

Legitimacy Concerns and Countermeasures of Multinational Enterprises: Taking Yankuang's M&A in Australia as Evidence

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Abstract. With the continuing integration of global economy, Chinese enterprises speed up the expansion of overseas markets. However, factors such as legal differences, cultural conflicts, political opposition have generated severe legitimacy concerns that Chinese enterprises cannot afford to ignore in their internationalization. Such legitimacy concerns pose a huge challenge and substantially hinder the pace of internationalization of Chinese enterprises. But the current research mainly focuses on the acquirement of organization legitimacy, with little attention paid to the responding strategies of firms under legitimacy concerns. Such research gaps not only seriously hinder our understanding of factors leading to those legitimacy concerns against Chinese enterprises in host countries, but also bring practical losses to the internationalization of Chinese enterprises. This thesis aims to address those research gaps. This study contributes to the legitimacy literature by discovering various factors shaping legitimacy concerns of international Chinese enterprises and their corresponding legitimizing strategies. With the triangulation data focused on legitimacy research from Factiva and through Yankuang Group's overseas M&A in Australia, this thesis finds that firms identify various factors leading to their unique level of legitimacy concerns and adopt distinguishing responding strategies corresponding to those legitimacy concerns. In addition, this thesis provides implications to other international Chinese enterprises by building a framework of "Legitimacy Concerns-Countermeasures-Suggestions".

Keywords: Chinese multinational enterprises; Corporate internationalization; Legitimacy concerns; Legitimacy strategies.

1. Introduction

In the "Globalization of Chinese Enterprises Report (2020)", the percentage of Chinese enterprises' outbound investment in global OFDI exceeded 10% for three consecutive years. From the perspective of political interests of the host country, when the internationalization of Chinese firms involved in sensitive industries can jeopardize the international status of certain countries, it discourages their investments and exposes them to different degrees of legitimacy charges. At this stage of research, there are few studies linking Chinese firms' internationalization with organizational legitimacy accusations; Yang Bo, Ningning Zhang, and Xiaojun Du suggest that emerging economies are hindered in launching multinational operations because of their outsider status and that legitimacy accusations against Chinese firms can seriously affect firm performance; Hongjuan Zhang et al. and Jing Li et al. examine the legitimacy allegations faced by intrinsic firms in outward foreign direct investment (OFDI) and in seeking acquisitions from developed economy regions, using China as the main study target. In a theoretical sense, most of the previous studies have focused on the legality issues and legal business avoidance encountered by firms conducting OFDI or M&A, or the stigmatization of the host country and the response measures of the home country, but there are few studies on the responses to different degrees of legality allegations faced by Chinese or Chinese firms. This paper hopes to draw on cases facing different degrees of legitimacy accusations and incorporate them into the logical structure of this paper to build a framework of countermeasures that can provide lessons for Chinese firms' strategic concepts when internationalizing.

The beginning of Yankuang's internationalization began with the listing of its subsidiary in 1998. As a leading company in the Chinese coal industry, Yankuang's international business consists mainly of coal export, overseas mining, investment companies and technology export, etc. Yankuang has been fully expanded during the decades of internationalization. 21 October 2004, Yankuang signed

an agreement to Anglo American Resources. At the end of 2004, this acquisition helped Yankuang enter the Australian market as a technology pioneer. At the end of 2009, with its listed company Yanzhou Coal, Yankuang contributed USD 2.79 billion to acquire 100% of the shares of Felix (hereinafter replaced by Felix) in Australia, with this acquisition Yankuang became the largest domestic With this acquisition Yankuang became the largest overseas coal company in China, the second largest transaction between China and Australia since records began, and the legality issues encountered in this case are the main object of analysis in this article (Reported by Week in China, 5/5/2017); in the same year, Yankuang established Yancoal in Australia, and after acquiring Felix as Yancoal, it will be listed in 2012 Xiyong Li, Chairman of Yancoal Group, stated that the deal would recapitalize the company and make it the most promising pure-play coal producer in Australia (Reorted by Singleton Argus, 25/1/2017). At the end of 2011, Yancoal acquired the Prima coal mine for A\$296.8 million, a merger that again complemented Yancoal's mineral resources in Australia; starting in 2016, Yancoal acquired 100% of United Coal and thus took a 36.5% stake in PWCS (the world's largest port coal company). Therefore, this study takes the internationalization of Yankuang Group in Australia as an example to illustrate the response of Chinese companies when facing the legitimacy allegations.

2. Literature Review and Theoretical Analysis

2.1 Institutional Theory

One of the most central concepts in institutional theory is legitimacy, Weber introduced the study of legitimacy, then Parsons (1956) linked cultural institutions to legitimacy based on Weber [1]. Zucker (1977) first emphasized the importance of institutions in organizational structure [2]. DiMaggio & Powell (1983) proposed that corporate behavior has a normative and social character, and first proposed institutional theory [3]. DiMaggio (1988) first extended the field of institutional theory to establish institutions that benefit the organization through organizational managers as a moderating variable [4]. Barley (1997) argues that institutional theory brings a formal structure of decision making in firms or other organizations that constrains the organization to conduct organizational behavior in accordance with social values [5]. Scott (2006) first classifies corporate systems into formal systems of firms (Formal) and informal systems of firms (Informal), emphasizing that institutional theory will play different roles in the constrained or unconstrained situations, and argues that firms will be subject to institutional pressures from different dimensions, which in turn will affect decision making; in the same year, Scott also summarizes the three pillars of institutional theory (Regulative, Normative, Cultural-Cognitive) based on the development of institutional theory, namely laws and regulations [6]. Kostova et al. (2008) especially studied the current state of institutional theory in emerging economy countries and argued that MNCs in emerging economies need to adapt more to the social system of the host country, which is more different from the home country, and institutional theory is used to explain behavioral differences in the adaptation process [7]. Holburn & Zelner (2010) study institutional distance, i.e., the possibility for home country firms to enter the host country [8]. Suddaby et al. (2017) studied the division of different schools of legitimacy in institutional theory with a macro perspective [9].

2.2 Enterprise Legitimacy

Weber (1968) was the first to suggest that legitimacy is a prerequisite for organizations to have power, and this legitimacy comes from the orderliness of institutions [10]. Dowling and Pfeffer (1975) argued that legitimacy a property of corporate behavior is widely accepted by the society, Dowling, Pfeffer and other schools of scholars treated legitimacy as an asset (Property) of the organization [11]. Suchman (1995) subsumed the concept of legitimacy by specifying that firms need to follow certain rules and values in order to carry out a series of corporate actions [12]. Suchman's description of legitimacy is now shared by most scholars and legitimacy as an assumption covers many cognitive aspects. Suchman adds the category of legitimacy to the category of corporate resources and treats

legitimacy as an intangible asset. there are subtle differences between Suchman's and Scott's division of legitimacy; Suchman divides legitimacy into three dimensions: practical legitimacy, moral legitimacy, and cognitive legitimacy. Scott (2000) argues that if a firm wants to survive in a new environment, they must establish legitimacy that meets the conditions of that environment [13]. Xueguang Zhou (2003) compares legitimacy to a logic, in the framework of institutional theory, where firms need to be widely accepted by society [14]. Tyler (2012) considers legitimacy is a Perception, which is more like a measure of social judgment [15]. Suddaby, Bittektine and Haack (2017) consider legitimacy as a central concept in the jungle of institutional and management theories and they put the core of the study of legitimacy to the extent that firms align themselves with creating coherence in new regional contexts such as host countries [9].

This thesis argues that institutional theory creates three dimensions of institutional pressure in influencing organizational decision making. When the government gives the system, it will start from legitimacy, universality, and compulsion, thus influencing the enterprise decision, and the enterprises will make decisions under the above-mentioned governmental institutional pressure will have different degrees of convergence effect, that is, they will take the initiative to make those decisions that are more likely to be successful.

In summary, for the above literature review on the two core concepts of this paper as a whole, scholars have conducted a large number of studies on internationalization and legitimacy. This paper adopts Scott's classification of legitimacy (cognitive legitimacy, regulatory legitimacy, and normative legitimacy) and uses it to develop an analysis that matches the responses taken by firms when they face different nature of legitimacy charges in internationalization. There is a lack of research on legitimacy to understand the interaction mechanism between the international community and corporate internationalization and the correlation between corporate internationalization performance and legitimacy acquisition. The internationalization of Chinese companies requires consideration of three dimensions: economic, political, and cultural. In particular, the increase of political color helps companies to gain legitimacy and improve their internationalization performance to a large extent. This study defines the subject as the internationalization of Chinese firms, and define the degree of legitimacy accusations against them in order to respond to different degrees, hoping to improve internationalization performance through the acquisition of legitimacy.

3. Analytical Framework

3.1 Case Study and Literature Analysis

The main source of the cases selected for this paper is the CNKI Chinese database, and the selection criteria consist mainly of sensitive industries, different national sources, and a large number of news reports before and after their transnational behavior. Among them is the internationalization of Yankuang Group Australia (Australia and China have a politically sanctioned relationship and the coal mining industry is a sensitive industry, so this case involves a high degree of legality allegations). After searching through the CNKI Chinese database, WEB OF SCIENCE, and reading 67 papers (12 master's degree theses and 29 journal articles) Yankuang Group, a Chinese company's overseas merger and acquisition, was selected as the case study for this paper. swanson (2020) argues that state-owned enterprises or politically connected companies are often frozen to when making investments or expanding overseas into host countries Do suspect the purpose of this expansion. Yeates (2009) finds that the Australian government prefers foreign firms to undertake joint ventures in their own country rather than acquisitions, which means that Yankuang Group's acquisitions in Australia in the same year will be hindered to some extent.

3.2 Triangulation: Data Collection

The purpose of using the triangulation method of mutual corroboration is to determine the authenticity and validity of the sources of information in this paper and to confirm each other through comparison. In this paper, three sources of information, namely news reports, corporate annual reports,

and video interviews, are used to confirm each other to ensure the authenticity and validity of the information used in this paper. News reports are the main source of the allegations of legitimacy in this paper, of which this paper searched the Factiva economic database for a total of 204 reports, including 124 reports on Yankuang's acquisition of Felix in Australia. Vaara and Monin (2010) argue that news reports are reliable as the main source of data on the nature of the allegations, and that news reports reflect social evaluations, which recorded in written form. In addition to this, 11 corporate annual reports and 3 interview videos were searched in the Wind database to support the reliability of the content of news reports. In summary, the screening of the news reports identified four legitimacy allegations against Yankuang's expansion in Australia, and found corresponding corporate strategies to counteract each of the above legitimacy allegations, thus forming a legitimacy-allegations - countermeasures - recommendations framework. This results in a legality allegation - response - recommendation framework. (The table below is a selection of information extracted only from news reports in the Factiva Economic database).

Table 1. Selected reports about Yankuang's M&A from Factiva

Negative tags	Media and report date
Schmidt said that Yankuang is always ready to sell off part of its stake in Australian companies.	The Australian, 7/12/2018
China is investing in the Australian coal industry and thousands of local miners have lost their jobs, but now paying foreigners to get coal and providing jobs for foreigners is just stupid.	Week in China, 5/5/2017
Mr. Szpakowski noted that the importance of coal in China is declining, and he expects it to continue to decline in China and many other countries.	Financial Review, 1/25/2017
The acquisition of Felix by Yankuang has met with early opposition from Australia's left-wing government, which sees it as a threat to a range of stakeholders.	The Australian, 14/12/2010
The Australian Foreign Investment Review Board rejected Yankuang's offer in the pre-acquisition period, requiring it to reduce its shareholding by 30% within three years.	The Australian, 8/10/2009

4. Countermeasures

4.1 Financial Legitimacy Countermeasures

Having achieved 100% control of Felix, Yankuang will encounter financial risks in the host country. On the basis of Yankuang's five years of operation in Australia, the gearing ratio is 86.59% (gearing is the ratio of total liabilities to total assets at the end of the period; Chinese companies generally have a gearing ratio of 40%, listed companies are on the high side but generally do not exceed 50%). The high gearing brings with it escalating financial costs, and its total annual interest is much higher than other companies in the same industry, a situation that will reduce the amount of financing available to other investment companies. Political risk is one of the most difficult risks to grasp and resolve in the internationalization of Yankuang. Mineral resources are involved at a national level and Australia restricts the export of mineral resources to ensure that the country's investment risks are reduced.

China can keep coal producers profitable so it can use the extra profits to deleverage as coal prices rebound with government-led capacity cuts and Yankuang gains 50% of its shares in Hong Kong, according to a report by Week in China on May 5, 2017.

To face such problems, Yankuang Group firstly set up its own wholly owned subsidiary, Yanzhou Coal, in Australia to deal with the financial risks of acquisition, and acquired a series of coal mining companies through Yankuang's listed operations. Secondly, Yankuang fully developed the mining and water gasification technology, and through this international leading technology, the Australian

government facilitated the merger and acquisition, and used the technology to reduce the mining cost and smelting cost, thus reducing the balance sheet ratio and reducing the financial risk.

For the financial and investment risks, Yankuang can go ahead and share the operational risks with the Australian side instead of acquiring 100 percent of the shares. And during the M&A process Yankuang Group can use the internal guarantee and external loans to maintain the total capital of the parent company and build a good operating environment, using the support of China Development Bank to obtain a large amount of financing.

4.2 Take-or-pay Expense

Take-or-pay means that the price paid remains the same regardless of market changes and is widely used in the international energy sales industry. Yankuang faces significant penalties for fixed costs in Take-or-pay contracts, which significantly affects Yankuang's revenues and profits in Australia.

Use synergies to reduce the cost of non-negotiable costs. Synergy refers to the use of the internal environment, i.e. the company's own production and management problems, and the external environment, i.e. the policies of the home and host countries, to cooperate with other companies for mutual benefit. Yankuang registered its subsidiary Yancoal Australia through a number of mergers and acquisitions prior to 2010, and obtained investment and financing from other companies by going public. In addition, Yankuang's expansion in Australia, including the acquisition of Newtec, Prima, Rio Tinto Hunter Valley and other properties, has expanded its influence in the Australian coal industry.

As a key resource at the national strategic level, mineral resources are strictly controlled by many national policies, so Yankuang Group has established a comprehensive mechanism for risk management and prevention of overseas investments. As a company, it should understand the laws, regulations and policy conditions of the host country, review the contracts signed with the Australian government or enterprises, review the conditions of port exports, be familiar with the responsibilities that our company should assume, and reduce the cost of non-negotiable payments through effective interpretation and control of contracts.

4.3 Legitimacy from Culture and Management Conflicts

As Australia is a representative country of developed economies, there is a disagreement with management models from emerging economies and cultural differences directly lead to management conflicts. From a strategic management point of view, Yankuang, as a company operating in Australia, needed a number of management professionals with knowledge of Australian policies and laws to join the company's management, and to operate mining projects with a team composed mostly of local people. Yankuang recruited local professional managers as Chairman of the Executive Committee and Chief Executive Officer, solving the problem of non-recognition of Australian management on the one hand, and avoiding the liability of not paying for it on the other. Yankuang's subsidiary in Australia, Yancoal, has established an Audit and Risk Management Committee, a Nomination and Remuneration Committee, a Strategy and Development Committee and a Health, Safety and Environment Committee as a means of implementing management decisions.

The Australian government's ecological and environmental protection system is more complete and stricter than that of the Chinese government. Therefore, Yankunag built a sewage water treatment plant when faced with a series of allegations of environmental problems of legality, and this investment consumed approximately RMB 9.5 million. In order to integrate into the Australian cultural environment, it invites the local government to participate in festivals or events of local culture or ethnicity, and in case of disasters, it carries out relief activities and makes donations to the community, thus increasing its legitimacy in Australia by extending its corporate social responsibility.

4.4 Legitimacy from Tax Law Differences

Around 2010, around the time Yankuang entered the Australian market, the mining industry became a pillar industry in Australia. The taxation system light on mining development is controlled

by the central government, with each state localities considering the actual situation of their state. First of all, companies with a mining license can only carry out mining and other related work on Australian soil; the super profit tax on mineral resources enacted in Australia exposes companies to a 40% tax on resource profits.

Yankuang faces significant differences in taxation as it moves from domestic to overseas operations. Australia's income tax rate is 30% higher than China's 25%. The 7.5% resource tax is also much higher than China's 0.5%-4% resource compensation tax. Australia pays more attention to the protection of the ecological environment, so the sum of the various ecological taxes is also significantly higher than the amount of taxes Yankuang Group pays in its home country. As emerging economies are at a different stage of development to developed economies, the starting point for environmental protection mechanisms is different. Although China has become more and more concerned with the protection of its ecological system, the level of protection is still lower than that of the Australian government and Yankuang has been accused of legality because of the differences in the environmental system. Yankuang has to deal with the resource super-profit tax enacted by Australia when operating in Australia, and also employs a large proportion of national workers as required by it in order to increase employment in the host country.

High taxes lead to unsatisfactory corporate income and Yancoal needs to reduce its tax bill through reasonable and legal tax avoidance. Yancoal took advantage of the tax consolidation policy in the Australian tax code to reduce Yancoal's tax bill in Australia by paying taxes on subsidiaries and parent companies under one name, and by reducing the income of mines with profits by mines with losses.

Table 2. Yankunag of legitimacy and countermeasures

Legitimacy concerns	Countermeasures	Suggestions/Insights
1Financial legitimacy (high gearing, high mining costs).	Financial integration and technological breakthroughs in Australia for Yankuang Group.	Risk sharing by acquiring fewer shares, or not acquiring 100 percent of the shares.
High take-or-pay expense.	Synergistic solution to take-or-pay.	Familiar with local laws and regulations, strict interpretation of contract terms.
Culture and management conflicts.	Integration of culture, management hiring and corporate social responsibility.	Establishment of a locally adapted organizational framework for operational cooperation with review bodies.
The legality issues arising from the imposition of a super-profit tax on mineral resources and other tax law differences in Australia.	Reasonable tax avoidance.	By being familiar with the local laws and hiring a professional project team to give the business tax planning, reasonable and legal tax avoidance will increase the revenue of the business.

5. Conclusion and Discussion

Through theoretical studies of institutional theory, legitimacy perspectives, legitimacy strategies, and the reduction of multiple cases, this paper matches the legitimacy problems encountered in three major M&A acts of organizations with the responses of organizations when faced with these legitimacy problems, and thus provides certain lessons for the majority of companies, based on a review of a large body of relevant literature.

Yankuang encountered four main legitimacy problems when launching its internationalisation in the host country of Australia, where it encountered a high level of legitimacy allegations. The unreasonable financial structure of the company, the lack of understanding of the tax laws of the host country, the high cost of paying without negotiation, the difference in management culture and the difference in environmental protection philosophy all contribute to the current situation in Australia where Yankuang has difficulty operating productively. Australia is a developed economy with a high degree of legal sophistication. The use of accounting and law firms to regularly review financial

structures and update laws is one of the most important tools to improve the company's business environment. Changes in management practices due to cultural differences need to be decided after Yankuang has fully understood the Australian culture and customs. Meeting local employment rates and hiring local executives are ways to reduce legality issues.

The conclusion of this paper summarizes the responses of enterprises by summarizing several responses mentioned in the article. In addition, the establishment of diplomatic relations between the home country and the host country, and whether the interests of the home country and the host country are aligned can be used as a reference when enterprises should conduct production and business activities in the host country. Future research can search for empirical studies on such cases to explore whether the alignment of interests will facilitate the internationalization process of enterprises.

When companies conduct production and business activities in host countries through cross-border M&A, management systems are crucial to the long-term development of the companies. Paying attention to political affiliation with the government and political affiliation with stakeholders has a catalytic effect on promoting corporate legitimacy, and future research can explore whether there is a positive correlation by collecting such data pain through empirical analysis.

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