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Obstacles and Resolution Mechanisms for Environmental Protection in Enterprises' Outward Investment under the "Belt and Road" Initiative

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Abstract: As the "Belt and Road" Initiative advances, the scale of outward investment by Chinese enterprises continues to expand, but they simultaneously face a series of obstacles. Host countries' increasingly stringent environmental regulations lead to heightened environmental legal risks. Concurrently, domestically, the absence of specialized environmental protection legislation for overseas investment, coupled with the lack of extraterritorial effect of China's Environmental Protection Law and other practical issues, results in insufficient legal oversight of outward investment, urgently necessitating systematic solutions. This paper focuses on the environmental protection obstacles faced by enterprises in their outward investment and corresponding resolution mechanisms. It emphasizes analyzing the risks posed by host country environmental regulations and the gaps in home country legal supervision, proposing pathways for the improvement of legal regulation. Based on the above research, this paper proposes a three-tier resolution mechanism. First, improve the top-level design by expediting the formulation of the Overseas Investment Environmental Protection Law and upgrading existing guidelines into administrative regulations. Second, construct a compliance firewall centered on the "Three-Nation Law" database, utilizing contractual liability allocation as a tool, and backed by environmental liability recourse and insurance. Third, strengthen Corporate Social Responsibility (CSR), implement environmental protection strategies tailored to local conditions, and impose stricter constraints on heavily polluting industries. Finally, it is hoped that this research will help resolve the environmental legal issues faced by enterprises during their outward investment under the "Belt and Road" Initiative, balance economic development with environmental protection, and promote sustainable development.

Keywords: belt and road, outward investment, environmental regulation, environmental legal risk, corporate social responsibility.

1. Introduction

With the deepening advancement of the "Belt and Road" Initiative, the speed and scale of overseas investment by Chinese enterprises have continuously grown, yielding significant results. Simultaneously, the importance of the sustainable development concept has received increasing

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attention. Countries worldwide are advocating more strongly for the development of a green economy, making environmental protection and climate change issues in countries along the route a global focus. In recent years, the increasingly stringent environmental regulations of host countries have had a direct impact on enterprises' outward investment. Foreign investment projects causing severe pollution or ecological damage may face substantial fines or suspension by local governments. For instance, the Sorton-Sary Gold Mine project invested in by China Zhongji Mining Company in Kyrgyzstan was required to cease operations by the local government due to substances used in blasting causing the death of a large number of livestock in nearby villages [1]. Furthermore, China currently lacks specialized legislation governing outward investment. The Environmental Protection Law of the People's Republic of China does not possess extraterritorial effect. Additionally, documents such as the Measures for the Administration of Enterprise Overseas Investment do not specify concrete requirements regarding environmental protection for overseas investment project applications, resulting in inadequate supervision of Chinese enterprises' environmental conduct abroad [2]. Consequently, academia has proposed the following views concerning the environmental issues faced by the "Belt and Road" Initiative. Some scholars argue that risks caused by environmental problems permeate enterprises' outward investment, with the main types of environmental risks being host country environmental regulatory risk, enterprise behavioral risk, and dispute litigation risk [3]. Other scholars contend that, based on "institutional motivations" and "cost motivations," coupled with the development of the green and shared concept of the "Belt and Road," the investment motivation of Chinese enterprises primarily focused on evading host country environmental regulation costs has weakened [4]. However, proposed countermeasures and suggestions mostly remain at a macro level, lacking substantive and specific regulations and measures. Based on this, this paper will utilize the literature review method and theoretical analysis method to examine existing monographs, academic papers, etc., identify the balance point between maintaining economic development and environmental protection, propose targeted solutions, and summarize the future development path for Chinese enterprises' outward investment. By studying the current state of enterprises' outward investment and the environmental protection dilemmas encountered during the investment process, it focuses on the environmental barriers in host countries and the strength of legal regulation concerning overseas investment environmental protection in China's domestic law. It seeks to find the balance point between economic development and environmental protection, proposes countermeasures and suggestions for environmental protection in enterprises' outward investment, aiming to promote the future development of Chinese enterprises' outward investment.

2. Literature review

Regarding the current state of research on "Belt and Road" enterprises' outward investment, scholars have analyzed types of outward investment risks from different perspectives. For example, some scholars argue that risks caused by environmental problems permeate enterprises' outward investment, with the main types of environmental risks being host country environmental regulatory risk, enterprise behavioral risk, and dispute litigation risk [3]. Other scholars believe that enterprise environmental information disclosure promotes their green preferences in outward investment. Enterprises should further enhance the transparency of green information and comprehensively evaluate the host country’s risks, environmental regulations, environmental taxes, etc., in advance to make the most objective decisions [5].

Furthermore, some scholars have researched specific legal systems for "Belt and Road" outward investment. For instance, starting from the tax legal system for enterprise outward investment, some

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scholars have analyzed problems such as lagging progress in tax collection and administration, lack of tax incentives, and unclear tax orientation faced by China's outward investment tax legal system. They propose targeted measures like reforming the tax legal system and strengthening tax incentive systems [6]. Other scholars have concluded that the host country's legal system holds significant practical importance for the overall performance of China's outward investment, and applicable host country laws differ across investment stages [7].

Concerning research on "Belt and Road" environmental protection issues, academia discusses the risks, opportunities, and countermeasures of the initiative's construction. For example, taking enterprises' investment in Africa as a context, some scholars highlight the risks and challenges faced by enterprises investing in Africa from the perspectives of the particularity of African law, environmental law enforcement risks in African countries, and risks in applying environmental dispute resolution mechanisms. They propose solutions such as improving China-Africa bilateral investment treaties, integrating diversified environmental legal dispute resolution mechanisms, and enhancing the overseas investment insurance system [8]. Other scholars, through studying the construction of the "Belt and Road" environmental protection legal system, starting from environmental protection clauses in international investment agreements, Sino-foreign bilateral investment treaties, and free trade agreements, provide new ideas for improving the environmental governance mechanism in international investment [9].

Currently, most scholars focus on specific countries or study economic and financial legal issues. Legal issues are generally analyzed only as a minor part, research is relatively one-sided, and proposed countermeasures and suggestions mostly remain at a macro level, lacking concrete, substantive solutions. Therefore, there is an urgent need to improve environmental protection legal norms concerning enterprises' outward investment.

3. Current status and deficiencies of environmental regulation in host countries and investor home countries

3.1. Current status and deficiencies of host country environmental regulation

3.1.1. Current status and risks of host country environmental regulation

Since the 1990s, countries worldwide have increasingly emphasized environmental protection, successively enacted relevant environmental protection laws and regulations, and continuously raising environmental protection standards. Some host countries have even established extremely strict environmental access thresholds and regulatory requirements specifically targeting foreign investors. Taking the reform of the European Union (EU) foreign investment security screening system as an example, since 2019, the EU has successively adopted a series of supporting documents, including the Regulation EU 2019/452 Establishing a Framework for the Screening of Foreign Direct Investments into the Union (hereinafter referred to as the "Regulation"). By establishing a "mandatory cooperation mechanism" between member states and the European Commission, it sets minimum standards for member states' foreign investment security screening, continuously raising the entry threshold for foreign capital and significantly increasing the difficulty for Chinese enterprises investing in Europe [10]. Additionally, with the deepening of environmental awareness and the awakening of citizens' rights consciousness in host countries, overseas enterprises seeking to establish operations require not only administrative permits from the host government but also the understanding and acceptance of citizens and society [11]. This also exacerbates the environmental risks faced by investing enterprises.

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3.1.2. Imperfect host country legislative and judicial systems

As most countries along the "Belt and Road" are developing nations, they often face dilemmas in balancing economic development and environmental protection and lack sufficient political will and economic capacity for correction. This is reflected in environmental law as loopholes such as weakened corporate environmental responsibility, outdated environmental supervision models, and low costs for environmental violations. When the host country's environmental management and human rights legal frameworks are weak, enterprises merely satisfying compliance with the host government's laws and regulations may not avoid severe environmental and social harms and could very likely give rise to cross-border environmental legal litigation risks [12]. This is because, according to the "Exhaustion of Local Remedies Principle," when a dispute arises between a foreign investor and the host country, the investor generally must first seek remedies through the host country's administrative or judicial organs, resorting to international procedures only after exhausting all available local legal means. However, when the host country's judicial system is imperfect, or environmental regulatory measures lack transparency and consistency, investors may struggle to obtain fair and effective remedies [13]. In such cases, mandatory exhaustion of local remedies may result in the inability to protect investors' rights and interests in a timely manner. Therefore, there is an urgent need to further improve the host country's legislative and judicial systems to better protect investor rights and the local environment and avoid environmental legal litigation risks.

3.2. Current status of legal regulation for environmental protection in Chinese enterprises' overseas investment

3.2.1. Development status of China's environmental regulation

In recent years, China's environmental awareness has continuously strengthened. The Ministry of Ecology and Environment was established in 2018, further expanding the authority and responsibilities of environmental agencies in environmental governance and gradually enriching the connotation of environmental regulation. At the current stage, China's environmental regulatory system has approached maturity. The convening of the 18th National Congress of the Communist Party of China led to comprehensive revisions and amendments to China's environmental laws and regulations, incorporating "building a socialist ecological civilization" into the Party Constitution and making multifaceted efforts to improve laws and regulations. Furthermore, China has continuously strengthened supervision over enterprise environmental pollution, establishing an environmental impact assessment system, setting up a sound pollutant emission standards system, establishing a government supervision system for enterprise environmental pollution, establishing an enterprise self-monitoring and reporting system, and establishing an environmental protection facility operation and maintenance management system, enabling relatively comprehensive management and supervision of enterprise pollution [4].

3.2.2. Environmental legal risk assessment and regulatory practice

Enterprises primarily face environmental regulatory risks during investment project operations, meaning they may face penalties from host country environmental administrative departments if they violate environmental laws causing ecological environmental pollution. The Letpadaung Copper Mine project faced severe penalties such as suspension and fines for violating Myanmar's

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environmental laws. Indonesia restricted Chinese enterprise investment through nickel ore export bans and upgraded environmental standards, highlighting the environmental regulatory risks in countries along the "Belt and Road." Such risks continue to escalate due to the tightening of host country laws, necessitating enterprises to integrate environmental compliance into the core of investment decision-making. Additionally, environmental litigation risks cannot be ignored, characterized by long cycles, high costs, and difficulties in assessment. If enterprise investment or operations cause environmental damage, they may face civil or criminal litigation initiated by host country governments, environmental organizations, or the public. In this regard, Chinese enterprises "going global" need to strictly comply with local environmental laws and regulations and conduct thorough environmental risk assessments and long-term compliance management to avoid losses and fulfill the requirements of building a "Green Silk Road.".

3.2.3. Liability articulation in bilateral investment treaties

China has currently signed or brought into effect a total of 126 Bilateral Investment Treaties (BITs). The environmental protection clauses involved mostly manifest as preamble environmental clauses, specialized environmental clauses, and general environmental exception clauses. Although these clauses take sustainable development and environmental protection as their starting point, there are still some limitations in practice. For instance, China's BITs often only address principled issues, and the content of the environmental protection clauses is insufficiently specific. Regarding self-positioning, they align more with capital-importing countries, thus placing greater emphasis on host country interests [14]. However, compelled by the need to protect the interests of overseas investors and promote the smooth implementation of overseas investment, newly signed BITs increasingly need to balance the interests of overseas investors alongside the focus on host country interests. This includes respecting the host country's national human rights, environment, and other public policies, reflecting this concept within the BIT provisions.

4. Countermeasures and suggestions for improving environmental protection legal issues in enterprises' outward investment under the "belt and road" initiative

4.1. Improve the top-level design of domestic environmental protection legislation for outward investment

In the process of outward investment, a comprehensive and systematic legal system for outward investment protection is indispensable for addressing potential environmental legal risks. Currently, China has issued a series of guiding documents such as the Guidelines for Environmental Protection in Outbound Investment and Cooperation, the Guide to the Business Environment in Countries (Regions) for Enterprise Outbound Investment, and the Country (Region) Guide for Outbound Investment and Cooperation, providing strong data support and clear guidance direction for Chinese enterprises in the field of overseas investment. However, these guidelines pay minimal attention to overseas investment environmental protection issues, resulting in the current lack of specialized overseas investment laws to regulate and address related problems. In this regard, the Chinese government should expedite the formulation and issuance of a specialized Overseas Investment Environmental Protection Law, positioning it as the principal law regulating enterprise outward investment behavior and preventing outward investment risks. It should clarify environmental protection objectives and responsibilities for overseas investment, stipulate enterprise environmental impact assessment standards, and establish legal liabilities and remedial measures for violating

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environmental protection obligations. Additionally, to enhance the legislative hierarchy and legal effect, the existing Guidelines for Environmental Protection in Outbound Investment and Cooperation could be elevated to a departmental rule or administrative regulation to strengthen its legal effect and binding force [15].

4.2. Construct a compliance firewall

Under the impetus of the "Belt and Road" Initiative, the scale of outward investment by Chinese enterprises continues to expand, concomitantly breeding some environmental protection risks. In this context, constructing a compliance firewall centered on the "Three-Nation Law" database, utilizing contractual liability allocation as a tool, and backed by environmental liability recourse and insurance, is a key path for enterprises to circumvent environmental risks.

Establishing a "Three-Nation Law" database for "China-Host Country-International Standards Comparison" is the foundation of risk prevention and control. However, significant differences in environmental regulations across countries, such as the EU's Carbon Border Adjustment Mechanism (CBAM) taxing the embedded carbon emissions of imported products and ambiguous ecological compensation standards for mineral development in some Southeast Asian countries, hinder risk prevention and control to varying degrees at the legal level [16]. By systematically comparing the environmental standards of these three sources, enterprises can identify compliance gaps in advance, avoid environmental legal risks, and prevent ecological damage caused by regulatory gaps in host countries.

Contractual liability allocation and environmental liability recourse clauses are core tools for risk transfer. In joint venture projects, clearly defining the boundaries of environmental responsibilities for each party can avoid joint liability risks. Embedding recourse clauses in joint venture agreements, stipulating that the breaching party bears costs for excessive emissions, pollution remediation, etc., can effectively safeguard enterprise rights and interests and achieve precise responsibility allocation.

Purchasing Environmental Liability Insurance (ELI) is a necessary measure for risk backstopping. Environmental damage is sudden and persistent, potentially causing long-term adverse ecological impacts. In this regard, enterprises can transfer potential compensation risks to insurance institutions by purchasing environmental liability insurance, through pollution prevention, strengthened production, and enhanced supervision during the emission process, thereby reducing their own operational losses. Insurance companies can also intervene in environmental damage assessments, provide professional remediation solutions, and assist enterprises in fulfilling environmental restoration obligations. Statistics show that compared to companies not participating in ELI, ELI can suppress illegal pollutant discharge by 0.24%, helping achieve the goal of environmental legal risk prevention and control [17].

4.3. Fulfill corporate social responsibility

CSR not only relates to the sustainable development of overseas investment but also to China's image as a major country. By fulfilling CSR, multinational enterprises can better establish a good corporate reputation, obtain international standard certifications, and improve the organizational stigma of the home country to enhance overseas operational performance. The higher the level of CSR fulfillment, the larger the scale of a firm's outward direct investment; the greater the likelihood that overseas subsidiaries will enter the host country market via a wholly owned mode, and the better the performance of the enterprise's overseas investment [18]. In this regard, multinational

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enterprises should strengthen their sense of social responsibility, comprehensively implement CSR strategies, and adapt them to local conditions by formulating and implementing CSR strategies that align with the host country's institutional environment. Additionally, CSR strategies should be formulated and implemented considering industry characteristics. Enterprises in heavily polluting industries, sensitive industries, and industries directly interacting with consumers should particularly lead by example, playing a demonstrative role and laying a solid foundation for the high-quality "going global" of enterprises.

5. Conclusion

Amid the increasing global awareness of environmental protection and the intensifying competition in international investment, China, as the world's second-largest outward direct investor, urgently needs to seek a dynamic balance between outward investment and environmental protection. This study focuses on the realistic landscape of Chinese enterprises' outward investment, primarily discussing the current status and deficiencies of legal regulation in host countries and the investor home country, the current state of Chinese enterprises' outward investment, and environmental protection dilemmas. Based on this, it proposes a triple optimization path: First, improve the top-level design of domestic outward investment legislation by expediting the formulation and issuance of specialized overseas investment laws to regulate environmental protection issues in overseas investment. Second, construct a compliance firewall centered on the "Three-Nation Law" database, utilizing contractual liability allocation as a tool, and backed by environmental liability recourse and insurance. Third, urge enterprises to practice social responsibility and provide exemplary leadership to support enterprises in better "going global," offering more Chinese wisdom to the world in terms of outward investment and environmental rule of law. However, limited by factors such as the availability of host country environmental data, transnational environmental disputes, and insufficient samples of judicial practice, this study still has room for improvement in the depth of empirical analysis of real cases and the completeness of theoretical model construction. Future research could combine practices like the "Belt and Road" Green Development International Alliance to study.

References

[1] Yuan, D.W., Zhang, G. and Yang, J.W. (2023) Environmental Legal Risks of Chinese Enterprises Investing in Kyrgyzstan and Their Responses. Environmental Protection 51(14), 67-70.
[2] Chen, D.M. and Zheng, Z.Y. (2020) Laws and Regulations on Environmental Risks of Chinese Enterprises Investing in Countries along the "Belt and Road". Xinjiang Social Sciences (02), 83-90+147-148.
[3] Xiao, Q.H. (2020) Environmental Risks and Legal Countermeasures of Chinese Enterprises' Overseas Investment under the Background of the Belt and Road Initiative. Master's Thesis, Jilin University.
[4] Tian, J.H. (2023) Research on the Impact of Environmental Regulation on China's Outward Foreign Direct Investment. Ph.D. Dissertation, Southwestern University of Finance and Economics.
[5] Fu, W.T. (2023) Research on the Impact of Environmental Information Disclosure on the Green Preference of Enterprises' Overseas Investment. Master's Thesis, Sichuan University of Foreign Languages.
[6] Zeng, W.G. and Bai, Y. (2017) On the Tax System Arrangement of China's Foreign Investment under the "Belt and Road" Strategy. Jiangxi Social Sciences 37(05), 13-24.
[7] Qu, X. (2023) Research on the Influence of the Legal System of the Host Country on the Effectiveness of Chinese Enterprises' Outward FDI. Ph.D. Dissertation, Beijing Jiaotong University.
[8] Tu, M.Y. (2024) Legal Risk Prevention of Enterprises in Non-Investment Environmental Protection under the Background of "Belt and Road". Master's Thesis, Jiangxi University of Finance and Economics.
[9] Feng, Y.L. (2023) Research on Legal Issues of Environmental Protection in Overseas Investment of Chinese Enterprises. Master's Thesis, Inner Mongolia University.

DOI: 10.54254/2753-7048/2025.BR26027

[10] Xiao, B. and Li, X. (2024) Challenges and Legal Responses of Chinese Enterprises Investing in Europe under the Reform of the EU Foreign Investment Security Review System. Journal of International Economic Law (01), 66-79.
[11] Jiang, H., Peng, C. and Zou, Y. (2023) Do the Host Country's Environmental Regulations Inhibit the Enterprises' Risk Preference of Multinational Investment? Evidence from China. Economic Research - Ekonomska Istraživanja 36(1), 143-169.
[12] Zeng, H., Xia, H. and Zhao, Q. (2023) Impact of Host Country's Business Environment on China's OFDI in Belt and Road Countries: Based on the Perspective of Investment Motives. Data Science and Informetrics 3(4).
[13] Jiang, C., Chen, Q. and Su, H. (2025) Impact of Environmental Regulation on Foreign Direct Investment of Chinese Manufacturing Firms: Based on the Dual Perspectives of Home and Host Countries. Journal of Cleaner Production , 144600.
[14] Zhou, Y.Q. (2024) Research on Legal Risks of Environmental Protection in China's Overseas Investment and Their Preventive Countermeasures. Master's Thesis, Guangdong University of Finance and Economics.
[15] Zheng, L.L. (2024) The Environmental Protection Dilemma and Legal Countermeasures of Green Outbound Investment in the Belt and Road Initiative. Customs and Economic and Trade Research 45(06), 1-16.
[16] Leturcq, P. (2022) The European Carbon Border Adjustment Mechanism and the Path to Sustainable Trade Policies: From 'Coexistence' to 'Cooperation'. Cambridge Yearbook of European Legal Studies 24(7), 67-87.
[17] Lu, J., Li, H. and Yang, R. (2024) Effects of Environmental Liability Insurance on Illegal Pollutant Discharge of Heavy Polluting Enterprises: Emission Reduction Incentives or Pollution Protector? Socio-Economic Planning Sciences 92, 101830.
[18] Xu, S.B. (2021) Research on the Impact of Corporate Social Responsibility on Corporate Outward Direct Investment. Ph.D. Dissertation, Jiangxi University of Finance and Economics.