MNCs Face Legal and Regulatory Problems in 21st Century China

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ABSTRACT

China has become one of the biggest recipients of foreign direct investment in the world. Despite this growth, China has never been a simple place in which to invest. Even in the 2010s, problems persist. Some of the current, key problems relate to the legal and regulatory systems of China. The objective of this paper is to highlight some of these continuing and new challenges for the unwary foreign investor in China and make recommendations how foreign investors may best act and how the Chinese government may best serve its proclaimed desire to encourage foreign direct investment. Against this backdrop it is ironic that the Chinese government recently announced an intention to better facilitate foreign direct investment.

Keywords: FDI, China, problems, laws, regulations, corruption.
INTRODUCTION

In an earlier paper, we highlighted some of the difficulties still faced by companies investing in China, both western-owned companies and companies owned by the Chinese diaspora (Foster & Tseng, 2014). Most of the companies, all foreign invested entities (FIEs), described in the mini cases comprising the main evidence base in that paper were engaged in joint ventures (JVs) with local firms at some stage of their story, either as the mode of entry or as part of a solution to a problem which had emerged. The problems faced included difficulties with JV partners, problems in the supply chain and difficulties with the political environment. This paper is in essence part two of the story and focusses on difficulties relating to legal and regulatory issues, be the laws those of China or elsewhere. As we described in the earlier paper, inward foreign direct investment (FDI) to the People’s Republic of China (PRC) has grown enormously since Deng Xiaoping’s famous declaration of the Open Door policy in 1978, which marked the beginning of the modernisation and rapid growth of the Chinese economy. The real, sustained period of growth has been over the past twenty to twenty-five years, as shown in Table 1. Much of that FDI, undertaken by FIEs, was enacted or implemented, by dint of regulation prior to China’s accession to the WTO in December 2001, via a joint venture with a PRC partner. The granting of access to WTO, brought with it cancellation of the requirement for foreign investors to effect their entry via a JV in most business sectors, although some sensitive sectors are still subject to limitations, e.g. finance and defence. Some businesses continue to operate voluntarily in JVs with PRC partners for various reasons – mainly access to local market knowledge and access to skills perceived to be required to deal successfully with Chinese government at its various levels.
Table 1 - Inward FDI Flows into China 1990-2012 ($bn)

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<tbody>
<tr>
<td>World</td>
<td>207.4</td>
<td>343.5</td>
<td>1413.2</td>
<td>601.2</td>
<td>734.1</td>
<td>989.6</td>
<td>1480.6</td>
</tr>
<tr>
<td>Developing Economies</td>
<td>34.8</td>
<td>117.0</td>
<td>264.5</td>
<td>193.8</td>
<td>280.3</td>
<td>334.5</td>
<td>432.1</td>
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<tr>
<td>China</td>
<td>3.5</td>
<td>37.5</td>
<td>40.8</td>
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<td>60.6</td>
<td>72.4</td>
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<td>Year</td>
<td>2007</td>
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<tr>
<td>World</td>
<td>2002.7</td>
<td>1816.4</td>
<td>1216.5</td>
<td>1408.5</td>
<td>1651.5</td>
<td>1350.9</td>
<td>1452.0</td>
</tr>
<tr>
<td>Developing Economies</td>
<td>589.4</td>
<td>668.5</td>
<td>530.3</td>
<td>637.1</td>
<td>735.2</td>
<td>702.8</td>
<td>778.4</td>
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<tr>
<td>China</td>
<td>83.5</td>
<td>108.3</td>
<td>95.0</td>
<td>114.7</td>
<td>124.0</td>
<td>121.1</td>
<td>123.9</td>
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Source: Summary using data from WIRs, UNCTAD at http://unctadstat.unctad.org/

In the early days of the FDI boom, stories of firms having difficulties in dealing with the Chinese partners they necessarily had were regularly reported in the non-PRC business press. In addition a range of other problems were reported (Foster, 2014), covering issues which include: culture; HR issues; the ‘flexible’ nature of Chinese law and weakness of Chinese law as actually operated (see e.g. Foster, 1997; Yang & Yueh, 2009); regulatory; and IPR issues (see Dimitrov, 2007). One of the most commonly noted problems is that of understanding the culture of Chinese partners, although sometimes it is suspected culture is used as a blind for more mundane events such as dishonesty! In relation to this problem of culture, Gong et al (2011) make the interesting observation that the issue of cultural understanding is not even standard across the country, because the culture with which one is dealing varies in China’s different regions. Importantly, whatever their roots, Li et al (2001) found that cultural gaps did impede delivery of best possible performance. At the cusp of culture and human resource management, there has long been a debate on the important question of whether to have expatriate bosses or ‘local’ bosses in FIEs – in China or elsewhere in the world, (see e.g. Hutton, 1988; Selmer, 2004) argues that it is critical that key managers in China based FIEs have China experience. In other words, if you make a decision to have expatriate bosses, then it is crucial that they have experience and understanding of the Chinese mind-set.
Hence, the context into which foreign direct investors move is far from simple and, unfortunately, difficulties with the laws and regulatory frameworks operated by the PRC government remain all too common, even now in the 2010s. Added to problems with PRC laws are problems related to the impact of certain foreign jurisdictions’ laws, particularly the USA, on investments in China. Such difficulties are common to both western, non-Chinese firms and to firms owned by the Chinese diaspora. That the PRC business environment is perceived to be problematic is epitomised by a recent survey, by AmCham China, of foreign companies in which they revealed that things were getting harder for their like and that they felt less welcome in China than previously, even compared to the sense of the comparable survey a year earlier (Tobin, 2014). This is a sentiment shared by European firms, although they still believe China is an important destination for them (Qi & Silk, 2014). The two objectives of this paper then are:

1. to highlight some of the key continuing and new challenges for the unwary foreign investor in China, relating to legal and regulatory issues, be the laws those of China or elsewhere; and,

2. to make some consequent recommendations for best practice going forward both for potential foreign direct investors and for the PRC government regarding institutional incentives for FIEs.

There is something of a paradox hereabouts. On the one hand, investing in China is seen as potentially problematic at this time, as noted above, while on the other hand, the PRC government has pledged to improve the FDI context. To be precise, in November 2013, China made public statements of its intention to deliver better facilitation of FDI, in order to thereby help keep the Chinese economy booming, see e.g. the recent report by Li (2013) in the China Daily – Asian Weekly (edition). This article reports the latest updating, as of November 2013,
of the Party’s policies for FDI in China, including, it was claimed, improved regulation aimed at enhancing China’s FDI sink status. In particular, it reports pledges by the central hierarchy of the Party in the wake of the 3rd Plenary Session of its 18th Central Committee meeting, to better regulate FDI processes to make it more attractive for potential foreign investors to invest, especially for investment in more specialised units such as R&D centres. Time will determine how well founded such pledges have been.

The data used in this paper are mainly culled from secondary sources; these secondary data are enhanced by a small number of insights from reliable, private sources. The overall method employed might be described as data informed storytelling and the analysis as textual analytical sensemaking – (Remenyi, 2005; Yanow & Schwartz-Shea, 2006).

The paper is now organised into two further sections dealing with: the challenges still being experienced, as noted in the objectives; and a discussion and conclusion.

**FRESH CHALLENGES FOR THE MNC IN CHINA**

As we shall elaborate in the various parts of this section, there are undoubtedly fresh challenges or difficulties for those who are continuing to make new FDI projects in China but it is important to see them in the setting of a changing Chinese economic context. For over two decades China’s economy had grown by over 10 percent per annum; that has now slowed or steadied to a ‘mere’ 7 percent or so. The shape of the economy is changing from an export driven, low wage economy towards a more technologically advanced economy, which necessarily needs better R&D to sustain it from within; hence the Chinese government’s desire to encourage FDI linked to R&D as mentioned in the introduction. It is also arguably significant that the baseline set of rules for FDI has changed from one where there were lots
of inducements for foreign investors, especially in the area of corporation tax, to a more even position as compared to domestic investment. That is not to say that continuing FDI in more basic areas of the economy will be other than highly welcome but it will now be more on ‘our’ terms.

Against this background picture and the historic impediments to FDI noted in the previous section, we now focus in on some of the very latest issues which are raising concerns in MNCs with China investments, with suitable examples cited, mainly issues of a legal or regulatory nature. The list is not exhaustive but these are the matters on which we have chosen to focus attention because they are both current and important issues for existing and would be foreign direct investors.

**China’s 2008 Anti-Monopoly Law (AML)**

One of the more recent, and perhaps pernicious, challenges facing FIEs in China comes from the PRC’s 2008 Anti-Monopoly Law. As Lelyveld (2014) put it in a recent radio piece, “China has mounted a major attack on foreign companies for alleged monopolistic practices, causing many to cut prices and raising suspicions that political forces may be at work.” Not only are companies facing such allegations but in many cases they pay settlements rather than seek to fight them. Hence, Clover (2015) noted, in the *FT* on the 26th January 2015, with a mixture of surprise and perhaps admiration, “it took a novel approach, it decided to defend itself.” This comment referred to US, microchip maker, Qualcomm’s decision to fight the National Development and Reform Commission’s (NDRC) attempt to fine them $1bn. As part of their defence they hired a French trained economist Zhang Xunzhu as a consultant. This could be seen as a cute move since Zhang had been a major player in the formulation of
the AML. However, being seen to be in the opposition began to have negative consequences for Zhang, including allegations of conflict of interest.

Lelyveld (2014) also suggests that not only are FIEs being unfairly treated but also in the words of Kenneth Jarrett, president of the American Chamber of Commerce in Shanghai, “the laws are not being applied equally to foreign and domestic firms.” This charge if true would of course mean that the PRC authorities were acting in clear breach of their WTO obligations. The list of targets has included, as well as Qualcomm, such major entities as Daimler-Benz, Microsoft, and Audi (of Volkswagen AG).

Another chilling cut at this problem, from a foreign investor perspective, is the rather crude threat by an NRDC official, reported in the *Daily Telegraph* (Roland, 2014), who advised foreign companies ‘not to fight allegations’ if they were to be accused of wrongdoing in their business dealings in China; and, note the choice of words, simply ‘accused’ not ‘[have been] found guilty’.

**Corruption hits FIEs – and the ‘need’ for local recipients for corrupt payments to exist**

Corruption in China is a multi-faceted problem. There is the matter of FIEs accused of corruption, such as pharma giant GlaxoSmithKline (GSK); less commented on but surely crucial is the existence of a pool of PRC officials, or managers, who must be receiving bribes if ‘dastardly’ foreign companies are succeeding in paying them; and, there is the internal drive against corruption by PRC officials, which includes a drive to reduce ‘the perks budget’.

The GSK case is an interesting one. The allegation is that GSK have been responsible, directly or indirectly, for the payment of bribes or provision of expensive benefits to doctors, hospital officials and others to authorise the purchase of GSK drugs rather than those of
competitors. The key starting question is ‘were such corrupt inducements paid or given?’ An unattributable and highly reliable source, resident in the UK, told me that it would be very surprising if GSK had not made such inducements directly or otherwise because ‘that is how these things work in China; if you don’t offer such inducements you don’t sell your drugs’. That of course still leaves open the question whether such payments were known or authorised in London or were wholly the result of maverick local employees. Either way the giving of bribes is illegal under Chinese law and is also covered by the UK’s Bribery Act (2010) which applies inter alia to UK companies working overseas. Moreover, no British company should be in any doubt about this basic fact because Foreign and Commonwealth Office’s (2014) China Guidance makes matters clear. The UK Act created four prime offences:

- Two general offences covering the offering, promising or giving of an advantage, and requesting, agreeing to receive or accepting of an advantage;
- An offence of bribery of a foreign public official; and
- An offence of failure by a commercial organisation to prevent a bribe being paid to obtain or retain business or a business advantage (should an offence be committed, it will be a defence that the organisation has adequate procedures in place to prevent bribery).

Thus even were GSK to argue that ‘[they] didn’t know what was going on’, they could still be culpable under UK law if they were found not to have evidently robust processes in place to avoid such illegal actions.

The final strand of the tale is the availability of Chinese personnel to be bribed or offered non-monetary inducements by GSK officials or intermediaries (so-called agents). Put at its simplest, if the PRC healthcare party is not open to being bribed, no such offences can be consummated. Again my source assures me that, up to now at least, potential recipients have
not been hard to find but the pitch in the Chinese/China-informed media focuses primarily on the perfidious Brits, including the activities of a part-British owned risk consultancy firm, hired by GSK (see e.g. Reuters, 2014). As we note in the next sub-section, the UK is not the only jurisdiction with anti-bribery legislation which can have far reaching non-domestic (for them) consequences.

A rather different impact on certain FIEs derives from the crackdown on extravagant spending by officials on luxury goods. One of Xi Jinping’s policy thrusts has been to target corruption, including cutting down on the holding of numerous, expensive banquets and receptions funded by the public purse. As Halpin (2014) put it a year ago, “This anti-corruption drive has already [my emphasis] had a marked impact on the consumer goods sector. Restrictions on official banqueting and gift giving have hit companies such as Kweichow Moutai, China’s high-end spirit manufacturer that had previously profited from the culture of currying favour with officials by proffering expensive gifts. Other victims of the anti-graft drive have included restaurants and purveyors of golden chopsticks.” Among the foreign firms to suffer are those selling de-luxe Cognac brands, such as Rémy Cointreau (they own brands which include Rémy Martin Cognac and Bruichladdich Scotch whisky) and Hine1.

A key point in reflecting on bribery in China is the PRC law and how it is implemented there. As already noted, bribery is illegal but the real issue, and one which becomes important in the next sub-section, is where exactly the boundary lies between a bribe and an allowable gift, which is of ‘suitably modest’ value. There seems to be no very exactly defined dividing line and so one can be left with divergent views as to what is ‘still acceptable’ in China, albeit it may be illegal under a strict interpretation of the law. As Chow (2011, p.583) puts it, “These

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1 There is a bit of an irony about this ‘hit’ to the French drinks industry in that, in recent years, the Chinese have been busy buying French wine making businesses. Samuel (2015) reports the 100th such purchase, made in January 2015, with the purchase of Bordeaux marque Château Renon, by a packaging tycoon. Samuel notes that China has passed Britain as the primary destination for Bordeaux wine exports.
types of kickbacks, ….. , happen every day in China; in fact, they are so common that [they] are viewed by many people in China as an expected way to do business. Many people in China are simply resigned to view kickbacks as a form of minor or petty corruption that must be tolerated or accepted.”

Interestingly, I know from personal experience that the ICAC in Hong Kong used to produce, pre-Chinese takeover, very clear guidelines which were presented to anyone commencing an employment in the public sector. So, one knew for example that a single bottle of a regular brand of malt whisky had a value which made it an acceptable gift not a bribe, whereas a case, coming in at perhaps $HK2,000 or more, at that time, was a bribe. Maybe the PRC needs similar clarity.

**Foreign Corrupt Practices Act (US) and its UK counterpart**

The US Foreign Corrupt Practices Act (FCPA) can have more impact in China than the neutral bystander might imagine, whether directly (but what’s the big deal say PRC bods!), as indeed could the UK Bribery Act, or collaterally on JV partners. The US has a habit of passing laws which they then claim will apply anywhere in the world. Chow (2011) explains just how wide can be the reach of the FCPA. The FCPA, like the UK’s Bribery Act, has it that a US (UK) firm who offer or give bribes in a foreign country commit an offence, which seems entirely fair and proper: bribery is not to be countenanced. What is trickier is when an FIE which really does try to do honest business has lateral links with another firm which is not quite so scrupulous. The primary firm may find it is deemed to have breached the FCPA, albeit genuinely unknowingly.

Chow (2011) gives three important examples of how this may occur:
A US based MNC has a wholly foreign owned entity (WFOE), subsidiary incorporated in China and hence subject to Chinese law with liability separated from the parent. A sales agent for the WFOE engages in low grade bribery with a purchasing agent for an SOE. The problem starts from the fact that the SOE’s agent might be deemed to be a ‘foreign official’ by the Department of Justice (DoJ). Because of this, the kickback in this case will be viewed within the meaning of the FCPA as a payment made in order to obtain business. Although the WFOE is a separate legal entity from the US-based MNC, the DoJ might further consider the WFOE to be an ‘agent’ of the MNC under the FCPA. As a result, the actions of the WFOE and its sales agent would be attributable to the MNC. The DoJ could then bring an FCPA enforcement action against both the MNC and the WFOE for the payment of the bribe to the purchasing agent.

Chow argues that even the dimmest PRC official would hesitate to accept a suitcase full of US dollar bills. However, the FCPA bans not only payments of money, but also the giving of ‘anything of value’ to foreign officials to gain an illegal business advantage. The DoJ’s broad definition of ‘anything of value’ could present additional issues because many transactions that occur in China’s current business culture that are commonly viewed as acceptable, if not perfectly legal, might fall foul of the DoJ’s interpretation of the ‘anything of value’ element of the FCPA.

The third issue arises where an MNC has made its PRC investment through a joint venture (JV) vehicle. As with the WFOE before, this a separate legal entity incorporated in China. However, if the Chinese JV partner makes illegal payments to PRC officials in the course of doing business this may then be taken by the DoJ, back in the US, to reflect on the parent MNC because they infer the JV partner to be an agent of the MNC.
All of this is made doubly hazardous for US companies, or non-US companies who do business in the US, by the fact that the FCPA casts a potentially very broad net when it comes to defining who may be ‘a foreign official’. At this point it is believed that the UK Act is likely to be less punishing in terms of whom it considers to be a ‘foreign official’. However, both Acts are at one in that they are clear that using an agent who has a large discretionary budget from which s/he pays bribes is no defence for the investing MNC.

**IT and consulting firms in PRC sights**

Consequent to China’s accession to WTO in 2001, one might have supposed that IT service providers and foreign consultancy firms would, like those in other industries, be welcome bidders for PRC business. The second decade of the 21st century gives pause for reflection however. As Chang (2014) wrote on 25th May 2014, “Today the Financial Times, citing ‘people close to senior Chinese leaders’ reported that Beijing has ordered state enterprises to cut dealings with U.S. consulting firms, accusing them of spying for Washington,” and later, “[this] anti-consulting services measure,…, means that state enterprises will be cut off from McKinsey, Boston Consulting Group, Bain, and other first-rank consulting firms.”

At the time of the WTO signing, China did not sign the World Trade Organization Agreement on Government Procurement. But they did undertake not to limit market access to ‘Management Consulting services’ and agreed that foreign parties are entitled to ‘national treatment’ with regard to such services, in Part A of Annex 5 to the WTO General Agreement on Trade in Services, (especially when state enterprises act in a commercial as opposed to a government capacity). If that is so, then any action such as that noted above to effectively ban U.S. firms would appear to be a clear breach of its WTO commitments.
Beijing has also banned the further purchase of Windows 8, Microsoft’s latest operating system, for central government networks, reports Chang (2014), while Google’s problems in China have been widely reported.

Cisco Systems and SAP meanwhile claim to be more sanguine as to their future Chinese business, although the Economist (2014) went on the record writing, “Hardware firms such as Cisco, IBM and Qualcomm are facing a post-Snowden backlash.” Whether the positive views are genuine or are more by way of a bidding process for potential favour remains to be seen.

What is this ‘attack’ on the IT/IS/consulting zone really about? It seems probable that it is part of a cat and mouse game of claim and counterclaim by China and the U.S. about cyber spying. Whatever the truth of the matter, it is another example of an area where foreign MNCs are finding it increasingly hard to do business in China. However, western investors, especially Americans, should perhaps not be too quick to judge on this issue of IT procurement; for, as a Chinese businessman (not a government official) observed to me, “even the U.S. government gives priority to its own IT firms when purchasing software.” [‘Even’ was his choice of word, I might have felt ‘also’ was more appropriate.]

**PRC firms with market dominance look to crush competition – a paradox relative to the AML issue above**

Sender (2015) writes that big firms such as Xiaomi not only look to play a dominant role in the domestic China market, seeking to ‘knock out’ the likes of Samsung along the way, but also to gain major footholds in global markets. Xiaomi is usually described as a Smartphone manufacturer but Sender reports Richard Jib, a Hong Kong hedge fund owner, as saying, “It [Xiaomi’s Smartphone sales] is just a customer acquisition channel. It is all about software

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and internet services. There is a full ecosystem in which hundreds of companies will use the Xiaomi platform.”

China’s three internet ‘giants’, Badu, Alibaba and Tencent, also have major growth ambitions designed to dominate their respective markets to the greatest extent possible. Tencent, for example, has apparently already destroyed the texting business of China Mobile. Moreover, reassuring for them but worrying for FIEs and external MNCs, is the fact that they appear to have the backing of the Party hierarchy. One example to illustrate this was that Li Keqiang, the PRC premier, presided over the opening in Shenzhen of We Bank, the first online bank in China, which is part-owned by Tencent Holdings.

None of this suggests anything other than an even tougher time for MNCs which seek to invest and do business in China. What is a tad ironic however is the juxtaposition of this aggressive monopolistic or oligopoly seeking behaviour by PRC firms at exactly the same time that FIEs are being hit by AML activity – see the first sub-section of this section.

CONCLUSION

China’s economy is now very large and still growing, not at the double digit rates of the 1990s and early 2000s but still at a rate at which most other countries look enviously. Part of that booming economy picture is the still large-scale presence of inward FDI. Opportunities still exist and post-WTO the playing field is supposed to be level for domestic and FIE players save where specific exceptions were made, such as Financial Services and Defence/Strategic industries. But things are tough for the FIEs and the problems come in various guises but much of it is law or regulation related. It should perhaps also be noted, as my Chinese, businessman source again said to me, that the economic context within which
FDIs are made has changed markedly since Deng’s famous pronouncement. Paraphrasing he noted as follows.

“In the early stages of the remarkable new growth of China’s economy, foreign investors made bold investments lured by the opportunity to make high returns on their investments, albeit with attendant high risks. As the economy has grown and matured, costs (e.g. those of raw materials and labour) have risen and hence returns may now be less generous but there are definitely still opportunities for smart investors. Thus problems related to the law and regulatory frameworks are an important but not an ‘absolute’ constraining factor.”

Where PRC law is at the heart of the matter, while the laws may be new, e.g. the 2008 Anti-Monopoly Law or the latest tweaking of the anti-corruption legislation, the older issue of perceived subjectivity of application remains a problem and FIEs seem to feel they are not getting a fair crack of the whip.

One area where one cannot in conscience complain about motive is the PRC’s crack down on corruption by officials, including lavish entertainment and presents for officials. Nevertheless, because foreign drinks and consumer products were much admired by officials in receipt of such largesse, there has been a notable impact on the China sales of the FIE purveyors of these ‘goodies’.

Another aspect of the legal jungle comes where PRC authorities regard certain practices in a benign fashion, minor corruption hardly worth worrying about, but foreign jurisdictions, especially the U.S. regard the same activity much more negatively. In such a circumstance one can understand, but not sympathise, with the official who says, ‘but this is OK, it’s what
is allowed here’ and hence cannot understand why the US or UK firm representative is not prepared to furnish them with their ‘petty corruption’.

Finally we have the fight which seems to be in play around cyber-industries, where nothing is quite what it seems, and mysterious upsets to supply chains ‘all of a sudden’ and just when things were beginning to run really well. At the root of these and other matters what many FIEs, or MNCs considering FDI into China, really want is transparency and fair application of all relevant laws and regulations. If the rules were clear and genuinely were fairly applied, then no-one would be able to complain. For, if transparency and fairness are in play then proper due diligence will reveal any potential issues and if the investor doesn’t fancy the outturn position then best advice is not to invest: simple really! But what is very hard to deal with is ‘opacity’ or murkiness. Indeed, so important is this, that Kurtzman et al developed an opacity index (Kurtzman et al, 2004). Based around this idea they noted, “In the majority of cases, most foreign direct investments go to countries with relatively transparent financial and economic systems. In the case of China, which has high levels of opacity and high levels of economic development, the simple lure of China’s ‘bigness’ has tended to make it the recipient of greater levels of FDI than would otherwise be warranted. However, the results of this study indicate that if China were to become more transparent, the amount of FDI would likely increase.”

One may ask here why these new problems are facing MNCs, and why the PRC government is making things harder for them where they are indeed the creator of the ‘obstacle’. Perhaps the simplest answer is that the PRC government is being more difficult because it feels, quite simply, that it can be awkward and get away with it: it feels confident of its own position on the world economic map. It now perceives itself to hold a position of strength, where once it
had to be more accommodating because it felt the PRC economy just needed the FDI flows if it were to be able to reform and grow as desired.

In the light of all the foregoing we suggest the following possible recommendations for would-be investors on the one hand and for the PRC government on the other.

For the foreign MNC potentially looking to invest in China, in the light of our discourse, we have three suggestions or recommendations:

- It is crucially important that would-be foreign investors take their due diligence extremely seriously. Make sure you understand what the law and regulations “may mean” not just what you think they ought to mean, given their drafting. This in some sense means ‘get into the mindset of the Chinese drafters.’
- Try to understand the political context you will face in China and how that may impact your area of the PRC economy, e.g. IT-related business has a potential political dimension.
- Take corruption seriously, make sure your staff all know you will not play that game and make sure everyone with whom you do business knows that too.

As for recommendations to the PRC government on how best to manage affairs going forward, one might suggest the following three simple points:

- Ensure that the quality of drafting of legislation is as good as possible, bearing in mind the need for ‘implementability’ of the laws being drafted – fine sounding words which are hard to grasp are of little value.
Authorities at all levels should seek to be fair and transparent in their enactment of laws and regulations, and that fairness must include the level playing field concept inherent in WTO agreements.

All laws should be applied fully and fearlessly. This means that notions such as ‘petty corruption’ not really being corruption must be gainsaid.
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