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Error-Prone or Problem-Solving Approach: The Case of the 'Zhongda' Refinery in Kara-Balta

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EXECUTIVE SUMMARY

Recognized in China as one of the most significant overseas investments, the "Zhongda" oil refinery stands as one of the largest foreign investments in Kyrgyzstan, playing a pivotal role in fortifying the nation's domestic fuel supply. However, the seemingly successful image of this investment is marred by corrosive capital features. It is marked by a lack of accountability in various domains, including environmental standards, labor rights, and even cultural heritage preservation, leading to recurring conflicts and emergency situations. It is crucial to evaluate this case, as the Chinese enterprises involved in the project are often touted as the "vanguard" of the Belt and Road Initiative (BRI). This venture is, in essence, a semi-declared testing ground for the BRI, aiming to expose challenges and explore potential systematic solutions.

ABOUT THE AUTHOR

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INTRODUCTION

The construction of the “Zhongda” refinery (Russian: НПЗ "Джунда") in Kara-Balta by "Zhongda" China Petrol Company LLC is one of the biggest foreign investment in Kyrgyzstan, serving as a cornerstone of the nation's energy security by contributing significantly to its domestic fuel supply. As of 2017, the Chinese side declared plans to increase production capacity to 1.2-1.5 million tons and enhance technology to produce fuel compliant with Euro 4 and Euro 5 standards [1]. Moreover, this investment is routinely acknowledged in China as one of the most critical overseas endeavors. For instance, in 2018, it was bestowed the title of "Top Ten Overseas Investment Enterprises" by the Xi'an Municipal Party Committee and Municipal Government [2]

Despite its immense economic value to Kyrgyzstan, this project is frequently portrayed negatively in Kyrgyz media. While certain objective factors have constrained its operational history, such as problems with crude oil deliveries that hindered reaching full capacity in certain years, other issues have arisen, which Chinese investors have reportedly overlooked. These issues have triggered and continue to fuel controversies.

The project holds immense value for Kyrgyzstan's economy and is celebrated in China as a resounding success. Nevertheless, it frequently garners negative attention in the Kyrgyz media. While certain objective challenges have hindered its operational history, such as issues with crude oil deliveries that prevented it from reaching full capacity in certain years [3], there have also been overlooked problems reportedly ignored by the Chinese investor. These issues have generated, and continue to generate, significant controversy.

OPERATIONAL HISTORY AND ACCOUNTABILITY PROBLEMS

The Refinery in Kara-Balta is owned by "Zhongda" China Petrol Company" LLC (Russian: ООО "Zhongda" China Petrol Company" (Чайна Петроль Компани "Джунда"). The company was founded in 2009 and re-registered in 2013 as a joint venture of Central Asia Energy Company Limited (CAE) (Chinese: 中亚能源有限责任公司) and “DaDe Service Company” LLC (Russian: ООО "DaDe" service company" ("ДаДе" сервис компани") [4]. CAE is a subsidiary of Shaanxi Coal and Chemical Industry Group Company Limited (SCIGC) (Chinese: 陕西煤业化工集团有限责任公司), a conglomerate of key

enterprises in the coal and chemical industries of Shaanxi Province that united in 2006 to implement the Western Development Strategy [5]. The company was established as a mixed-ownership overseas investment enterprise with the mission of serving as the vanguard's response to the Belt and Road Initiative (BRI) [6]. This mission has been consistently reaffirmed by CAE's leadership. For instance, in 2020, Yang Zhaoqian, serving as both CEO and Secretary of the CCP of the Group, emphasized the high political, strategic, economic, and social significance of the project in Kyrgyzstan. This commitment is based on three core commitments:

- 1."It shall perform well as Kyrgyzstan is the first stop for overseas expansion, so it is necessary to support BRI, build confidence, advance with innovations, and promote the high-quality development of overseas projects.
- 2.It shall support improvement and transformation in the corporate governance structure and act as a demonstration for overseas industrial development.
- 3.It shall accumulate the energy of industrial development and help to release the potential of enterprises to actively expand to overseas markets—being the 'vanguard' of BRI and the 'going out' strategy [7].

However, since its delayed opening in 2013, the refinery has been plagued with various scandals, blurring the successful image vigorously promoted by the Chinese side back home. Initially, the refinery was planned to commence operations in 2012. However, by 2012-2013, "Zhongda" China Petrol Company LLC encountered difficulties in establishing a standard 500-meter sanitary zone around the facility, as local residents were unwilling to sell their properties [8]. In the autumn of 2013, the refinery initiated operations in a testing regime and was officially inaugurated in January 2014 [9]. However, due to protests by local residents regarding pollution linked to the refinery, its operations were halted in February. They resumed in April after the State Agency for Environmental Protection and Forestry confirmed no violations [10]. Subsequently, the Chinese side admitted ecological problems, notably the absence of industrial waste treatment facilities at the plant's launch [11]. Thus, the concerns of local residents appeared to be largely justified.

In January 2016, the refinery faced another setback when Chinese vice-director Yu Shang Lin was arrested on charges of evading 0.5 million USD in taxes [12]. Allegedly, the company agreed to pay the sum and, with the

support of Kyrgyz MPs, managed to secure the release of its director [13]. In the autumn of 2018, the refinery again temporarily ceased operations due to ongoing litigation and tax payment issues [14].

Furthermore, the situation regarding tax evasion was exacerbated by conflicts with local workers and the workers' union. In August 2018, Iskender Mamyrkulov, an employee of the equipment repair workshop at the refinery, bravely came forward to blow the whistle. He recorded an appeal addressed to then-President Sooronbai Jeenbekov, highlighting violations of ecological standards, employees' rights, and safety regulations. In response, Mamyrkulov was terminated from his position, along with Nurbek Sulaymanov, the leader of the refinery workers' union, who had attempted to defend him.

Among the allegations raised by Mamyrkulov and Sulaymanov were claims of unequal treatment between Chinese and local workers, instances of workplace harassment, disparities in compensation, and the neglect of additional pay for hazardous duties [15].

In the interview given by Mamyrkulov in November 2018, he described scandalous negligence in fire safety on the part of the Chinese investor. According to him, during a fire incident at the refinery in the spring of 2018, local workers risked their lives to extinguish the blaze as they were unable to turn off the electricity and gas supply. He further noted that, during the emergency, Chinese workers evacuated, and the alarm sirens failed to function [16]. It is worth noting that this case could be viewed as a direct threat not only to the refinery and its workforce but also to the surrounding areas. Subsequently, following his statements in December 2018, Mamyrkulov was abducted and assaulted by unknown perpetrators [17].

During a phone interview with Elbira Tenizbayeva, the Representative of the Ombudsman (Akyikatchy) of the Kyrgyz Republic in the Chui Region, Mamyrkulov stated that he did not insist on attributing the attack to Chinese nationals, as the assailants were of Kyrgyz ethnicity [18].

Nonetheless, a thorough investigation into the assault is essential, as it may naturally be viewed as an attempt to intimidate the individual due to his refinery-related involvement, potentially harming the investment's reputation.

Additionally, in March 2018, the State Inspectorate for Environmental and Technical Safety raised alarms that "Zhongda" China Petrol Company LLC was damaging Kyrgyzstan's cultural heritage by deliberately causing harm to the complex of ancient kurgans constructed between the 5th and 3rd centuries BC. The Inspectorate notified "Zhongda" China Petrol Company LLC of its responsibility for the destruction of Kyrgyzstan's cultural heritage and issued multiple warnings, urging the company to take measures to prevent further damage. Law enforcement agencies were also informed about these violations [19].

Despite being a significant milestone for Kyrgyzstan's industry, the new refinery was not constructed with state-of-the-art technology and requires upgrades to comply with ecological standards. Since the implementation of the technical regulations "On Requirements for Motor and Aviation Gasoline, Diesel and Marine Fuel, Jet Fuel, and Fuel Oil" by the Eurasian Economic Union (EEU), the refinery faces the risk of closure due to its inability to produce fuel compliant with Euro 4 and Euro 5 standards. Although these regulations came into effect in 2018, Kyrgyzstan received extensions, most recently extending until 2023, to keep the refinery operational [20]. Since 2019, "Zhongda" China Petrol Company LLC has repeatedly claimed that it is actively working on upgrading its refinery facilities [21]. However, it was only in March 2022 that the modernization project was successfully submitted to the National Development and Reform Commission [22]. This delay can be reasonably attributed to the challenges posed by the COVID-19 pandemic. While there is a lingering risk that the project might not be concluded by the end of 2023, potentially causing disruptions in the fuel supply, it is encouraging to note that concerted coordination efforts are underway at various levels.

CONCLUSION AND RECOMMENDATIONS

The case of the 'Zhongda' Refinery in Kara-Balta exemplifies the challenges faced by the Chinese investor, "Zhongda" China Petrol Company LLC, in corporate accountability concerning local standards, laws, and regulations across various spheres, including environmental standards, labor rights, and cultural heritage preservation. Simultaneously, it underscores the inadequacy of governance by authorities, where even exposed violations are temporarily addressed only to resurface, eroding public trust, exacerbating conflicts, and tarnishing the image of Chinese investors and the Belt and Road Initiative (BRI).

This project underscores the imperative for Kyrgyzstan's authorities to apply a systematic approach to investments that respects both investor and public interests. It should also be considered a laboratory for the Belt and Road Initiative (BRI) and similar international programs aimed at developing enhanced standards for investment accountability.

Recommendations

For Kyrgyz Authorities:

1. Strengthen Regulatory Oversight:

Kyrgyz authorities must bolster regulatory oversight to ensure that foreign investments, especially large-scale projects like the 'Zhongda' Refinery, comply rigorously with local environmental, labor, and cultural preservation standards. This involves consistent monitoring and stringent penalties for violations, ensuring a strict adherence to regulations in all operational aspects.

2. Foster Transparency:

The lack of transparent communication between stakeholders has been a significant challenge, leading to conflicts. Establishing transparent reporting mechanisms, as highlighted by the refinery case, is vital. This approach ensures that concerns are promptly addressed, preventing misunderstandings and mistrust between authorities, investors, and local communities.

3. Support Workers' Rights:

Kyrgyz authorities should collaborate closely with labor unions and organizations to safeguard the rights and safety of workers within foreign investment projects. The reported disparities in treatment between Chinese and local workers underscore the urgent need for Kyrgyz authorities to enhance workers' rights protection mechanisms. Establishing a robust legal framework that not only protects whistleblowers but also ensures equal and fair treatment for all workers, regardless of their nationality, is imperative. By empowering workers and upholding their rights uniformly, the authorities can create a conducive and equitable environment for sustainable investments, fostering social cohesion and economic progress.

4. Cultural Heritage Preservation:

The damage to Kyrgyzstan's cultural heritage, as noted by the State Inspectorate for Environmental and Technical Safety, demands immediate action. Kyrgyz authorities must work closely with cultural preservation organizations to enforce regulations that safeguard historical sites. Implementing stringent penalties for violations will serve as a deterrent, protecting the nation's heritage.

5. Investment Accountability:

Kyrgyz authorities should enforce strict accountability measures for foreign investors, including substantial penalties for violations of local laws and standards. By holding investors accountable, authorities can deter potential misconduct and maintain the integrity of the investment environment. Regular audits and assessments can ensure compliance, creating a fair and competitive market that benefits all stakeholders.

For Chinese Authorities/Investors:

1. Enhance Due Diligence:

Chinese investors must conduct comprehensive due diligence before initiating overseas investments, considering the cultural, environmental, and legal aspects of the host country. This approach is particularly crucial within the context of the Belt and Road Initiative (BRI). Thorough environmental impact assessments are vital to prevent ecological issues and ensure sustainable development. By investing time and resources in understanding the local context, investors can avoid operational pitfalls and contribute positively to the host nation's development. This proactive engagement would not only align with the declared principles of the BRI but also foster mutually beneficial partnerships, emphasizing the importance of responsible and sustainable investments within the framework of this initiative.

2. Transparent Communication:

Transparent communication, as highlighted by the mismanagement of emergencies in the refinery, is pivotal. Chinese investors should maintain open channels with local communities and authorities, ensuring that communication is not biased or solely oriented for public relations or

promotional purposes. Acknowledging challenges openly and addressing them promptly is key to preventing tensions and misunderstandings, fostering genuine mutual respect and cooperation. This approach is essential to counterbalance the overly positive image often portrayed externally, which can lead to misunderstandings and protests among the local population. By acknowledging issues and involving the community in problem-solving, the investor can build trust, thereby ensuring a more harmonious and sustainable investment environment.

3. Commitment to Standards:

Chinese investors must commit unequivocally to international and local standards, upholding ethical business practices in all operations. This commitment includes environmental protection, workers' rights, and cultural heritage preservation. By setting a high bar for themselves, investors can demonstrate their dedication to sustainable and responsible investments, enhancing their reputation and fostering positive relationships with the host community.

4. Workers' Welfare:

The reported unequal treatment of workers emphasizes the need for Chinese investors to prioritize workers' welfare. Implementing fair compensation, equal treatment, and safety regulations for all workers, irrespective of nationality, fosters a positive work environment. Mandatory cultural sensitivity training further promotes understanding, reducing tensions and promoting cooperation.

5. Adapt to Local Laws:

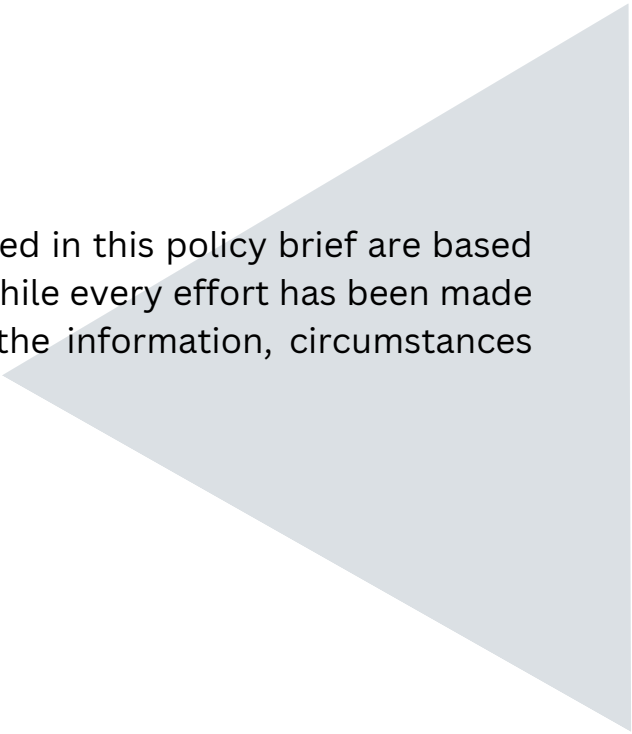
Chinese investors should adapt their operations to align seamlessly with the legal and regulatory frameworks of the host country. By respecting local laws and standards, investors can avoid legal disputes and maintain a positive reputation. Implementing best practices and staying updated with local regulations demonstrate a genuine commitment to being responsible corporate citizens, fostering trust and credibility in the host nation.

Incorporating these recommendations into policies and actions will not only resolve the existing issues at the 'Zhongda' Refinery but also set a precedent for future investments, ensuring that the host nation's interests

are respected, local communities are empowered, and investments contribute meaningfully to sustainable development. It is through such collaborative and principled efforts that the vision of mutually beneficial international investments can truly be realized, paving the way for a more prosperous and harmonious global economic landscape.

DISCLAIMER:

The analysis and recommendations presented in this policy brief are based on data and conditions as of March 2023. While every effort has been made to ensure the accuracy and relevance of the information, circumstances may have changed since that time.



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