Legal risk control assessment on China-USA bilateral investment

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Abstract.

China is one of the most rapidly growing economies of the world. Therefore, we investigate the legal policies and laws governing China's trade with the USA according to a bilateral agreement. Both countries are enjoying Foreign Direct Investments (FDI) but at the same time facing some legal issues. This study focused on the legal issues faced by Chinese and USA investors. In short, the conducted results explained the strong laws and regulatory policies monitoring FDI in China as well as the Laws in the USA, in order to protect the rights of foreign investors and the new entrants.

Keywords: Foreign Direct investments; laws; regulations; legal; policies.

1. INTRODUCTION

1.1. Background

China is a market-oriented country. In the late 1970s, the phenomena have changed, and an expansion stared in the economy as foreign investments. However, the underdeveloped legal system of China was unable to manage new investors and their rights in China. As the awareness spread about the FDI and rights of investors, China formulated laws, regulations, and policies (Vikram Jindal and Shu Takubo, 2006).
International trade has become an essential part of the overall growth of a country. The foreign direct investment captures a significant portion of GDP. China is considered as one of the most rapidly growing economies of the world. The USA is the leading partner of Chinese trade. However, there are some barriers and risks involved in this trade. China is now playing an essential role in investing activities. The developed economies prefer to invest in Chinese markets due to high-value assets with reduced risk. Investments are a risky business, particularly overseas investments. The traditional economy of China is facing this risk because Chinese investors are less aware of overseas markets than investors from developed economies, so investing activities face more risks.

Since 2013 Chinese reforms towards the advancement of investment activities have been boosted up. With these activities local as well as foreign investors are attracted to Chinese financial markets. Along with these vigorous promotions, the risk factor also coexists. The prevailing uncertainties in the economic world have raised legal, political, geographical, financial, and other demographic risk factors. However, there are new tax reforms in the USA that affect the foreign direct investment of China. Moreover, the shades of the global financial crisis are still profoundly seated, and the growth rate investment is still lower than the rest of the world, even after passing the time. The high degree of foreign investment has concentrated in China. Russia, Singapore, Burma, Indonesia, Laos, United Arab Emirates Pakistan, Kazakhstan, Cambodia, and Thailand considered as top ten investors in China during 2017. In 2013, the investment industries, manufacturing, business services, wholesale & retail, leasing, and mining accounted for 83% of GDP. However, nearly 3000 direct investments have been made by Chinese investors in different overseas companies around 57 countries, including 17 companies from the national economy(Wolff, 2019).

Furthermore, Chinese enterprises made investments of 4.67 billion USD in 53 countries in FQ 2018. China is a capital importing & exporting country along with a former role. In recent years, the Chinese government facilitates the investors to explore the oversea market, the risk factor in every region, find the suitable portfolios, investment destination, consultancy and information about law regulations of the host country. The firm-level investigation helps to reveal the influential risk factors in financial markets. However, the behavior of investors also affects the investment gains or loss due to risk factors, sometimes the risk-averse investors hesitate to invest overseas due to increased risk, and this behavior reduces the chances of profits(Ullah et al., 2019). However, the tight regulatory policies and increased risk of terrorism, it is difficult for Chinese investors to approach US markets for investment. Nevertheless, the government of China encourages investors for European markets. Furthermore, Association of Southeast Asian Nations (ASEAN) provides the freedom to invest at low risk. Chinese investors have a trading relationship with some ASEAN countries (Zhu, 2018). Thus, the development of “Belt and Road” china’s outward direct investment has increased rapidly.

This development provides increased opportunities for investors at a low level of risk. The Chinese economy has been flourished with this development to invest in ASEAN and other countries. The switching of the economy from capital importing to exporting, the Chinese investments with ASEAN counties are disturbed due to legal risks, investment risks, and insufficient investing activities. However, China and the ASEAN counties agreed on more liberation in investments and discussion about bilateral investment agreements safeguard the mutual investment interests and reduced risk factors for investments. Furthermore, the investors seek insurance for the investment inward or overseas to protect the funds. The multinationals of China’s seek “going on” strategy to attain investment protection against legal risk in overseas. The inward and outward investment is mutually beneficial for the countries involved in trading still find risk issues for investment between China and ASEAN countries. However, agreements between ASEAN countries and China have made for strategic business plans, insurance against risk factors to protect Chinese investments. Therfore, a constructive balance is required to be maintained between the countries to protect the rights in the long term (Erie, 2019).

Extensive literature is available to discuss the effect of investment impediments, trade barriers, legal, political, and social risks on foreign investment inward and outwards China. China is the most flourishing economy. Chinese products are introduced worldwide since 1978 reforms; china is a bowl of exporter rice, tea, cotton, potatoes, soybean, footwear, vehicles, iron, steel, plastic and optical, technical, medical apparatus, furniture, and clothing. The imports include vehicles, chemicals, and plastic. The USA is the leading trading partner of China. Both countries are capital importers and exporters.

1.2. Problem Statement

The reasons for exposure to high risk in developed countries include a political, legal, and regulatory system of that country. However, Chinese direct invest positively affects the economy of the host country(Erie, 2019). Moreover, according to Moody's rating, weak economies suffer more with Chinese direct investment. The direct investments of china to the US accounted for 38% of risk factors which is higher than investing in developing countries(Lu, 2019). The Chinese Ministry of foreign affairs and Ministry of commerce keenly focus on protecting the investors from legal risk factors according to international law regimes. The legal and political risk negatively affects foreign direct investment. Political and legislative instability create tension among the investors in the form of investment on stake. These risk factors discourage the local as well as foreign investors and as a result, the whole market contracts. Finally, the growth rate of the economy suffers. There is a long list of trade partners with China. But we consider the leading partner conducting trade with China on a bilateral basis i-e USA.

1.3. Research Objectives

This study aims to examine the association between hereditary risk factors and the behavior of local and foreign investors. The Ministry of Law and Ministry of foreign affairs bridges a gap through law regulations to manage legal risk to invite more investors. Moreover, the legal ease for Chinese investors to host countries (USA, Japan, and Hong Kong) has taken into consideration.

1.4. Significance of Research

This paper attempts to investigate the mechanism found in this relationship on theoretical as well as on a practical basis. Legal risk includes financial or reputational loss might be due to regulatory or legislative action. The Chinese firms perceive overseas investment risk; this study also discusses the factors behind the threat. This paper explores the bilateral relations of China with a trading partner country (USA). Theoretically, it observed that the growing economy of China attracts more local and foreign investors to its financial markets, but at the same time, the investors face the legal risk for investment. However, the impact of an empirical investigation on the investment behavior in context to legal risk has observed. Practically, the recent mergers and acquisitions create legal risk; furthermore, the political, social, and legislative rules of the host country (USA) affect the investment behavior. The rules, regulations, policies, and laws monitor FDI are under observation.

1.5. Methodology

This study is based on a qualitative approach, comprises of the book- library resources of knowledge. The published and unpublished material has included in this study. There is no limit of journals, judicial decisions, regulatory authorities, and foreign affairs, but it also provides internet sources, papers, and information from institutions, investors, and shareholders. The primary sources of these papers include books, academic articles, and publications of journals as well as the legal laws of China and the host country that protects the rights of foreign investors. The qualitative approach methodology has applied to the literature review; secondly, historical data is used to examine the combined significance of the study.

1.6. Limitation of the Study

Some limitations have faced during this study as the legislative regulations are not fully covered. These found an issue to manage social and political influence to the investors of all host countries, involved in foreign trade because the indicators used for examining these factors are not comprehensive. So the findings may not be generalizable. A lot of factors need to analyze in this regard. However, the material included in this study creates a better understanding of the relationship.

2. LITERATURE REVIEW

A debate sounds for long about the trade relationship between China and the USA along with risk factors associated with this trade. China stared economic reforms to liberalize the trade regimes since 1970. These economic reforms created a bond between the USA and China. The volume of merchandise increased from $ 2 billion to $ 636 from 1979 to 2017. Now China stands at the top rank in merchandises trading partner of the USA and also the main importer in the world's third-largest market. The USA imports goods from china at low prices so it is beneficial for USA customers. However, China is facing high competitiveness in world markets. Moreover, China also holds T. securities of $ 1.2 trillion in 2018 of the USA, which helps to keep the interest rate at a low level. There exist a bilateral relationship between the two countries that creates complexities and business tensions. According to the USA's point of view, the tensions have created from the side of China due to incomplete transition for free markets. However, China has liberalized the markets for all trade regimes for the last three decades. However, China faces the law and regulation changing risks as an announcement went on air by President Trump on March 8, 2018, regarding additional tariff on aluminum at 10% and steel at 25%. China is the world's biggest producer of both these commodities. China retailed to the US and announced an increase from 15% to 25% in tariff on the USA made products on 1st April 2018. The reciprocal of tariffs stared a tension between both counties and discouraged the investors, importers, and exporters(Zhu, 2018). However, some host countries protected the legal rights of Chinese investors to increase the trade with China and found a remarkable difference in GDP digits due to these reforms(Wang and Gao, 2019) The Chinese laws protect the legal rights of corporates, stakeholders, creditors, local and foreign investors(Ke, 2019). Evidence found that direct investment of China with the USA has increased since the last fifteen years, reaches $ 47 billion in 2016 from $100 million found in 2004. However, Pvt Companies invested $ 90 billion in the USA during 2015-17. There have been observed some legal constraints as Chinese investors traded on debt finance which directly affect financial and tax system. The tightening of Chinese-USA regulations has significantly influenced the trade between both countries as a decline shown in investment in 2017(Zheng and Sheng, 2017). China is facing exchange loss while trading (investments) with the USA. The exchange rates are constantly rising since last ten years. The foreign investment is discouraged due to the continuous increase in Dollar price. The dollar is the main currency used in foreign investments. Due to this increase, investment in financial markets and manufactured goods become expansive. The tax rate and tariffs have also increased as there observe a rise in the exchange rate. However, the tradition hedging techniques are unable to rescue the investments from this kind of risk. During 2002-2009, more than double in the number of Chinese enterprises have established overseas. OFDI has been increased by 5.4% during the same period. However, with the growing economies and technologies, Chinese projects face legal, political and social risks in overseas(Lu, 2019).

The association between political risk and legal risk has discussed in detail; the politicians influence the legal regulations in China. The market of China is considered one of the top emerging and fast-growing market with the great attraction of FDI. China is involved in import, export, and investment in T-bill of the USA. There are some risks associated with these investments, such as legal risk, political, and social risks. The countries involved in trade with China are facing a legal risk that discourages the investors. The tension in the investment climate affects the growth of China. Moreover, the investors of emerging economies downgraded as start investments in developed countries i-e USA. But some investors prefer to invest in the USA to earn more at high risk or to diversify the portfolio to avoid risk. However, risk-averse investors do the opposite. However, some research has exposed that both host and donor countries are unable to explain the impact of FDI, laws, and tax regulations on overall investments of a country(Morrison, 1991). The politicians in metropolitan cities of China influence foreign subsidies. Political agents play an important role to avoid this risk to invite more investments in China(Ramaswamy, 2019).

Furthermore, the governance structure and potential ownership rights of Chinese companies face the issues of USA law and regulatory compliance. The risk to Chinese investors includes legal, political, and demographic changes. Chinese investors have to follow thoughtful strategies to avoid or manage certain heightened risks. The political and regulatory environment in the USA discourages the Chinese investors' even the US government always welcome new investors to apply lenient legal policies. The Chinese investors seek approval from regulatory authorities for avoiding legal risks and continue business freely and Mergers and acquisitions. A review process, Florio, also known as the "CFIUS" Committee on Foreign Investment of USA keenly observes the investors consider acquisitions in the USA. The mergers and acquisitions are strictly considered the regulatory and legal issues between China and the USA after Dubai Ports “World case in 2006”. Due to the legal and regulatory hindrances, Chinese investors are careful while investing in US markets. The three main contents of Exon Florio law for Chinese investors include: the law is applicable on investments controlled in US, i-e takeovers, mergers, and acquisitions, or purchase of shares of USA-owned and controlled business. But this does not apply to the Greenfield business of China(Yu, 2019).

China and the USA as members of WTO, follow the regulations as 92% of USA goods exported during 2015. However, the heavily exported items notified according to law. The laws and regulations (from the host country and WTO) based on geographical or political concerns increases the cost of investment(Kirby, 2019).

3. INTERPRETATION OF INVESTMENT EFFECT

3.1. Effect of Investment to the USA.

China is the largest trading partner of the USA and the second-largest country of the world. The USA unilateral policy hurts the benefits of Chinese investors. The higher price of raw material from china increases the cost of goods and reduces the profit margins. This scenario discourages USA investors and harmful to the USA economy. The tightening of Chinese laws and regulations also reduce the investment in China.

3.2. Effect of Investment to China.

In 2017, China was one of the largest exporting countries; the exports to the USA recorded at $429.8 billion. However, the imports from the US were $153.9 billion. China enjoyed the trade surplus of $275.8 billion with USA trade. The Sino-US trade war negatively influences the Chinese economy but "One Belt One Road" boosted up the trade between China, the USA, and other countries(Brautigam, 2011).

3.3. Legal Issues of Investment between China and the USA.

China-USA relationship is essential for mutually beneficial trade. China being a capital importer and exporter, approaches the US market for investments. However, some differences that stared between both the partners. These issues influence investing activities as well as international trade members. A complicated economic relationship has born between both countries. The industrial policies of china, IP, and specific technology harm USA interests and become problematic.

Moreover, Chinese investment reduces locally and internationally. The Chinese actions are also against the policies of WTO. So the USA start following Section301 against China. The trade relationship between China and the USA is more beneficial to the US as it sounds. The recent data shows the exports of the USA from China supported 1.8 million jobs in the service sector, agriculture, and raised the availability of capital goods. The Chinese labor force is less costly for the USA, and the USA produces high value-added capital goods. Chinese laws protect the rights of the foreign workforce. There found bilateral policies between the USA and China, but now the new police of China are harmful to the USA economy. Consequently, the USA has applied Section 301 to protect investment rights, particularly against theft and technology reforms**.** Moreover, rules and regulations approved by WTO protects the rights of both countries, both countries entered to an agreement to avoid section 301(Cai et al., 2019).

The Trade Act, 1974 of the USA mentioned the laws of trade. Section 301, the statutory mean of enforcing the law of Trade in the USA and define the rights of investors, protection of rights, policies, and practice of investing as well as trading activities. The law determines 1) any violation or inconsistency with trade agreements 2) a trade that is unjustifiable or creates a burden on USA commerce. The proper measures have been taken to remove trade barriers. Under Sec 301, a negotiable settlement would take place for foreign investors according to the timetable of action. However, if there would be any objection according to WTO rules, there would be dispute proceeding as per agreement. The tariffs implied or taxed levied considered as legal issues. On March 22, 2018, a Memorandum was signed by, President Trump, related to Sec 301 of trade law. In this statement, discourages chain's economic aggression and protects the laws of USA trade. According to the Memorandum, a) China is required to review licensing before a joint venture, FDI, or any activity of transferring technology to the USA as already using unfair licensing that hurts the USA investors. The table shows the accurate facts and figures about tranches of investments between the USA and China. The tariffs have been increased by 25% in three installments. The imports from China boosted up the investment as the combined value reaches $250 billion along with the legal threats of imposed taxes and increased tariffs. So is the case as China raised the rate from 55 to 25% on imports of $110 billion from the USA mentioned in Table 1. This legal threat hurt investors to continue business with huge funds.

Table 1.

Tariff Imposed Countries	Tariff Rates	Imports Impacted-$ billion	Date Implemented
Tranche1 USA	25%	34	7/6/2018
Tranche1 China	25%	34	7/6/2018
Tranche2 USA	25%	16	8/23/2018
Tranche2 China	25%	16	8/23/2018
Tranche3 USA	10%, then 25%	200	10% hike effective on 9/24/2018; raise to 25% by 6/15/2019
Tranche3 China	5% and 10%, then 10%, 20%, and 25%	60	5% and10% hikes on 9/24/2018; raised to 10%, 20%, and 25% on 6/1/2019
Proposed Tranche3 USA	25%	300	Draft USTR issued notice on 5/13/2019 (action still pending)

Table 1: Source: Ministry of Finance. China

Another issue raised by the USA that Chinese technology spreading in the USA and supports many cyber intrusions that resulted in the penetration of Chinese in the computer network to access valuable information from USA companies. It is against the industrial policies of the USA. However, negotiation is conducted over Section 301 by Trump Administration to resolve IP issues and policies. A meeting held in Beijing on May 2018 to remove the legal risks for the investors. The minutes include a reduction in bilateral trade imbalance from $ 200 billion over the past two years. The findings of Sec 301 briefly discussed as restrictions on foreign investments needed to be removed to increase FDI, making tariff of China and USA compatible with providing ease to investors, reduce tax and tariff rates, removing nontariff barriers, made in China halt subsidies. Improve the means to access the market of the USA for the service industry and agriculture goods, an agreement about not to oppose each other. It was agreed upon, if China fails to fulfill this settlement, then the USA and WTO can take action against China. But on 29 May 2018, the Secretary Treasury Steven Mnuchin of USA has announced that Sec 301 is still in operation, the trading war continues against china. The tariff imposed by China at 25%, is still in the law which hurts the agreement between both the countries.

Furthermore, the new investment restriction has been imposed ton China, the purchase of industrial technology from china has fixed due to trade barriers and the illegal access to US Companies, also pursues the case against WTO licensing policy. However, the White House representative stated that China wants the US to remove all trade barriers, including legal (taxes & Tariffs) between both countries. There would a boundary-free trade so investors can easily access the markets without any risk. China wants a "reciprocal in nature and value." trade between both countries.

Meanwhile, a statement from China has come to light which clarifies the situation which was contrary to the USA. It has a retaliation plan to the USA by levying more taxes and tariffs on USA trade. The legal risk contacts the volume of trade between both counties, and the figure of investment fell as the news went on air. There was no reciprocal of policies announced by the USA but opposite to that, as well as introduced a two-stage plan for new investments on new rates (Cai et al., 2019).

In January 2017 a circular was released containing guidelines about FDI. The document was a blueprint showing China's trade policies to attract more foreign investors in upcoming years. The central government has approved the legal draft. The guidelines in this plan have gradually inculcating to the trading system and have become law for foreign investments.

The trade laws are intensely focused, and full concentration has been given to legally protect the rights of foreign and local investors with the view to create a sound, stable, predictable, and transparent environment. Along with this law, there have observed some security hazards penetrating local markets with foreign investors that restrict and become a risk for regulatory systems. Under this law, trade in some of the industries prohibited. Foreign trade law eliminates businesses from the list of investments. The law and its regulatory system let this trade discontinue in China. Unless and until foreign investment law exempted these businesses as in a special free trade zone. Contrary to this, the investors are reluctant to follow the new law due to increased taxes, issuers to new entrants or tariffs. As the latest reforms in currents defense regulations, the regulatory regime has charged for foreign investors. However, there is less security review for local investors(Zhong et al., 2019) Furthermore, corruption has become a major issue between China and the US trade. Extensive research is available to investigate this problem. The anti-corruption laws have been passed in China to avoid this issue. This problem investigated as the transitional problems, uncertainties in trade and investment, authoritarianism, religious extremism, economic issues, legal and political risks. Corruption is global issues nowadays, so anti-corruption laws have introduced worldwide. There find cooperation between China and the USA in anti-corruption regulatory laws. China and the USA applied the laws in the corporate governance regime. Washington and Beijing concerned against anti-corruption policies and engaged in a "zero-sum game." The ethnographic data shows a significant relationship between laws, economy, and political stability in China and the USA. The legal risk influences economic and political stability and has an impact on overall growth. Moreover, anti-bribery law in China affects FDI during the last decade. The legal analysis conducted to explore cross border trade and observed that strict laws of China and the USA discourage many investors as investing in unlawful businesses or caught in money laundry cases. These laws protect the rights of investors as well as strengthen the economy from illegal activities (Zhong et al., 2019) proclamation issued by President Trump on 8th March 2018to increase import duty on steel at 25% and aluminum at 10% as per Section 232 of Trade Act. On the other hand, China raised the Tariffs from 15% to 20% that damages the growth rate(Fagan, 2010).

The main focus of investors is to gain maximum profit and avoid laws in this regard, so the behavior of investors is also the focal point while implying the regulations(Xie and Ning, 2019). The data from Chinese FDI refers to the behaviors of investors while applying new laws, tariffs, and taxes. Foreign investors face the risks of arbitrage if the laws of the host country are weak. China and the USA being partners of trade set the investment rules to avoid this issue. The prices of merchandise are monitored according to laws by the regulatory authorities. There found n low chance of overpricing; the financial markets also monitored(Okun-Kozlowicki, 2016). There found a strong observation of the relationship between FDI and the GDP growth of China. GDP of China raised by 9% during 2009-2014, it attracted more foreign investors. FDI boosted up to in October 2014 at $ 958.80 million from $ 873.60 million in September of the same year. Another reason found behind this increase is no corruption, financial infrastructure, and transparency of the legal sector in China. The growth of China relay upon FDI. The major portion of GDP comprises of foreign investments. The laws of China give ease to investment; the regulatory reforms attract more investors. The technology status increased imports and exports. However, it explored that the major risk to invest in China considered by overseas investors is corruption. Even anti-corruption laws strictly followed in China. Some policies, rather than bringing the investors at ease, bring difficulty for foreign investors. This situation discourages foreign investors to invest in China. However, the inventors of financial markets purchase the equities, make diversified portfolios at discounted rates and the financial sector of China flourished due to FDI. There found some indirect methods to reduce the risk of investment in China, as foreign investors put funds in some special financial vehicles. Consequently, the GDP of China has increased, and more investors are attracted. The legal policies of China approve foreign investors to trade in markets without domicile even then these investors are trading successfully in many businesses(Zhu et al., 2018).

4. LEGAL POLICIES GOVERNING CHINESE INVESTMENT IN OVERSEAS

The investing activities and the regulations regarding the investments are the most discussed topic. China has been boasting a huge inflow of FDI since 1993. The government of China has formulated tax laws to foreign investors, reforms, relives, tariffs, and certain policies. However, China removed some restrictions and policies in 2001 due to the contrast interest with WTO. China aggressively shaped the laws, regulations, and policies to govern rapidly growing FDI. There found a complete set of laws and regulations regarding cooperatives, joint ventures, and individual investments.

China is an emerging economy trying to boost up its growth rate and stabled economy, increased investment, and avoids the risk factors for investors. In 2006, China took some measures to standardized OFDI. These measures include - mutual benefits of trade partners for equity investments - safeguard national interests and avoid disorderly competition - decision making, and policymaking need to improve -

strengthen the state to assess risk factors - comply with local laws, policies and regulations - improved service and product quality for increasing exports - proper safety measures to be taken - create friendly environment for foreign investors.(Hugos, 2018) Furthermore, China is one of the largest trading economies and leading towards the world's largest creditor in the next few years. China's foreign direct investment in 2014 observed at $38 billion. The political governance and corporate governance of China highly correlated according to legal policies. However, FDI has a negative relationship with economic governance(Lambin et al., 2018).

China is one of the largest recipients of foreign direct investment in the world. These investments play an important role in flourishing China's economy, increased tax revenue, and the earning of foreign exchange. Some structural changes occurred during the last few years for the revival of equity-based joint ventures, improved service sector, manufacturing sector, and technology. In the last few years, China has become an important source for OFDI. However the financial crisis crunch negatively affects the investments in China, but the government of China restored the confidence of foreign investors by introducing lenient trade policies, encourages labor force to reduce entrant barriers and invite skilled workers as well as take measures to decentralize FDI and strengthen the economy. The government is trying to promote both inward and outward FDI.(Boucher et al., 2011) Many reforms have been taking the field of technology; China is using another strategy for the IT industry "swap market" to permute this industry for investment. Consequently, the foreign investors are discouraged due to legal policies and not much motivated to continue the business with IT industry of China. Moreover, the automobile industry of China is not up to the level of foreign markets do government is not overprotective for this sector. However, being a member of WTO, many restrictions have been removed from the automobile industry of China. There found a huge amount of imports of spare parts from the other countries to assemble new cars. These cars carry a low level of tariffs and taxes o not much expensive. The automobile sector is flourishing day by day and attracting more foreign investments. This industry not only dealt with spare parts but also trade of finished products (cars). China also requires foreign investors to trade as joint ventures or cooperation. The laws for joint ventures and cooperation are different from recognizing these forms as a separate legal entity. However, the local markets and businesses in China protected by high tariffs as well as nontariff barriers. Proper laws and regulations are implied to protect the local business and rights of domestic investors(Fuchs et al., 2019).

The regulatory policies for investment in china are followed to avoid the risk of loss. A proper licensing policy has introduced to foreign investors. The economic, political. Legal and environmental regulations are applied to protect the rights of local and foreign investors. However, some restrictions applied to the export of technology to the US due to security reasons. China has levied taxes and tariffs on foreign products and investors to protect the local goods and investors (Ding and Chen, 2019). The Chinese Ministry of Commerce released a draft in 2015, containing rules, regulations, and laws for foreign investment in China. The draft named "Draft Law." The law already implemented by the standing committee, and the negative list system followed in 2016.

As soon as the lawfully implemented in China, a new law regime has been introduced to monitor FDI. The new regime replaced the Draft Law. According to the new law the foreign investors enjoy the "national treatment" with no difference of rights as the domestic investors occupy in China. However, there found some prohibited industrial sectors as per this law and specified a catalog of the negative list comprises of all prohibited industries and foreign investors and shareholders to enter in. the said law expands its scope to national security about foreign investments. The law allows the foreign investors to obtain trade licenses, provide approvals before a business transaction, work permits, and exchange of ownership rights to shares. This law enhances the transparency, stability, improved investment environment, and encourages more foreign investors. There found a boost in the GDP growth of China due to this regulation. More investments have observed in China.

Currently, foreign investors access to prohibited industries. However, the legal definition and regulations remain unclear to let the investors understand the restricted industries. The foreign investors are facing legal risk, but the laws are silent somewhere in this regard. The foreign investors do not get a proper guideline to safeguard their rights and the security of the investment. The new version of Draft Law has been introduced to explain regulations for foreign investors more specifically. The law explains the rights of noncitizens, rules for entering financial markets, incorporation of foreign enterprises in Chinese markets, and dealing with the foreign government. The law specifically controls a) holding of shares, voting rights and similarity found with any other entity b) power to appoint a new member or nominate a member to board of directors c) voting rights to another entity as board member. This law is legally approved and practicing in China.(Mastro, 2019) There has promulgated a series of policies, regulations, and laws in China for joint ventures and cooperation. The regulatory and legal protection encourages foreign direct investments in China. These laws include Sino foreign Equity Law for Joint Venture and Enterprise and Wholly foreign Invested Enterprise law. There is also found a provision for foreign mergers and acquisitions according to law. The catalog of these laws and regulations revised in 2017.

Furthermore, China is striving to crates a stable, transparent and predictable legal environment to support FDI. So the legislators formulated the polices in such a way that attracts more investments. FDIs monitored and regulated by Foreign Investment Law. This law helps influence investing activities positively. China has a bilateral agreement with many countries including the US. Moreover, the tax regime in China is quite complicated. Income tax, VAT instead of BT, custom, land appreciation tax, deed tax, stamp duty, vehicle and vessel tax, motor vehicle acquisition tax, land usage tax, and resource tax levied in China. The rate of tax determined by the regulations.(Morrison, 2018) The foreign laws have been formulated to save the rights of members and mutual interest. These laws also provide proper compensation for any loss or damage. The profits, capital contribution, capital gains, disposable income, assets and property of foreign investors legally obtained the compensation. Moreover, all the settlement is required to be clear at the time of liquidation or prior termination of the contract. The state is liable for protecting the personal properties of foreign investors. The foreign investors must be encouraged by the State for conducting legal business. The State is not imposing tariffs and taxes on special cases of foreign investors to encourage them. There have been some special provisions in law for foreign investors.

The legal documentation containing rules and regulations of foreign investment is provided by the State to avoid any problem. The local government and departments are bound to foreign investors according to the law of State. The foreign investors can get easy approval to start a new venture or a project, and if the permission is required, the regulations are available to imply. If the investors are trading with the manufacturing sector, the accounting, auditing and tax laws properly mentioned. However, China does not allow foreign investors to invest in some industries. This list of these industries is available to foreign investors with the name "Negative List." The FDI can be conducted in the manufacturing, service industry or financial markets easily.(Liu, 2017) China is also providing a platform for new investors. There are very lenient policies and regulations for new entrants according to “Foreign Investment Law” passed on 15th March 2019. The State is providing legal rights to new entrants, particularly with small investments. They are provided with a registration form to start their new business in China (Erie, 2019).

5. CONCLUSION

This study concludes that China is involved in foreign trade for the last 20 years. The trade of capital oriented industries includes capital import and export. However, logging and timber trade is prohibited. Initially, the policies, laws, and regulations were strict for foreign investors but with the time there exists leniency in the regulations to reduce the legal risk for foreign investors. The figures of outward and inward FDI shows a boost in China’s growth rate, considering these FDIs as an important part of economic growth. China has been inviting FDI for technologies since 1993. With the increased level of exports, China imposed three types of policies a) compulsory b) voluntary and c) neutral. To balance foreign, domestic trade, a specific percentage has mentioned to exported. This study concludes that 1) China’s inward and outward FDI is rapidly growing 2) the risks to these investments include unexpected transactional cost, exchange rate risk, laws of host countries, taxes and tariffs 3) highly concentrated investments face more legal risk, excessive government attention, and low management abilities. Based on the analysis, China's FDI with overseas faces the social, legal, institutional, and political risks from the host country, as mentioned in this study, Section 301 of USA trade law. There is a need to protect the rights of Chinese investors in the rest of the world as China is offering lenient investment policies to attract more foreign investors. There is no fully functional legal system prevailing in China. But still, the economy is increasing. There found some deficiencies in the legal system to protect the rights of investors. However, the laws for joint ventures and cooperation are too strong in China**.** Moreover, the State describes a complete code of regulations, policies, and laws for foreign investors.

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