industrial layout and investment structure mainly by legal and economic means, and it should not be involved in micro-management. On the approval system, in addition to those related to China's economic development strategy and energy investment, which will be jointly approved by the NDRC and the Ministry of Commerce, all other cross-border investment projects should be approved by the foreign direct investment managers. This is to prevent the approval process being subjective and arbitrary and can avoid investment risks and optimize the investment structure.

Establish foreign investment insurance system. Foreign investment insurance is a mechanism that the government of capital-exporting country provides a guarantee for foreign investors when they may encounter political risks or from venture capitalists or use their insurance institutions to apply for the insurance if the occurrence of political risk coverage to investors is damaged, insurance agencies should be compensated. This system is currently widely used in developed countries; it has become an important mechanism for capital exporting countries to protect and encourage cross-border investment. China should also establish an overseas investment insurance system with Chinese characteristics to provide insurance for Chinese enterprises when they may be subject to nationalization, expropriation, currency exchange restrictions, import restrictions, and other political risk insurance in foreign countries.

Improve the risk prevention mechanism. For today's increasingly complex investment environment abroad, the idea of legal risks prevention should be remedied to advance prevention and overall control. Our government should form specialized research institutions devoted to research on overseas investment risks, study in depth the legal environment of foreign investment, analyze investment opportunities and risks that may be encountered by our country's overseas investment enterprises from a technical perspective, and strive

to complete the work of identifying and assessing legal risks and prevention control.

Establish a direct investment information service system. China's relevant departments should set up specialized information services institutions, build a new network of overseas investment information services network providing information including the host country's political, economic, marketing, legal, cultural, and other aspects, and provide professional advice to investment companies before investing, to make sure that they are fully prepared. At the same time, it also should set up a special agency responsible for the overall investment environment, provide basic information of overseas investment environment, and promote services such as introductions to potential partners, cooperation projects, and so on (Liu Lei, Li Na, 2014).

On the international level, Dong Haihua (2014) suggests that the Chinese government should always adhere to the principles of mutual benefit and win-win compromise, and the combination of flexibility principle, accelerate the negotiation and conclusion process of bilateral or multilateral investment protection treaties with other countries. She also recommends that the Ministry of Commerce fully listen to the interests and demands of domestic investors. Businesses can also draw up a folk version on investment protection treaty as a reference for the government when negotiating. The government should help the "going out" enterprises to avoid possible risks from a legislative point of view.

Ethical Risk Prevention for Chinese Investors

Chinese MNEs must realize the strategic importance of internationalization of their workforce, production, distribution, and research and development. They need to employ local workers, leverage local resources, understand and respect local laws and culture, which will help strengthen the tie with host countries and be conducive to raising the level of globalization. Specifically, Chinese MNEs should attach more importance to employer-employee relations, cultural adaptation, environmental protection, etc. On the one hand, it is necessary to prevent risk by communicating with local NGOs and opinion leaders. On the other hand, Chinese MNEs ought to actively fulfill their social obligations and contribute resources to the local communities so that they can improve a responsible image, strengthen their accountability, and realize inclusive local development.

Chinese MNEs should commit to environmental protection and take actions, such as establishing a mechanism for CSR communication with local governments, NGOs, and communities, releasing environmental information, getting engaged in philanthropic activities, etc. In this way, Chinese MNEs could deliver timely and effective responses to environmental issues, demonstrate their commitment to CSR, and lower the risk caused by information asymmetry, all of which are beneficial to developing core competence.

Chinese MNEs should fully understand and obey the local laws and regulations on environmental protection, improve the waste management capability, and meet related requirements. In case the host country sets a very low or no standard, companies should behave on the basis of domestic or internationally accepted standards and principles, which has proven to be an effective way of strengthening legitimacy.

According to China's 12th Five-year Plan, Chinese enterprises are encouraged to go global in a more responsible way and to benefit the local people, indicating that China's investment strategy prioritizes green development and shared value creation. To realize these goals, a widely covered CSR evaluation system should be developed to guide green business. In addition, the government should strengthen environmental supervision and green infrastructure construction, empower the supervision, inspection and law enforcement agencies, and raise the standards of product quality, environmental protection, and other business conduct. What's more, CSR institutions that meet both domestic and international requirements are badly needed to

shape Chinese enterprises' ethical behaviors and further help prevent overseas investment risk, such as by exerting the influence of consumers, media, labor unions, and other organizations.

The industrial associations should promote international cooperation and exercise their bridging role, such as to timely inform the enterprises of relevant laws, regulations, and policies on environmental protection, integrate industrial information and compile a customized FDI guide, cooperate with governmental organizations to provide compulsory training programs for persons in charge of foreign investment to help them get familiar with international conventions and legislations and raise their awareness of environmental responsibility.

Conclusion

In the era of economic globalization, China's foreign investment is characterized by diversified investors, worldwide coverage, and various industries. Meanwhile, Chinese enterprises have encountered a lot of problems pertaining to legal and ethical issues overseas. In addition to the complexity and distinctiveness of foreign investment climate, contributors to relevant risks include China's lack of legal protection of investors and their lack of awareness and capabilities of risk management. Given this situation, we suggest that the Chinese government and the enterprises join hands to cope with not only the operational risks but also legal and ethical ones. On the one hand, the Chinese government should enhance mutual trust at international level by signing bilateral investment treaties and improve domestic legal institutions and insurance systems to raise the awareness of ethical responsibility. On the other hand, Chinese enterprises should heighten their social consciousness and make efforts in risk identification and prevention to create win-win situations in the host countries. In general, the world is at a pivotal moment for inclusive development. Though law plays a norming role, ethics lead the way in creating shared value. Thus, combination of the two appears to be imperative, considering the imperfection of current legal institutions.

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