

The Research on the Compliance Management of Transnational Enterprises under the Background of “Belt and Road Initiative”

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Abstract—With the continuous advancement of the strategy of “Belt and Road Initiative”, the industrial structure in China is undergoing continuous prioritization and upgrading. As far as transnational enterprises are concerned, they are encountered with both opportunities and challenges. They are faced with the risk of compliance management in the process of “going out”. In their management course, transnational enterprises are likely to lead to the problem of commercial bribery because of the existence of industry differences and other problems such as the influence of overseas political risks on enterprise management and unhealthy compliance system. Therefore, it is particularly important to strengthen the compliance management of transnational enterprises. Only by strengthening supervision to check commercial bribery, enhancing overseas risk prevention and management compliance and improving compliance management system can transnational enterprises succeed in being steadily established in overseas market and realize a long-term and sustainable development so as to effectively upgrade the image and position of China as a major country.

Key words—*transnational enterprises, compliance risks, compliance control*

I. INTRODUCTION

Under the overall background of economic transformation and the adjustment of international investment structure and multi-lateral trade rules, as an important force driving the increase of world economy, China, in the complicated and changing international situation, always adheres to the “Belt and Road Initiative” by holding the concept featuring openness, cooperation and mutual benefit to set up the regional cooperation relationship with various related countries, boost the transformation and upgrading of transnational enterprises and jointly promote the development of world economy. However, while expanding their market, transnational enterprises are also faced with a series of compliance risks. As of the first half year of 2018, a total of 38 Chinese enterprises were blacklisted by the World Bank. Such a penalty has not only reflected the lack of compliance awareness on the part of the enterprises but also sounded the alarm for other transnational enterprises. Therefore, while conducting transnational operation, Chinese enterprises should draw a lesson from those that have been penalized, accelerate the internal compliance control and reduce compliance risks in a maximum way so as to keep steady development in overseas market.

II. THE NECESSITY OF ESTABLISHING COMPLIANCE MANAGEMENT SYSTEM ON THE PART OF TRANSNATIONAL ENTERPRISES

Firstly, macroscopically, compliance management can not only make enterprises themselves enjoy a long-term stability and nip in the bud problems, but also keep them from making significant mistakes, safeguard their whole interests and set up an excellent enterprise image. Driven by the surge of economic globalization, enterprises keep on shifting their operation models so as to fit in with market development. In such a trend of competition, the requirement for transnational enterprises will be higher accordingly. Needless to say, the construction of compliance-based anti-corruption and compliance culture plays an important part in enterprise operation and management. Therefore, it is necessary to establish compliance control.

Secondly, microscopically, as far as ordinary enterprise employees are concerned, the quality of their own inevitably influences the development of the enterprise as a whole. It is necessary to subject the employees of the enterprise to discipline, improve their overall quality and make compliance awareness go to the grass roots so as to promote the enterprise's development through man's development, reduce the occurrences of rule-breaking behaviors, exterminate the problems featuring “human feelings and bribery by way of money” that have been rampant among enterprises in recent years, succeed in making “compliance” infiltrate into each detail and sharpen the enterprise's competitive soft power. As far as the decision-makers of an enterprise, the management control the fundamental policy and lifeline of the enterprise. On the one hand, the construction of good compliance management system can effectively reduce the risks caused by the fault in decision-making on the part of leadership. On the other hand, it can set up a good image for the enterprise, thus shining splendidly on the world stage. Therefore, it is necessary to establish compliance control.

III. THE OPERATION AND DEVELOPMENT OF TRANSNATIONAL ENTERPRISES AND EXISTING PROBLEMS.

The current situation of the development of transnational enterprises. In 2011, for the first time, entrepreneurs in our country released to society The Report of 100 Top Chinese Transnational Corporations and Their Transnational Indexes. Based on the

research of the movement of the transnational indexes on the part of the enterprises in our country, the globalization degree of enterprises is deduced. Judging from the report, it is obvious that transnational index is positively associated with the globalization degree of enterprises. As is seen in Table 1, with the top Chinese 100 transnational enterprises as research objects, starting from 2011, statistical data are given every three years. Based on the collection of the data, it is found that the average transnational indexes of the top 100 Chinese transnational corporations increased gradually till 2017. In addition, within the six years, the transnational index of the Chinese enterprises remarkably rose to 54 from the originally merely higher than 6, fully indicating the rapid speed of development on the part of Chinese enterprises in the process of going global. Besides, influenced by economic globalization, the degree of internationalization of the operational model of enterprises is higher and higher. Judging from the elevation of the threshold, it can also be found that the transnational operating capability of Chinese enterprises is on the rise.

TABLE.1 INDEX MOVEMENT OF THE TOP 100 TRANSNATIONAL CORPORATIONS IN CHINA

	2011	2014	2017
Percentage of overseas assets	21.1%	14.65%	16.01%
Percentage of overseas sales	14.82%	20.86%	13.28%
Percentage of overseas employees	4.17%	5.29%	15.26%
Average transnational indexes	13.5%	13.6%	14.85%
Threshold	—	2.1 billion RMB	6.147 billion RMB

The data above are based on The Report on the Analysis of the Top 100 Chinese Transnational Corporations released by China Enterprise Confederation and China Enterprise Directors Association

The existing problems of Chinese enterprises in their transnational operation. With the internationalization of domestic enterprises in their operation, especially the rapid expansion of transnational enterprises across the world, various problems have arisen accordingly. Enterprises that were penalized because of their violation of rules have been exposed frequently. On April 16, 2018, according to the announcement released from the website of the US Commerce Department, American enterprises were prohibited from conducting any business with ZTE within seven years, which reveals that the ability to control compliance risks on the part of Chinese enterprises lags behind their peers in the US and that there is a clear loophole as far as the compliance management system of Chinese enterprises is concerned

Industry differences lead to commercial bribery. Due to the different scopes of operation on the part of transnational corporations, the examination procedures imposed on them by the government are different as well. The unsuccessful judicial supervision will lead to the occurrence of commercial bribery on the part of monopolistic enterprises. And along with the appearance of commercial bribery, the order of the entire market will be influenced accordingly. Such a vicious circle will result in the imbalance between the domestic market and overseas market in the end, which is unbeneficial to the enterprise concerned, to other stakeholders and even to the whole area. In most cases, the occurrence of commercial bribery relies on some inappropriate means (for example, black box operation), which has a bad influence. Consequently, the enterprises that earnestly observe rules are driven out of the market and the fairness of the whole market is disrupted. Under this unfair competition, the capital required by normal operation cannot be satisfied, leading to “adverse selection in technology”, damping the initiative of enterprises and impeding their advancement.

Political risks abroad influence the operation of enterprises. Globally, the foreign policies adopted by some developed countries or the unstable political situation in some developing countries constitute a challenge to the overseas operation and management of transnational enterprises. The common manifestations of political risks include confiscation, discrimination in tax policy and unstable political situation. According to the statistics of the political risk evaluation of five countries, it has been found that the higher possibility of political risks an area has, the more backward its economic level becomes. For the operation and management of transnational enterprises, this is a problem which is hard to avoid.

Compliance system is unhealthy. Firstly, there is a shortage of compliance management awareness and compliance culture. Judging from the current situation, transnational enterprises have some defects in the framework of compliance risk management. On the one hand, a standardized system has not come into being, leading to the lack of special coordinated departments to make organization and coordination. On the other hand, the existing management systems are not adapted to the requirement of prudent operation and supervision, resulting in the deficiency of the constraint mechanism about compliance management. Secondly, independence is weak. Since each transnational enterprise did not strictly standardize the responsibility and behavior of risk management departments and related managerial staff when job responsibilities were defined originally, compliance risk management departments exist in name only and a related managerial person often holds several posts simultaneously, which leads to a poor capacity of management and control. Thirdly, the validity of compliance control is poor. On the one hand, the lack of risk supervision mechanism on the part of transnational enterprises make them hard to control risks in a timely way, recognize risks and cope with compliance risks. On the other hand, transnational enterprises are faced with problems such as backward means of controlling risks, the technological level that cannot be upgraded, inability to keep up with the times and an inadequate supervisory capability. As a result, compliance risk controlling departments have not really set up interconnectivity mechanism with related departments including auditing departments. In addition, the ill-informed situation has reduced the work efficiency of the whole department.

IV. COUNTERMEASURES OF STRENGTHENING THE COMPLIANCE MANAGEMENT OF TRANSNATIONAL ENTERPRISES

Under the overall background of “Belt and Road” Initiative, Chinese enterprises should seize the opportunity, adapt themselves to the development of the times and continuously sharpen their compliance management ability so as to hone the soft competitive power of their own. Efforts should be made to actively explore the establishment of a set of perfect compliance risk management system and promote enterprises to enter into international market smoothly so as to bring benefits to more enterprises, boost the development of “the economy of silk road” and upgrade the position of our country.

Contain commercial bribery by strengthening supervision. Deepen system reform and make government affairs public. Firstly, we should deepen system reform. Due to the unsound system and inadequate reform, commercial bribery is often bred. For the purpose of containing commercial bribery earnestly, efforts must be made at source and look at problems from the perspective of development. By way of complying with the trend of the times and reforming management systems, attention is paid to place special governance efforts into development planning and various reform measures so as to give full play to the function of market in resource allocation and substantially realize the restrictive and independent operating pattern between policy and supervision departments. Secondly, the openness of government affairs must be deepened. We must always adhere to the thought of the socialism with Chinese characteristics, establish ourselves in people’s fundamental interests and ensure that various rights keep running smoothly. Thirdly, efforts are made to boost the construction of credibility systems, which requires the government to strictly enforce market access and clearance system and establishes its supervision mechanism and credit punishment mechanism.

Perfect laws and regulations and intensify the efforts to crack down on commercial bribery. To address commercial bribery is a long and complicated process, which requires to be completed on the part of various departments by strengthening communication. Efforts should be made to constitute a perfect mechanism covering such links as notification, transference, assistant investigation and sharing. Each and every corresponding department should shoulder its own responsibilities and act in accordance with law so as to try its best to keep commercial bribery from developing into the stage of crime. Firstly, the government should promulgate unequivocal laws and regulations by enacting Anti-Commercial Bribery Law. At the same time, efforts should be made to intensify the investigation of commercial bribery. On the other hand, government departments should take the lead in guiding enterprises to set up their compliance system and fulfill their supervisory function in a substantial way. The related practices of developed countries can be used for reference to active promote enterprises to conduct compliance operation and maintain the global market. Secondly, market should be standardized and the coordination mechanism of investigating and treating commercial bribery should be set up in order to ensure that the state can punish the enterprises for their illegal behavior of commercial bribery.

Intensify compliance publicity and education. Firstly, attention should be paid to rectify inappropriate understandings. It is necessary for us to help enterprises to set up the concept of three values. Moreover, representative rule-breaking cases should be cited and maladies should be analyzed in order to make enterprises have a clear understanding of the reality and exterminate all ideas to break rules at the beginning. Secondly, anti-corruption education should be strengthened. The government should actively carry out the education of integrity at regular intervals. Besides, the government should organize the study activity and typical cases of law-breaking enterprises involving commercial bribery should be quoted so as to make the concept of complying with regulations, abiding by the law and conducting operation in an honest way go deep into the operation and management of enterprises. Thirdly, we should give play to the supervisory guiding function of public opinions. Through the vigorous publicity by means of newspapers, TV and network, integrity and compliance operation culture should be enhanced to facilitate enterprises to set up their clean commercial culture, keep them from doing anything that violates law and regulations and create a good style of abiding by discipline and law in society.

Strengthen overseas risk prevention and operation compliance. Standardize various operating practices of enterprises. Firstly, it is necessary to ensure that the operation of an enterprise complies with law and regulations without conducting any operation beyond the operating scope prescribed by the government. Secondly, it is necessary for transnational enterprises to set up their management system compatible with them and strengthen the supervision over compliance. They should choose trustworthy accounting firms and establish a long-term cooperative mechanism to ensure that various management functions are supervised and controlled while reducing their operating risks. Finally, while conducting their transnational operation, enterprises should be familiarized with and grasp international trade norms. With the help of our country’s preferential policy, overseas operation should be boosted. On the basis of actively observing and substantially fulfilling related trade norms and standards, efforts should be made to make enterprises more powerful.

Enhance the overseas risk prevention awareness and ability. Firstly, transnational enterprises must set up their risk prevention awareness. Through the three-phased dynamic supervisory mechanism before the event, during the event and after the event, deviations in the operating activity should be found in a timely way so as to deal with the occurrence of overseas risks. They should strengthen the construction of internal control system and set up a set of overseas enterprise risk prevention system integrating business, finance and legal affairs specific to transnational enterprises. In particular, a special risk control department should be instituted so as to take special control over various risks that enterprises are encountered with. Efforts are made to sharpen the capability of dynamic monitoring and conduct early warning so that risks can be dealt with at source. Independent departments for censoring information should be set up in order to strictly screen and check the information of come-and-go clients. The system featuring the combination of internal auditing and external auditing should be implemented so as to conduct compliance auditing of the financial expenditures and salary settlement on the part of transnational enterprises and give full play to its supervisory function to ensure that enterprises can operate in accordance with the law and regulations.

Secondly, transnational enterprises should keep on enhancing the education for popularizing law and intensify all the employees' study of the common sense of law so as to continuously increase their risk awareness. Employees are required to strictly abide by law and regulations and understand and observe law in a real sense.

Financial instruments are used to disperse operational risks. Firstly, enterprises can conduct some financial derivatives businesses such as hedging and foreign currency options with the help of financial instruments to boost the development of capital flows through trade flows and keep profit in a certain range. In this way, while reducing cost, trade risks are also controlled. Transnational enterprises should fully understand options market and keep on tracing and monitoring market changes. In order to avoid the loss due to the difference caused by the settlement on currency exchange, transnational enterprises can designate the main settlement currency as RMB. Secondly, influenced by the "Belt and Road Initiative", enterprises ready to realize greater development need to rationally make use of surrounding resources and complement each other's advantages. By setting up their own overseas fund procurement stations in developed countries or regions (like Hong Kong), enterprises can evade operational risks and bring benefits to themselves to the greatest extent. By way of consolidating the foundation, enterprises can maximize the benefits. When an enterprise has not satisfied the condition and is not allowed to set up such stations, it can make use of the financial service within the permissible scope given by the development of the dividend policy in Free Trade Zones. In a word, transnational enterprises should seize opportunities to reasonably make use of financial instruments to effectively evade operational risks like price fluctuations in their operating process so as to boost their long-term development.

Perfect compliance management system. Cultivate good compliance operational culture. For the purpose of cultivating compliance culture, it is necessary to make efforts in the following two aspects. On the one hand, an excellent supervisory environment is necessitated to act as a kind of support and guarantee so as to provide a legal basis, comprehensively monitor and identify risks, make the concept of the rule of law go deep into the hearts of the people and restrain the occurrence of illegal behaviors. The concept of scientific development should be carried out. For Chinese transnational enterprises, they must always stay consistent with the state's fundamental policy. By deeply carrying out the learning and education in this regard, transnational enterprises should try their best to make their compliance culture pass from mouth to mouth and infiltrate into the work of employees in many ways and from many perspectives. Only when each employee of the enterprise observes compliance can the entire enterprise succeed in becoming strong and achieving sustainable development. In line with the risk occurrence rates of different departments of an enterprise and positions of employees, learning activities can be organized and carried out hierarchically and in batches so as to enhance the communication among employees. Both positive education and negative education should be intensified. While organizing and conducting the study of compliance laws and regulations, tests and evaluations should be carried out at regular intervals so as to make employees keep in mind compliance. On the other hand, it is necessary to bring in high-quality talents to consolidate the team of compliance control. By way of talent introduction, efforts are made to continuously improve the construction of talent pool in an enterprise. By way of recruitment and other measures, personnel with legal professional qualification should be introduced in a large number. In addition, evaluation and training should be intensified so as to make this batch of employees exert their own value.

Strengthen the control over compliance risks. Firstly, each and every department should fulfill their responsibilities and at the same time assume corresponding obligations in accordance with regulations. Based on the established compliance policy, an enterprise should work out a set of compliance risk management system covering compliance risks, control measures, legal ground and evaluation indexes, which is easy for employees to identify and address risks. The compliance management department in a transnational enterprise should earnestly fulfill its rights and conduct compliance review in the enterprise so as to really exert its bounden duties. Secondly, by strictly following the requirements of risk-oriented principle, measures are taken to evaluate and review the compliance risks of the constantly emerging new products of the enterprise in its operating process beforehand and set up a perfect compliance management mechanism so as to bolster security for the development of the enterprise. Last but not least, the mechanism of accountability and evaluation should be established so as to evaluate the performance of employees monthly, which offers a compliance caution to employees and at the same time severely punishes those who violate rules in time.

In a nutshell, faced with the impact from the economic globalization, transnational corporations should firstly attach great importance to their compliance operation, control their compliance risks and fulfill their bounden duties. By closely following the construction pace of "belt and road initiative", transnational enterprises should do their utmost to realize their economic objectives so as to maximize the value of enterprise and create Chinese brands in the world. By driving trade through investment, great efforts should be made to constantly boost the sustainable development of global economy and form a trade pattern that is fully open.

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