

CASE STUDY

Foreign Companies in China Under Attack¹

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While China is still a very attractive and growing market for foreign businesses, a number of prominent companies are experiencing a sharp increase in problems while operating there. This was confirmed by the AmCham China Business Survey in 2014, which indicated that 60 percent of members feel less welcome than before, up from 41 percent a year ago. Their member firms report continuing challenges, including rising labor costs, inconsistent application of laws, confusing information, pressure from government-owned departments, political tensions, and slowing growth. In addition, a number of targeted attacks on foreign firms have deterred many European and U.S. firms from either new or increased investment in China.

In targeting technology companies through an antitrust investigation, China's National Development and Reform Commission concluded that the U.S. chip manufacturer Qualcomm had used monopoly tactics to set preferable licensing fees. The move was seen as giving preference to local companies, and the U.S. Chamber of Commerce has accused the Chinese government of protectionism and violating its commitments according to the World Trade Organization, which China joined in 2001. Microsoft was also the subject of yet another investigation in early September as Chinese officials made unannounced inspections of Microsoft's offices in Beijing, Shanghai, Guangzhou, and Chengdu. This move followed a purchasing ban on Microsoft's Windows 8 PC software in May by the Chinese government, supposedly over security concerns following the revelations of spying by the United States made by Edward Snowden.

Targeting other industries, the U.S. food processor OSI Group, supplier to a number of fast-food chains in China for over 20 years, was accused of using expired meat. Chinese regulators and persistent reporting of alleged problems on state media put a sudden halt to OSI's operations. The authorities closed down the plant, and restaurants such as McDonald's and Burger King cancelled further orders with OSI. While there may have been a problem, the company was treated very harshly given that no test results were given and there were no reports of illness from the OSI products.

Chinese regulators have been targeting various industries, as well as technology and food processing, including pharmaceuticals, car companies, and in particular, high-profile companies. The U.S. Chamber of Commerce has accused China of using the antimonopoly law to force foreign companies to cut prices. Mercedes-Benz staff, for example, were shocked when ten men from the antitrust investigators from China's National Development and Reform Commission (NDRC) roughly entered the company's east China sales office near Shanghai's Hongqiao international airport and subjected employees to intense questions for ten hours, rifling through the offices and demanding data and other information. More and more foreign companies have been subjected to early morning raids and had their desks, computers, safes, files, and so on inspected and "evidence" taken away, often downloading data from the companies' computers. Legal rights typical in Europe and North America are not acknowledged in China, and information is difficult to acquire about the processes there. It seems that China's antitrust enforcement agencies, the NDRC, and the State Administration for Industry and Commerce (SAIC), has become increasingly aggressive in seizing all evidence that could give them leads to other companies for antitrust violations or corruption.

For their part, the Chinese authorities claim that the investigations are to keep competition fair and to protect consumer rights. However, often the investigators advise foreign companies not to seek legal advice; in addition, European companies reporting to the European Chamber of Commerce claim that they have been intimidated into accepting punitive measures without requesting a court hearing. In fact, 61 percent of European companies that have a long tenure operating in China now say that doing business there is getting more difficult.

A number of Western firms blame poor regulation in the supply chains and stricter imposition of regulations than on Chinese firms. As a result, firms such as Walmart and others involved in food have set up their own supply sources and implemented their own inspection and oversight of their supply chains. These moves, however, raise the overall costs of their products.

While there are many challenges for foreign companies operating in China, the activities described here are blatant and have resulted in a considerable decline in firms wanting to operate there, according to the AmCham survey. The survey concluded that further deterioration of the investment climate would harm ventures and linkages among countries for some time.

Case Questions

- 7-12.** What factors do you think are behind these events? Do some research to find out whether there have been more such problems since this writing. Is it just American companies that are being targeted?
- 7-13.** What can firms currently operating in China, or considering investment there, do to lessen the likelihood of these problems for their managers?