

### III. Policies and Initiatives to Promote Sustainable Development of Chinese Companies Overseas

The overseas activities of Chinese companies have been a major concern of Chinese government and other stakeholders over the last decade and more. This chapter summarizes and analyzes such efforts and identifies potential gaps.

#### 1. Chinese Government

Over the last decades, the Chinese government has released a series of policies and guidelines to facilitate the sustainable development of Chinese companies overseas. Contained in this Report are the collection and analyses of relevant policies and guidelines promulgated by the Chinese government. Due to the large number and limited space, 33 of the most relevant policies and regulations are selected standing on the following three criteria:

- They are related to China’s overseas rather than domestic investments;
- They are related to sustainability;
- They are currently in force.

Table 3.1: Key policies and regulations guiding and governing the sustainable overseas development of Chinese companies

Issue Date	Issuer	Title
2002	Ministry of Foreign Trade and Economic Cooperation (MFTEC)	Comprehensive Evaluation Measures for the Performance of Overseas Investments (Trial)
2002	MFTEC, State Administration of Foreign Exchange (SAFE)	Interim Measures for Joint Annual Inspection of Overseas Investment
2004	Ministry of Commerce (MOFCOM)	Measures for the Administration of Training of Workers Dispatched Overseas
2004	MOFCOM	Reporting System for Investment and Operation Obstacles in Foreign Countries
2005	MOFCOM	Notice of the State Administration of Foreign Exchange Regarding Adjustment to the Administration of Financing Guarantee from Domestic Banks for Enterprises with Foreign Investment

Table 3.1 (continued): Key policies and regulations guiding and governing the sustainable overseas development of Chinese companies

Issue Date	Issuer	Title
2005	State Administration of Work Safety (SAWS), Ministry of Foreign Affairs (MFA), MOFCOM, State-owned Assets Supervision and Administration Commission (SASAC)	Notice of the State Administration of Work Safety, Ministry of Foreign Affairs, Ministry of Commerce, State-owned Assets Supervision and Administration Commission on Improving Work Safety Supervision of Overseas Chinese Enterprises
2005	General Office of the State Council	Opinions on Strengthening the Security and Protection of Overseas Chinese Enterprises and Staff
2007	MOFCOM, Ministry of Finance, People's Bank of China, All-China Federation of Industry and Commerce (ACFIC)	Opinions of the Ministry of Commerce, the Ministry of Finance, the People's Bank of China and All-China Federation of Industry and Commerce on Encouraging and Guiding Overseas Investment and Cooperation by Private Enterprises
2007	State Forestry Administration (SFA), MOFCOM	Guidelines on Sustainable Forest Cultivation for Chinese Enterprises Overseas
2008	MOFCOM, MFA, SASAC	Notice of the Ministry of Commerce, Ministry of Foreign Affairs, State-owned Assets Supervision and Administration Commission on Further Regulating Overseas Investment and Cooperation of Chinese Enterprises
2008	State Council	Administrative Rules for Overseas Contracting
2009	SFA, MOFCOM	Guidelines on Sustainable Operation and Utilization of Overseas Forests by Chinese Enterprises
2009	MOFCOM, Ministry of Housing and Urban-Rural Development (MOHURD)	Measures for the Administration of Overseas Contracting Qualification
2010	MOFCOM, China Export and Credit Insurance Corporation	Notice on Strengthening Risk Prevention in Overseas Economic and Trade Cooperation Zones
2010	MOFCOM, MFA, National Development and Reform Commission (NDRC), Ministry of Public Security (MPS), SASAC, SAWS, ACFIC	Provisions on the Security Management of Overseas Chinese Institutions and Staff
2010	MOFCOM	Overseas Security Risk Warning and Information Notification System in Overseas Investment and Cooperation
2011	MOFCOM, MFA, SASAC, ACFIC	Guidelines on Security Management of Overseas Chinese Enterprises (Institutions) and Staff
2011	SASAC	Interim Measures for the Administration of Overseas State-owned Property Rights of Central Enterprises
2011	SASAC	Interim Measures for the Supervision and Administration of Overseas Assets of Central Enterprises
2012	MOFCOM	Guidelines on Security Management of Overseas Chinese Enterprises and Staff

Table 3.1 (continued): Key policies and regulations guiding and governing the sustainable overseas development of Chinese companies

Issue Date	Issuer	Title
2012	China Banking Regulatory Commission	Green Credit Policy
2012	MOFCOM, International Communication Office of the CPC Central Committee, MFA, NDRC, SASAC, National Bureau of Corruption Prevention, ACFIC	Opinions on Corporate Culture Development of Chinese Enterprises Overseas
2012	SASAC	Interim Measures for the Supervision and Administration of Overseas Investment of Central Enterprises
2013	MOFCOM, SAWS, MFA, NDRC, MOHURD, SASAC	Notice of the Ministry of Commerce, State Administration of Work Safety, Ministry of Foreign Affairs, National Development and Reform Commission, Ministry of Housing and Urban-Rural Development, State-owned Assets Supervision and Administration Commission on General Inspection of Work Safety Governance of Chinese Enterprises Overseas
2013	MOFCOM, Ministry of Environmental Protection	Guidelines on Environmental Protection in Overseas Investment and Cooperation
2013	SASAC	Interim Measures for Emergency Management of Central Enterprises
2013	MOFCOM	Provisions on Regulating Competition in Overseas Investment and Cooperation
2013	MOFCOM, MFA, MOHURD, National Health and Family Planning Commission, SASAC, SAWS	Provisions on Responding to and Addressing Security Incidents in Overseas Investment and Cooperation
2013	MOFCOM, MFA, MPS, MOHURD, General Administration of Customs, State Administration of Taxation, State Administration for Industry and Commerce, General Administration of Quality Supervision, Inspection and Quarantine, SAFE	Trial Measures for Negative Credit Record in Overseas Investment, Cooperation and Foreign Trade
2013	MOFCOM	Notice of the Ministry of Commerce on Strengthening the Categorized Administration of Chinese Personnel Dispatched Overseas for Overseas Investment and Cooperation
2014	MOFCOM	Guidelines on Intellectual Property Right of Overseas Enterprises
2014	MOFCOM	Measures for the Administration of Overseas Investment
2015	NDRC, MFA, MOFCOM	Vision and Proposed Actions Outlined on Jointly Building Silk Road Economic Belt and 21st-Century Maritime Silk Road

Source: compiled by the Report Writing Team



The following discussion is based on key policies and measures in Table 3.1 and others that are not listed in the table.

### 1.1 Category I: Corporate governance policies

- **Security and risk management**

Overseas security and risk management are among the primary concerns of China’s overseas investment policies. Of the 33 policies promoting sustainability, at least eight are devoted to the personal safety of overseas employees and work and operational safety concerns. For instance: in August 2010, the Ministry of Commerce released the *Overseas Security Risk Warning and Information Notification System in Overseas Investment and Cooperation*. It aims to improve the overseas security risk warning and information notification systems for Chinese companies involved in overseas investments and cooperation, offer guidance to companies on following the shifting global security climate, and adopt effective measures to prevent and mitigate various risks.

In February 2012, the *Guidelines on Security Management of Overseas Chinese Enterprises and Staff* released by the Ministry of Commerce require globalized Chinese companies to enhance the preventive measures for overseas risks, set up and continuously improve their overseas security management system, and boost their competence in managing overseas security risks and handling emergencies, so as to ensure the security of Chinese companies, institutions and employees overseas.

In July 2013, the *Provisions on Responding to and Addressing Security Incidents in Overseas Investment and Cooperation* (Shang He Fa [2013] No. 242) jointly issued by the Ministry of Commerce, Ministry of Housing and Urban-Rural Development, Ministry of Foreign Affairs, SASAC, and State Administration of Work Safety require Chinese multinational companies to set up well-rounded emergency response and mitigation mechanisms for potential overseas security incidents, set forth standard emergency procedures to protect the lives and properties of overseas Chinese companies, institutions and employees.

- **Corporate culture development**

The Chinese government has also prioritized the corporate culture development of Chinese companies in order to improve their sustainability overseas. In April 2012, the Ministry of Commerce, working with the International Communication Office of the Communist Party of China Central Committee, the Ministry of Foreign Affairs, the National Development and Reform Commission, the SASAC, the National Bureau of Corruption Prevention, and the All-China Federation of Industry & Commerce released the *Opinions on Corporate Culture Development of Chinese Enterprises Overseas* (Shang Zheng Fa [2012] No. 104). The Opinions encourage Chinese companies to release corporate information to the public in a timely manner in order to ensure transparent and open operations. The Opinions also urge companies to build strong business ethics, combat commercial bribery and ensure fair competition:

*Corporate ethics is distilled from corporate culture. “Small success lies in intelligence, while great*



*success lies in ethics". It is imperative for Chinese companies overseas to regard corporate ethics as the key to achieving sustainable development. In practice, more efforts are needed in raising the ethical awareness of staff members, advocating traditional virtue and the sense of honor and shame, cultivating better moral standards, gaining deeper understanding of the damage caused by unethical acts that pursue pure profit at the expense of the interest of consumers. Companies should strike a balance between ethics and profit, incorporating ethics into every link of operation and administration to ensure corporate integrity. Centering on integrity in corporate culture development, overseas companies must integrate integrity into their essence and code of conduct, set up well-rounded rules to regulate operation and administration of the company as well as employees' behaviors. Only by taking these steps can Chinese companies overseas build excellent team with trustworthy employees, technology, products and competence and create a trustworthy image of Chinese companies.*

- **Corporate social responsibility management**

The SASAC of the State Council has adopted a series of measures to promote CSR of central enterprises.

The 2008 *Guidelines on Fulfillment of Social Responsibility by Central Enterprises*, clearly set forth guidelines, overall requirements, fundamental principles, main contents and driving mechanisms with regard to the fulfillment of social responsibilities by central enterprises.

In 2011, the SASAC issued the *Implementation Guidelines for the Twelfth Five-year Plan for the Harmonious Development of Central Enterprises*, stating the need to reinforce the integrity, environmental awareness, security, vitality and accountability of central enterprises.

In 2012, the SASAC formed the SASAC Steering Committee for Corporate Social Responsibility of Central Enterprises to enhance the management of CSR activities and help central enterprises build more sophisticated CSR management systems.

Meanwhile, the SASAC also strove to boost CSR capabilities and the competence of central enterprises by holding annual CSR conferences, facilitating enterprises to publish CSR reports, compiling good CSR role models, enhancing CSR training, and strengthening both domestic and international exchanges on CSR practices.

## 1.2 Category II: Economic policies

To help Chinese companies achieve sustainable development overseas, the Chinese government encourages fair competition, as well as reinforcing credibility system for companies engaging in overseas investment and cooperation. For example, in March 2013, the Ministry of Commerce issued the *Provisions on Regulating Competition in Overseas Investment and Cooperation* (Shang He Fa [2013] No. 88) to encourage and protect fair competition. As the ministerial regulations supplementing the *Anti-Unfair Competition Law*, the Provisions include a systematic explanation of unfair competition in overseas investment and cooperation activities and the corresponding penalties (for example, fine, and lose the opportunity to enter overseas market). The Guidelines further required that companies investing overseas should only seek mutual benefit and joint development and establish sound decision-making and



quality management systems for overseas projects.

In July 2013, the *Trial Measures for Negative Credit Record in Overseas Investment, Cooperation and Foreign Trade* (Shang He Fa [2013] No. 248) was jointly released by the Ministry of Commerce and nine other government agencies including the Ministry of Foreign Affairs and the Ministry of Public Security. The Trial Measures clearly state that companies and individuals with bad credit records shall be registered to provide risk warnings to domestic and overseas stakeholders.

### 1.3 Category III: Environmental policies

To join hands with host countries in overcoming environmental challenges, offer guidance on environmental protection measures to Chinese companies in the process of internationalization, and promote the sustainability of overseas investment and cooperation, the Chinese government has adopted a series of policies concerning environmental protection in overseas investment. For example, on August 27<sup>th</sup>, 2007, the Ministry of Commerce joined the State Forestry Administration in releasing the *Guidelines on Sustainable Forest Cultivation for Chinese Enterprises Overseas*, which is the first industry standards and self-regulatory guidelines for Chinese companies engaged in forest cultivation overseas. On March 31<sup>st</sup>, 2009, the two ministries jointly released the *Guidelines on Sustainable Operation and Utilization of Overseas Forests by Chinese Enterprises*, helping and regulating Chinese companies with regard to overseas resource development and timber processing and utilization. The Guidelines help Chinese companies to better profit from, use, and protect overseas forest resources and strengthen self-regulation.

On February 24<sup>th</sup>, 2012, the China Banking Regulatory Commission released the *Green Credit Policy*, which stipulates in Article 21:

*“Financial institutions should strengthen the management of environmental and social risks of overseas projects they finance, ensuring that project initiator complies with relevant laws and regulations on environmental protection, land use, health and safety in the host country or region; meanwhile, such financial institutions should publicly undertake applicable international conventions or standards in processing overseas projects which are to be granted credit, in order to ensure that the financing process is conducted substantially in line with international good practices.”*

In February 2013, building on theory and practical experience from the international community and taking into account China’s current state, the Ministry of Commerce and the Ministry of Environmental Protection enacted the *Guidelines on Environmental Protection in Overseas Investment and Cooperation*. As the first guidance from the Chinese government on environmental protection in overseas investment and cooperation of Chinese companies, the Guidelines encourage companies to fulfill due environmental protection obligations, raise their awareness of environmental protection, and strike a balance between corporate development and environmental protection to achieve mutual benefits with local stakeholders.





#### 1.4 Category IV: Social policies

The Chinese government attaches large significance to employment management of Chinese companies overseas, aiming at protecting the lawful rights and interests of all employees and to foster favorable labor relations. In March 2011, the Ministry of Commerce, the Ministry of Foreign Affairs, SASAC and the All-China Federation of Industry and Commerce jointly released the *Guidelines on Security Management of Overseas Chinese Enterprises (Institutions) and Staff*, in order to further strengthen and regulate employee management in Chinese companies (institutions) operating overseas, offer guidance to overseas Chinese companies to achieve mutual benefits and joint development objectives, as well as following the labor, employment policies and regulations in overseas investment and cooperation activities in host countries. Furthermore, the Guidelines specifically point out that Chinese employees should only be dispatched to overseas sites based on actual staffing needs, and that companies should endeavor to create more employment opportunities for local communities and localize their operations.

In October 2013, the *Notice on Strengthening the Categorized Administration of Chinese Personnel Dispatched Overseas for Overseas Investment and Cooperation* (Shang He Han [2013] No. 874) released by the Ministry of Commerce divided Chinese personnel dispatched overseas into three categories: workers, personnel dispatched for overseas projects and personnel dispatched for overseas investment. By setting forth detailed rules for each categories, this policy serves to protect the lawful rights and interests of all three types of Chinese personnel dispatched overseas and to promote the sound and sustainable development of overseas investments and cooperation.

#### 1.5 Category V: Comprehensive policies

The majority of policies released by the Chinese government on the overseas sustainable development of Chinese companies contain comprehensive reform measures covering two or more of the aforementioned four aspects. The measures mostly relate to the following aspects:

- **The macro-level planning:**

In 2006 and 2011, the Chinese government promulgated the *Eleventh Five-year Plan for National Economic and Social Development of the People's Republic of China* (the Eleventh Five-year Plan) and the *Twelfth Five-year Plan for National Economic and Social Development of the People's Republic of China* (the Twelfth Five-year Plan) respectively. Both roadmaps emphasize the notion of mutual benefits and “win-win” outcomes. Furthermore, the Twelfth Five-year Plan clearly states that Chinese companies and overseas cooperation projects “going global” should fulfill due social responsibilities and contribute to the wellbeing of local people.

Chapter 37 of the Eleventh Five-year Plan on “*Promoting International Economic Cooperation*” points out the need to improve the system and policies which facilitated cross-border mobility and optimizes the allocation of elements of production, as well as the plan to promote economic and technological cooperation with neighboring and other countries in order to achieve mutual benefits.





The Plan also encourages those companies that were able to engage in outward direct investment to expand their overseas cooperation and exploration activities while leveraging the unique strengths of each party, seeking equal footing and mutual benefits. Meanwhile, companies are also urged to fortify the systems for promoting and protecting overseas investments, and strengthen the overall coordination and risk management of overseas investments as well as the supervision of overseas state-owned assets.

Chapter 52 of the Twelfth Five-year Plan on “*Bringing in*” and “*Going Global*” states that the government should respect market trends and the self-willingness of companies to steer companies of different ownership types to engage in overseas investment and cooperation activities and partake in cooperation projects that can improve the wellbeing of local people. The Plan also stipulates the need for companies to invest more in researching the overseas investment environment and strengthening scientific evaluations of investment projects. Special emphasis is placed on the role of Chinese companies “going global” and overseas cooperation projects in fulfilling social responsibilities and aiding local development projects. The Plan also sets forth the goal to adopt optimized structures and innovative approaches for foreign aid, and to increase economic and technological aid to developing countries on public welfare projects, public facilities and capability building initiatives.

On March 28, 2015, on the authorization of the State Council, the National Development and Reform Commission, the Ministry of Foreign Affairs and the Ministry of Commerce released the *Vision and Proposed Actions Outlined on Jointly Building Silk Road Economic Belt and 21<sup>st</sup>-Century Maritime Silk Road*, clearly outlining the background, principles, framework, cooperation priorities and cooperation mechanisms for the Silk Road Economic Belt and the 21<sup>st</sup>-Century Maritime Silk Road (hereinafter referred to as the “Belt and Road Initiative” or the “Initiative”) and proactive measures to be adopted by the Chinese government. The cooperation priorities of the Initiative include policy coordination, the connectivity of facilities, unimpeded trade, financial integration and people-to-people bonds. The “Belt and Road Initiative” is in line with the purposes and principles of the UN Charter. Advocating peace and cooperation, openness and inclusiveness, mutual learning and mutual benefits, practical cooperation in all fields, and works to build a community of shared interests and responsibility supported by mutual political trust, economic integration and cultural inclusiveness.

- **The provision of public information**

To provide companies with authoritative information on the investment and cooperation environment and to help “going global” companies raise their economic and social performance as well as reduce potential risks relating to overseas investments and cooperation, for six consecutive years since 2009, the Ministry of Commerce released *Guides to Overseas Investment and Cooperation by Country (Region)* on its website, which cover over 160 countries and regions and could be downloaded free of charge.<sup>①</sup> Among other areas, the Guides provide information on: the

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<sup>①</sup> Guides to Overseas Investment and Cooperation by Country (Region) (2014) covers 166 countries. The Chinese version can be downloaded at: <http://fec.mofcom.gov.cn/gbzn/guobiezhinan.shtml>. As each Guide is lengthy and the Guides are only available in Chinese, for ease, an English version of the table of content is included in the Annex 2 for illustration only.



political, economic, social and cultural situations of host countries and other elements relevant to the investment environment; detailed procedures for investing in host countries; suggestions on building and maintaining amicable relationships with local governments, unions, residents and media; and key contact persons in case of emergencies.

In March 2013, the Ministry of Commerce compiled and printed the *Compilation of Documents on Establishment of Enterprises Engaging in Overseas Investment and Cooperation*, which was also published on its official website. The Compilation includes a variety of policy documents released by the Ministry of Commerce until February 2013, which offered effective guidance and support for the establishment of Chinese companies overseas. By releasing the Compilation, the Ministry of Commerce aims to provide companies with guidance on conducting compliant operations, fulfilling social responsibilities, raising awareness on ecological resources and environmental protection, and facilitating the convergence of interests and cultures.

- **The strengthening of international coordination**

To help Chinese companies achieve sustainability overseas, a number of Chinese government agencies, including the Ministry of Commerce, the State Administration of Taxation and General Administration of Customs have strengthened international coordination on many fronts. To date, the Ministry of Commerce has signed bilateral investment protection agreements with over 100 countries and regions. Meanwhile, China has also signed investment-related free-trade zone agreements or preferential trade arrangements with multiple countries (regions) including ASEAN, New Zealand, Singapore, Hong Kong and Macao. Since the 1980s, the State Administration of Taxation has been negotiating and signing taxation agreements on behalf of the Chinese government. After 30 years of diligent work, China's web of taxation agreements now extends to 101 countries and regions in six continents (including agreements with Hong Kong and Macao on eliminating double taxation), covering major origins of inward investment and destinations of outward investment, as well as taxation interests and processes of both China and host countries receiving investment. Thus far, the General Administration of Customs has signed a total of 134 bilateral cooperation agreements with 73 countries and regions. Centered on "regulatory mutual recognition, enforcement assistance and information exchange", these agreements help to build a more effective communication mechanism among customs, promote trade liberalization and cooperation, and improve the overseas investment environment for Chinese companies.

## 2. Measures Adopted by Other Chinese Institutions in Promoting Sustainable Development of Chinese Companies Overseas

### 2.1 Financial institutions

Several Chinese financial institutions have voluntarily adopted self-managed environmental impact assessments to promote the sustainable overseas development of Chinese companies. Notably, the Export-



Import Bank of China, the China Development Bank and a few other major financial institutions that finance overseas investments for Chinese companies have developed environmental policies and impact assessment regulations. For instance, in 2004, the China Development Bank published its *Lending Assessment Handbook*, which provides specific guidelines for the lending process, covering, among other items, borrower assessments, the management of the review team for environmental evaluations, and financing standards for projects in various industries. It also requires that every loan application should be accompanied by an environmental evaluation report. In 2006, the China Development Bank further issued the *Framework for Environmental Assessment of Micro and Small Businesses' Loan Projects*, which encourages companies accepting small loans or microcredit to operate in a more environmentally friendly way. Over the years, the China Development Bank also released a number of complementary policies, including *Guidelines for the China Development Bank Reviewing the Development of Environmental Protection Projects*, *Guidelines of the China Development Bank for Special Loan Programs for Energy Conservation and Emission Reduction Projects*, and the *China Development Bank Work Plan for Pollution and Emission Reduction Lending Programs*. Similarly, the Export-Import Bank of China formulated the *Guidelines for Environmental and Social Impact Assessments of the Export and Import Bank of China's Loan Projects* in 2007, released *Environmental Protection Policies of the Export and Import Bank of China* in 2008, and created the *Framework for Environmental Impact Assessments* in 2011. In May 2007, the Export-Import Bank of China and the International Finance Corporation under the World Bank signed an agreement to support Chinese companies' investment projects in emerging markets and Africa, offering advice on how to operate in an environmentally-friendly manner. By publishing and implementing the above policies, both the China Development Bank and the Export-Import Bank of China have fairly effectively influenced Chinese companies to fulfill their social and environmental responsibilities.

## 2.2 Industry associations

Industry associations in China commonly serve as a bridge between companies and the government. Industrial standards adopted by these associations supplement government policies, and can help the sustainable development of member companies.

In 2014, China Chamber of Commerce of Metals, Minerals & Chemicals Importers & Exporters released its *Social Responsibility Guidelines for China's Overseas Mining Investment*. As the first guidelines in China compiled by an industry association, this document received extensive attention from the international community. The organization is in the process of developing the action plan and corporate capacity building initiative for the next three years, striving to turn principles advocated by the Guidelines into concrete actions.

In 2014, building on reports voluntarily submitted by 66 Chinese companies and their branches, China International Contractors Association edited and released the *Report on Localization Practice of China's International Contractors*, sharing the practical experience of China's international contractors in localizing their operations and providing suggestions on enhancing corporate social responsibility awareness and practices.





Industry associations, including the China Council for the Promotion of International Trade, the China Chamber of Commerce for the Private Sector, the China-Africa Business Council and the China Chamber of Commerce of Foodstuffs and Native Produce, have also been actively promoting the overseas sustainable development of their members by publishing reports, providing guidelines and organizing advocacy events.

