INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 3 | Issue 3 | 2020

© 2020 International Journal of Law Management & Humanities

Follow this and additional works at: https://www.ijlmh.com/
Under the aegis of VidhiAagaz – Inking Your Brain (https://www.vidhiaagaz.com)

This Article is brought to you for "free" and "open access" by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in International Journal of Law Management & Humanities after due review.

In case of any suggestion or complaint, please contact **Gyan@vidhiaagaz.com**.

To submit your Manuscript for Publication at International Journal of Law Management & Humanities, kindly email your Manuscript at editor.ijlmh@gmail.com.

China Powering through a Pandemic: Investments and Geopolitics

SHRESHTHA GARGE¹ AND SUNISHI TIWARI²

ABSTRACT

The COVID-19 outbreak has been an all-pervasive global effect on all the spheres of life, from socio-cultural to economic and political aspects. At a time where all countries are looking for solidarity, China has been in the spotlight for the probable origin of the spread of the virus as well as a spree of strategic financial takeovers, mostly with aspirations of emerging as an influential post-covid power. The Chinese authorities have been on the advent to make calculated acquisitions across various countries, these steps may be considered to be a part of a larger stratagem.

With the negative consequences on the economic structure, many corporate entities have faced severe disruptions which would make recovery a strenuous task. This has given China the probable opportunities to invest in many entities for the purpose of acquiring a stake in these different corporate entities. From observing the course of action of China, this has been interpreted by the other countries as a concern which may grow to be a possible threat especially alarming the Western countries.

With this article, the authors aim to analyse the probable consequences and the course of the action taken by the country of China, postulating there exists a favourable chance of the nation's success. This article would give a succinct exposition of the future of globalization, foreign relations with an emphasis on the role of China with respect to the same.

Keywords: china, hostile takeovers, COVID-19, FDI.

A brief consideration of history reveals pandemics have the capacity to shape the rise and fall of great powers. ³ While a majority views the present-day scenario requiring greater global harmony and collaboration, acting as a single entity opposing the spread of a virus, it is undeniable that the pandemic has shaken the geopolitics of the world. At the helm of strategic economic endeavors with the view of creating a global influential presence is the People's

¹Author is a student at School of Law, University of Petroleum and Energy Studies, Dehradun, India.

² Author is a student at School of Law, University of Petroleum and Energy Studies, Dehradun, India.

³Matthew Kroenig, *Pandemics Can Fast Forward the Rise and Fall of Great Powers*, NATIONAL INTEREST, (March 16, 2020), https://nationalinterest.org/blog/buzz/pandemics-can-fast-forward-rise-and-fall-great-powers-136417.

Republic of China. It is an unassailable fact that out of all the contemporary global players, China has proved to be a tough competitor; integrating the Asian region through FTAs and infrastructural ventures. The nation has transformed in the past two decades in terms of its global appearance and foreign relations. During the decade of 2000-2010, China engaged positively in globalization and began regional cooperation which gave it a manufacturing boom, resulting in the expansion of its economy and emerging as the second biggest economy after Japan.⁴ In the following decade, China set about to make several infrastructural investments; like, OBOR (One Belt One Road) which was the brainchild of Chinese President Xi Jinping as an ambitious economic development and commercial project spreading across Asia, Africa and Europe. AirData, a research lab at the W&M Global Research Institute, USA, had compiled a massive database of Chinese-backed project spanning from 2000-2017 which creates a comprehensive look at China's efforts to expand its influence with more than 3,485 Chinese Government-financed projects in 138 countries and territories.⁵ Thus, a fair idea can be made, 'China-Threat', if it were to ever occur, would be through the marketplace. A hallmark action of gaining an upper-hand in geopolitics through iron fist investments and takeovers has been carved out wherein economic decisions represent government stratagem.⁶

A country which has been in the loop of news with respect to the Covid-19 outbreak, China, is in a position of receiving criticism from other countries on one side and due to the containment of the outbreak, has become one of the few countries that received a head start to recover their economy and revive normalcy in their daily lives. However, due to the lack of a corresponding improvement in the consumption rate, the gradual increase in production would not suffice jump-starting the Chinese economy. On a domestic and more importantly, an international level, the manufacturing-based economy may not be able to rely on production to ensure the economic recovery they expect to make. Apart from the advantage of reduced pricing of oil and other raw material, the lack of retail consumption will cause the manufacturing sector of China to reach a saturation point, therefore being a possible cause for

⁴China overtakes Japan as world's second biggest economy, BBC NEWS, (February 14, 2011), www.bbc.com/news/business-

^{12427321#:~:}text=China%20has%20overtaken%20Japan%20as,trillion%20in%20the%20same%20period.

⁵ Bluhm, Richard, Axel Dreher, Andreas Fuchs, Bradley Parks, Austin Strange, and Michael Tierney. 2018. Connective Financing: Chinese Infrastructure Projects and the Diffusion of Economic Activity in Developing Countries. AidData Working Paper #64. Williamsburg, VA: AidData at William & Mary.

AidData Research and Evaluation Unit. 2017. Geocoding Methodology, Version 2.0. Williamsburg, VA: AidData at William & Mary. https://www.aiddata.org/publications/geocoding-methodology-version-2-0

⁶It is important to note here that the term 'Chinese Company', with respect to foreign trade, is synonymous with the Chinese Government.

a stagnation in the economic recovery.⁷ This is followed by an unusual step taken by the Chinese Government, where in practice, since 1990, they have always stated an economic growth target for each year, the same chose to withhold such data for this year.⁸ The most recent Institute of International Finance (IIF) forecast⁹ shows China recovering to the point of having 2-3 percent GDP growth for the year, the Western countries, including the United States, will lose GDP.¹⁰

From the global economic scenario, it has been observed that where all the countries, have imposed lockdowns and various limitations which act as preventive measures to fight against the worsening of the outbreak, the regular economic activities have taken the backseat.

Due to which, the corporate bodies, who contributed to economic growth have been experiencing tough months and many have either become distressed entities or face severe disruptions. For the revival of their economy, countries have been taking steps through introduction of economic relief packages or other stimulus measures. Amidst circumstances like these, any corporate entity would benefit from any form of investment which may aid recovery from the adverse effects of the Covid-19 outbreak. While considering the prudent assumption that there would be a shortage in acquiring capital during the following months, it is here that the actions of the Chinese government need to be analysed.

The (Chinese) government had been proactive in acquiring stakes of strategically paramount sectors, such as, finance, technology and telecommunications. These acquisitions are additions to the ever-growing list of stakes that China holds in various countries, like the 90% stake owned by the China Overseas Shipping Company, aka COSCO, of the only terminal operator in Belgium. It shows the trend of the Chinese authorities being on a spree of making strategic purchases of decent sized stakes in various European and American corporations. These may be termed as hostile takeovers, due to the cause of concern being expressed by various countries, as a possible threat to their national security. Even though, USA is the only country to have a Committee on Foreign Investment in the United States (CCFIUS), which plays a very active role in screening potential takeovers on national

⁷Jonathan Cheng, *China's Barely Begun Economic Recovery Shows Signs of Stalling*, WJS(June 1, 2020), https://www.wsj.com/articles/chinas-barely-begun-economic-recovery-shows-signs-of-stalling-11590989703.

⁸Karishma Vaswani, *How bad are China's economic woes?*,BBC NEWS BUSINESS, (May 22, 2020), https://www.bbc.com/news/business-52754782

⁹Robin Brooks and Jonathan Fortun, *GMV—Global Recession*,INSTITUTE OF INTERNATIONAL FINANCE, (March 23, 2020), https://www.iif.com/Portals/0/Files/content/1_IIF032320_GMV.pdf.

¹⁰Mat Burrows & Peter Engelke, *What World POST-COVID-19? Three Scenarios*, ATLANTIC COUNCIL, (June 06, 2020), https://222.jstor.org/stable/resrep24634.

¹¹Kenneth Raposa, *Watch Out for China Buying Spree*, *NATO Warns*, FORBES, (April 18, 2020), https://www.forbes.com/sites/kenrapoza/2020/04/18/watch-out-for-china-buying-spree-nato-warns/.

security grounds, a lot of countries do not have such measures to prevent any opportunistic or hostile takeovers, that the Chinese authorities seem to be executing.

Even though dwelling into individual legal provisions and foreign policies of countries in relation with screening of investments and procedure of governmental approvals would constitute a larger empirical study, preliminary references may be made into China's spree in order to ascertain a pattern and its possible implications. A new communication of the European Commission on 25 March 2020 called upon member states to use national FDI screening tools to the full extent in order to prevent a sell-off of strategic EU assets, including health care-related assets, technologies and infrastructure. 12 In Canada, the foreign investment control is presently governed under the Investment Canada Act, R.S.C. 1985, c. 28 (1st Supp.)13. The government route is required for when investments cross a prescribed threshold. At the same time, sector-specific rules governing foreign investments in key strategic industries, like telecommunication and banking shall be reviewed by the government on grounds of national security. In so far as Jens Stoltenberg, Secretary-General NATO, raised concerns on behalf of the West against China strategic advances both economic and military. He stressed that no member country was 'directly' threatened by the Asian powerhouse however he urged for a strong underlying NATO response. China maintained its stance, insisting that it is not a threat to any nation and, through their Foreign Ministry spokeswoman, urged NATO to hold a correct opinion about China's endeavours. Counties like Germany, Australia, Italy and the United Kingdom have revised their respective FDI policies to impose measures that may restrict the possibilities of opportunistic takeovers or acquisitions which may be construed as danger to national security. One of the latest additions to this listing is India. As a response to purchase by the People's Bank of China increasing its stake from 0.8% to 1% in one of India's largest banking companies HDFC, Press Note 3 (2020 series) which aimed to review the Foreign Direct Investment (FDI) Policy for curbing opportunistic takeovers/acquisitions of Indian companies due to the current COVID-19 pandemic.¹⁴ It is interesting to note that no country has publicly pointed out malfeasance on part of the Government of China specifically. All condemnations are generalised statements on behalf of the national governments to protect their economies during testing times. This is a testimony to the soft power that China, through a couple of

¹²Communication from the Commission C (2020) 1981 final, Guidance to the Member States concerning foreign direct investment and free movement of capital from third countries, and the protection of Europe's strategic assets, ahead of the application of Regulation (EU) 2019/452 (FDI Screening Regulation), OJ C 99I, 26 March 2020, p. 1.

¹³RSC 1985, c 28 (1st Supp), Investment Canada Act, CanII

¹⁴FDI Policy, Press Note No. 3, 2020, Department for Promotion of Industry and Internal Trade, Ministry of Commerce and Industry, Government of India.

decades of its strategic ventures, has gained over even the most powerful nations with large economies.

The cause of alarm with respect to these hostile takeovers is mainly due to a direct risk to the current economic power dynamics, where the country that's directly under the radar is the United States of America. It feels the threat of a possible unseating of their power as a supereconomy. Despite China's responsibility for the outbreak, the pandemic has tilted the geopolitical balance in its favour. And this may be a cause of concern for other countries, due to the radical ideology of China, which is in contrast to the current global political motivations. Therefore, even though it would be an unsettling idea to many, it is safe to say that China is powering through persistently on its way to become a super power.
