

FDI Environmental Compliance: Incorporating the Disclosure Process for MNEs into Chinese Environmental Legislations

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ABSTRACT

Environmental Pollution during the Foreign Direct Investment (FDI) process is common and frequent. Host states often find it unfeasible to seek remedies by the dispute. Therefore, a trend of shifting from remedy to prevention has been observed in the recent legal reform of environmental protection. To prevent pollution in advance, a higher level of transparency in MNEs' operations is needed. Specified in China, the current Chinese regime is weak in both environmental and corporate law perspectives. The current legal system for environmental protection lacks specific guidelines for environmental policies and enforceability of environmental provisions in securities law and the supervision of Foreign-Funded Enterprises. Incorporating the review process into Chinese legislation could bring more reasonable and efficient legislation and strengthen supervision over MNEs environmental compliance. This passage adopts comparative analysis as its principal research method, accompanied by literature analysis, to introduce problems of current Chinese Environmental Compliance Disclosure Regime, then analyze environmental compliance disclosure regulations in developed countries, mostly focused on EU and its member states as legislation reference. This passage further discusses the possibility of incorporating the environmental compliance disclosure regulations into Chinese domestic law. It is concluded from three aspects: the broadening of scope, the expansion of object, and the enforcement of the disclosure obligations.

Keywords: *Environmental Disclosure, Chinese Environmental Law, Environmental Compliance.*

1. INTRODUCTION

Since thirty-three MNEs being blacklisted in 2006 by China for pollution [1], numerous Multinational Enterprises (MNEs)' Chinese branches have raised their environmental compliance standards and resulted in less pollution compared to the local Chinese enterprises for now [2]. However, a chain reaction arises with the renovation of the new Chinese foreign investment law, environmental law, and securities law and regulations, leaving the MNEs in the "blind spot" of the disclosure supervision regime. MNEs, after transiting either from Wholly Owned Foreign Enterprises (WFOE) or Joint Ventures (JV) under the former foreign investment law regime to limited liability corporations [3], will not be obligated to apply the relatively high standard of environmental disclosure regulated in Chinese securities

regulations. The current Chinese environmental law fails to set out a clear standard of environmental compliance disclosure regarding its subject and disclosure content.

In a comparative view, ever since the UN Guiding Principles on Business and Human Rights has been unanimously endorsed by the UN Human Rights Council on 16 June 2011 [4], a bold ESG regulatory regime has been established in Europe in the past 10 years through the combination of a series of hard laws and soft regulations, containing the Non-Financial Reporting Directives in 2014 [5], Shareholder Rights Directive II in 2017 [6], Reports by the Task Force on Climate-related Financial Disclosures since 2017 and Disclosure Regulation in 2019, etc. Unique advancements can be seen from the regulations mentioned above, such as incorporating the climate change impact into disclosure

content and requiring all entities with over 500 employees to become the subject of disclosure [7].

Environmental compliance disclosure is vital for the Chinese government to supervise the enforcement of domestic environmental regulations, make further effective policies, and maintain a sustainable environment through mitigating corporate pollution risk in a pro-active manner [8]. Therefore, a comprehensive and detailed environmental compliance disclosure regime is urgently needed. This goal could be realized by referring to the existing European legislations and combining the domestic regulations.

In the following parts, this article first gives a brief introduction to the Chinese environmental disclosure process. Chapter 3 then moves to a detailed introduction of the global environmental disclosure process, which combines the international and several national environmental laws. In Chapter 4, this paper further illustrates the possibilities and challenges of applying the environmental disclosure mechanism to Chinese domestic law.

2. THE CALL FOR RENOVATION: PROBLEMS OF THE CHINESE ENVIRONMENTAL COMPLIANCE DISCLOSURE REGIME

In the following paragraphs, this passage will mainly summarize the current Chinese legislation regarding environmental compliance disclosure.

2.1. China-signed International Investment Agreements (IIAs)

China-signed IIAs have not included any specific disclosure regulations either towards countries or investors. Therefore, a sudden application of a new environmental compliance disclosure process may be considered harmful for investors and thus constituting a violation of the IIAs. However, it is possible that the disclosure process could be justified through interpretation over preambles or environmental exception clauses in certain IIAs.

Courts and arbitration tribunals can base their interpretation of IIAs on the sustainable content in preambles when disputes regarding environmental compliance disclosure arise since the disclosure regime

and its enforcement measures may violate fair and equitable treatment or constitute indirect exploitation. The preamble of Canada-China BIT (2012) states that "Recognizing the need to promote investment based on the principles of sustainable development" [9], emphasizing the importance of sustainable development during the bilateral cooperation. The principle of sustainable development is also shown in the preamble of the China-Korea FTA [10]. These clauses serve as sources of textual interpretation and aim interpretation under Article 31 of the Vienna Convention on the Law of Treaties (VCLT) [11]. Therefore, the environmental compliance disclosure could be interpreted as a mitigation measure taken by the host state to protect the environment and maintain sustainable development.

It seems a more direct and convenient way to justify the disclosure process through interpreting the environmental exception clauses in China-signed IIAs. Environmental exception clauses exist in three China-signed IIAs, which are China-Mauritius BIT [12], China-Tanzania BIT [13], and China-Japan-Korea TIA [14]. When justifying the disclosure process, other than interpreting it as a measure "necessary to protect human, animal or plant life or health" or "is directed to [...] the protection of its environment", State Parties should also prove that the necessary measure is not "arbitrary or unjustifiable". According to the practice of the similar exception clause in GATT, "arbitrary or unjustifiable" is a subtle criterion and needs to be decided on a case-by-case level [15]. As a result, the disclosure process may still be considered unlawful.

Since current clauses in IIAs are hard to ensure the legality of the disclosure process, this passage suggests that China should develop a standard environmental disclosure clause and incorporate it into either IIAs or domestic legislation, to boost the environmental compliance of MNEs as well as other investors.

2.2. Chinese domestic legislations

The current domestic legislation only regulates the mandatory disclosure obligations for Key emission units. A mandatory specialized information disclosure regulation for listed companies has not been fully developed in the current domestic legislation. In this part, this passage summarizes the four problems of the current disclosure regulations. Table 1 shows a timeline for disclosure regulations.

Table 1 Chinese disclosure regulations timeline

Name	Hierarchy of Laws	Effective Date	Validity Status
Environmental Impact Assessment Law (amended in 2018)	Law	2018.12.29	valid
Environmental Protection Tax Law (amended in 2018)	Law	2018.10.06	valid
Environmental Protection Law (amended in 2014)	Law	2015.01.01	valid
Law on Prevention and Control of Atmospheric Pollution (amended in 2018)	Law	2018.10.26	valid
Law on Promoting Clean Production (amended in 2012)	Law	2012.07.01	valid
Securities Law (amended in 2019)	Law	2020.03.01	valid
Measure on Public Participation in Environmental Impact Assessment	Department Rule	2019.01.01	valid
Measures on Self-monitor and Information Disclosure for Key Monitoring Enterprises (Trial)	Department Rule	2013.07.30	valid
Measure on Environmental Information Disclosure by Enterprises and Institutions	Department Rule	2015.01.01	valid
Guidance on Environmental Information Disclosure by Listed Companies (Draft for Soliciting Opinions)	Department Rule	2010.09.14	valid
Measure on Environmental Information Disclosure	Department Rule	2010.09.14	withdrawn
Administrative Measures on Information Disclosure by Listed Companies	Administrative Regulation	2021.05.01	valid
13 th Five-Year Plan for Ecological Environmental Protection	Regulatory Document (soft law)	2016.11.24	valid
Guiding Opinions on the Building of a Green Financial System	Regulatory Document (soft law)	2016.08.31	valid

Guiding Opinions on Environmental Protection and Management of Listed Companies	Regulatory Document (soft law)	2008.02.22	invalid
Announcement on Environmental Information Disclosure by Enterprises	Regulatory Document (soft law)	2003.09.22	valid
Guidelines on Environmental Disclosure for Listed Companies by the Listed Companies on the Shanghai Stock Exchange	Industry Self-regulation law (soft law)	2008.05.14	valid
Guidelines on Standard Operations of Listed Companies on the Shenzhen Stock Exchange (amended in 2020)	Industry Self-regulation law (soft law)	2020.03.01	valid

First, there is an underestimating of the precautionary role of environmental law. From the environmental law perspective, Chinese law mainly emphasizes the remedy of environmental damage, and pays less attention to the prior compliance disclosure. The PRC Environmental Protection Law emphasized in Article 6 that corporations "shall have an obligation to protect the environment and shall have the right to report on or file charges against units or individuals that cause pollution or damage to the environment" and repeat the principle of information disclosure in chapter 5. Article 55 is the only article applied to particular private sectors, which brings out the name "key emission units" without a clear definition or specific description [16]. The PRC Environmental Impact Assessment Law regulates the disclosure obligation of private sectors in Article 16 that all construction units should bear the responsibility to report the environmental impact of their construction programs to the Ministry of Ecology and Environment of the PRC [17]. However, this regulation limits the subject of disclosure to the "construction units", while the object to the "construction program". There is no other Chinese environmental law asking corporations to take on the responsibility to disclose the environmental impact of their activities.

Second, the current internal legislation lacks specific guidelines for Environmental Compliance when it comes to environmental policy. For example, the PRC Ministry of Ecology and Environment issued a policy in 2014 named "Environmental Information Disclosure Measures for Enterprises and Institutions" [18]. Even though the Measures aimed to ask all enterprises and institutions to disclose information related to pollution, it is filled with principles and lacks detailed guidance. For example, it only regulates that "Key emission units shall disclose the environmental information specified in Article 9 of these Measures within ninety days of the publication of the list

of key emission units by the competent environmental protection authorities" but failed to define the "Key emission units". There is no "list of key emission units" ever since the Measures came into effect. Moreover, a corporation or institution only triggers disclosure requirement when "pollution" occurs. The range of pollution is also not defined in the Measures. Thus, in 2017, the Ministry decided to make a new draft of this policy. However, the process is pending till 2021.

Moreover, the current internal legislation lacks the enforceability of environmental provisions in corporate and securities law. From the corporate law perspective, in 2008, the Shanghai Stock Exchange issued the Guidelines for Disclosure of Environmental Information of Listed Companies, stipulating that listed companies may disclose environmental information according to their own needs, meaning that no obligations are put on the companies [19]. In 2016, seven ministries and commissions jointly issued the Guidance on Building a Green Financial System, proposing to "gradually establish and improve a mandatory environmental information disclosure system for listed companies and debt-issuing enterprises" [20]. The Securities Regulatory Commission revised the Code of Governance for Listed Companies in 2018, requiring companies to disclose environmental information and other related information in accordance with other laws and regulations [21]. It can be seen from the above that Chinese corporate law and security law does not have "hard law" over corporations' disclosure.

Finally, the current internal legislation also lacks sufficient supervision of Foreign-Invested Enterprises. There is another flaw regarding disclosure regulations in Chinese corporate law. All securities laws and regulations mentioned in the above paragraph are towards companies limited by shares. However, when multinational companies entered China, all of them had

to follow the nullified Law of the PRC on Wholly Foreign-owned Enterprises or Sino-foreign Equity Joint Ventures and became WFOE or Equity Joint Ventures. According to the recently valid Foreign Investment Law, all Chinese branches of multinational companies have to shift to limited liabilities companies by 2025. As a result, even "soft law" in securities law regarding disclosure cannot be applied to these foreign direct investment entities. Therefore, information regarding environmental compliance conducted by foreign-invested corporations cannot be known by the administration and the public, making it impossible to analyze or supervise these entities.

3. A COMPARATIVE REVIEW: THE CURRENT WORLDWIDE ENVIRONMENTAL COMPLIANCE DISCLOSURE PROCESS

The global legislation regarding environmental compliance disclosure has been rapidly evolving since 2011, emphasizing the European Union. International and regional organizations and countries have applied different methods when defining the subject and object to disclosing and the enforcement in dealing with violations. In this part, this passage will mainly list and analyze the approaches of regulating the subject, object, and enforcement.

3.1. Subject to disclose

Two approaches are most frequently applied when defining the subject to disclose.

3.1.1. Scale of entities approach in French Law

The first approach is focused on the scale of entities, regardless of the traditional classification, such as State-owned or private. In the Grenelle II Act published by France in 2012 [22], the legislator requires "all state-owned or private companies with more than 500 employees or an annual turnover of 100 million euros or more" to disclose the related information. This is an innovative way for the government to measure the social and, more specifically, environmental impact that the companies could generate. Even though there are opinions that State-owned Enterprises (SOEs) are enjoying more competitive advantage than their privately-owned competitors, and thus should be regulated respectively, economic analysis results have proved that the external impact of an enterprise mainly relies on the scale of its operation, such as the number of its employees, the quantities of its projects and the amount of its investment, etc. [23]. Given this scenario, it seems more plausible to narrow down the subject of enterprises by their sizes. Moreover, a more comprehensive method is applied in the Grenelle II Act. It also stresses the need to include all subsidiaries of the

company during the disclosure. This regulation is aiming for a healthier corporate governance structure. Similar regulations can also be found in the Australian federal Modern Slavery Act [24], where all entities carry business in Australia with annual consolidated revenue of at least A\$100 million.

3.1.2. Industry-based approach in EU regulations

The second approach is industry-based. The EU Conflict Minerals Regulation deliberately defines the disclosure subject as "EU importers of tin, tantalum and tungsten and gold – plus their ores and concentrates and certain alloys" [25]. At the same time, the EU Action Plan on Financing Sustainable Growth regulates the disclosure obligation of asset owners, portfolio and asset managers, financial advisers of products such as investment funds, pensions funds, and insurance products offered in the EU [26]. What is worth mentioning is that when publishing industry-based environmental disclosure regulations, the EU legislations take a broader approach by including all substantial participants in the industry. Enterprises do not need to be considered as a player in the industry by their Articles of Associations. Still, they only need to conduct certain behaviors such as importing tantalum or operating an investment fund. In this way, a more precise and effective regime can be formed.

3.2. Object to disclose

Regarding the object to disclosing, multiple international and national practices can be seen since 2011.

3.2.1. Climate Change Impact in EU Practices

Governments and businesses alike ignore the influence of businesses on climate change. However, beginning in 2014, the EU Commission gradually added the impact of companies on climate change to the optional disclosure obligations. The EU's Non-Financial Reporting Directive (NFRD) was passed in 2014 to push large corporations to disclose their environmental concerns and solutions [27]. The NFRD then evolved into the Non-binding Reporting Guidelines in 2017 [28]. Then, in 2019, climate-related information disclosure was incorporated into the EU Commission's additional guidelines [29], with the goal of better fulfilling states' obligations under the EU Taxonomy Regulation [30], which takes a broader approach in defining the scope of disclosure object than any other country's legislation. Organizations covered by the NFRD are required by Article 8(1) of the Taxonomy Regulation to include information in their non-financial statements about the extent to which and how their activities are "associated with" environmentally sustainable activities. Non-financial undertakings are also required to disclose three

key performance indicators (KPIs) relating to environmentally sustainable activities under Article 8(2): turnover, capital expenditure, and operating expenditure. By 1 June 2021, the European Commission must propose a delegated act defining the content and presentation of the information released under Article 8 (including the methodology to be used).

The NFDR encourages companies to have a more responsible approach to business and to be more transparent, allowing investors, customers, and other stakeholders to assess large corporations' non-financial performance. Following the NFRD review, it's probable that the scope will be broadened, affecting a greater number of businesses.

Environmental protection, social responsibility and employee treatment, respect for human rights, anti-corruption and bribery, and diversity on company boards are among the five categories of disclosure objects under the NFRD. Companies may opt to disclose their practices by referring to national, European, or international guidelines such as the United Nations Global Compact, OECD guidelines for multinational enterprises, and ISO 26000 [31]. Until Now, the disclosure requirement is not mandatory.

As can be seen, the EU regulations include the climate change impact, a relatively new concept that has not been incorporated into the Chinese environmental protection regime.

3.2.2. Supply Chain Risks in Swiss Law

On 29 November 2020, Switzerland introduced a new ESG reporting and due diligence law, requiring enterprises to shift to the ESG-style reporting and apply the due diligence mechanism [32]. The law highly emphasizes the importance of supply chain risk in conflict minerals. This means that large corporations will have to conduct mandatory due diligence regarding conflict minerals to examine the safety of their supply chains in middle or high-risk areas.

What's more, large publicly traded Swiss companies and large financial institutions will also need to submit a yearly environmental compliance report to the government. The violation of the above regulations will constitute direct liability for companies.

3.3. Enforcement of the disclosure

According to the Environmental Protection Action of Swiss Law [33], the confederation enforces the information-disclosure-related regulations, and it may also require the cantons to carry out certain duties. When it comes to the specific enforcement of providing information, for the purpose of the enforcement, The Federal Council or the cantons may order that registers be kept on air pollution, noise and vibrations, waste and

its disposal, and the types, amounts, and assessment of substances and organisms, and that such registers be stored and made available to the authorities on request. Everyone shall provide the authority with the information required to enforce the Environmental Protection Action (EPA) and, if necessary, to conduct or acquiesce in the conduct of inquiries. If refusing to provide information to the competent authority or provides incorrect information, a fine not exceeding 20000 francs would be called. The violation of the new non-financial disclosure obligations mentioned above may also lead to criminal liability. The new provisions introduced by the Counterproject will, if adopted, punish anyone giving wrong indications in the reports required to be published or breaching the obligations of keeping and documenting the reports with fines of up to CHF 100,000 (in case of willful breach) or CHF 50,000 (in case of negligent breach) [34].

To ensure the implantation of the EU's environmental impact assessments, the EU has enacted a highly developed environmental citizen suit provision, which helps protect public participation and force companies from disclosing their environmental information. According to Article 6(1) and 6(2) of the 2003/4EC Directive [35], Member States shall ensure that any applicant who considers that his request for information has been ignored, wrongfully refused, inadequately answered, or otherwise not dealt with, has access to a procedure in which the acts or omissions of the public authority concerned can be reconsidered by that or another public authority or reviewed administratively by an independent and impartial body established by law. In addition, Member States shall ensure that an applicant has access to a review procedure before a court of law or another independent and impartial body established by law. The acts or omissions of the public authority concerned can be reviewed. In that case, any public concern, not only individual but also NGO can seek legal resources to force companies to disclose environmental information.

4. A STEP FURTHER: INCORPORATING THE PROCESS INTO CHINESE DOMESTIC LEGISLATIONS

China needs to consider the renovation of its Environmental Compliance Review System. One of the biggest problems of the current system is that it has too many gaps to regulate [36]. Information Disclosure Measures were first adopted in 2014, but most companies shall not hold the mandatory obligations for information disclosure.

Moreover, there are conflicts between the recently updated company law and foreign investment law and the environmental law, causing supervising loopholes for FDIs from foreign enterprises. As mentioned before, China's corporation disclosure regulations mainly

concentrate on Securities Regulations, given the huge impact and the great operation capability of companies limited by shares. However, when multinational companies entered China, all of them had to follow the nullified Law of the PRC on Wholly Foreign-owned Enterprises or Sino-foreign Equity Joint Ventures. They became WFOE or Equity Joint Ventures, and according to the recently valid Foreign Investment Law, all Chinese branches of these multinational companies have to shift to limited liabilities companies by 2025 [37]. The transition will lead to corporations fleeing away from their disclosure duties.

Although there are drafts delivered from the National People's Congress Standing Committee (NPCSC) and Ministry of Ecological Environment (MEE), and some of them seem to be effective and reasonable once accepted by the authority in the future, such as the Administrative Measures for the Trading of Carbon Emission Permits, when the drafts will come into effect is uncertain. As a result, it still needs time to prove the efficiency of the current trial implementations and specified regulations stipulated by provincial and municipal governments.

On the bright side, the flaws of the current regime create perfect timing for China to reshape its disclosure regulations. Both the Belt & Road initiative and other international agreements during negotiation, such as the CPTPP and the EU-China Comprehensive Agreement on Investment, offer China opportunities to readjust its environmental regime [38].

In the following paragraphs, this passage will compare Chinese environmental disclosure regulations to the above-mentioned global legislations and propose changes in Chinese domestic law. The proposed changes are listed as follows:

4.1. Clarify the responsible subject of environmental disclosure

When defining the disclosure subjects, the current Chinese law seems rigid considering it either includes "all enterprises and institutions", making it an impossible and huge burden to the small monitor authority, or only regulates companies by limited shares, ignoring all branches of multinational corporations in China.

This paper purposes that to add foreign-invested corporations and branches of MNEs to the disclosure subjects, Chinese legislators should stop regulating private entities by the legal type and should take the French approach by referring to the number of its employees, the number of its annual turnover, the scale of its constructing project, the annual emission quantity, etc.

4.2. Specify the object of the disclosure

4.2.1. The current object of the disclosure

Adapting from the current Chinese disclosure regime mentioned in Chinese Security Law and Environmental Law, the general information that every disclosure subject should disclose are as follows [39]:

(1) Basic information of the annual construction projects, including the basic situation of the construction project, the main content of production and management services, products and scale, etc.

(2) Annual discharge information, including the name of the main pollutants and characteristic pollutants, emission mode, the number and distribution of emission ports, emission concentration and total amount, exceedance of standards, as well as the implementation of pollutant emission standards, the total amount of approved emissions.

(3) Annual construction and operation of pollution prevention facilities.

(4) Environmental impact assessment of construction projects and other administrative permits for environmental protection.

(5) Emergency response plans for environmental incidents.

4.2.2. Adding the climate change impact to the object

China's environmental protection intention is not originated from global warming or sustainable development, but the haze control and rural land protection [40]. As a result, the above general information does not include the climate change impact, a relatively new concept in Chinese environmental law. However, as international cooperation continues to deepen, China starts to accept its obligation under the Paris Agreement and other international agreements [41]. What's more, even though most of the international practices of building a mandatory climate change impact disclosure system failed in the past 10 years due to the weak government enforcement and hardness of international cooperation, international communities succeeded in building voluntary climate impact disclosure system [42]. With the strong administrative power and the effective Belt & Road initiative, China is in the perfect position to make mandatory climate change disclosure possible.

This paper combines the climate impact disclosure requirements from the Task Force on Climate-Related Financial Disclosures and the Chinese Carbon Tax & Emission Allowance regime [43]. Considering the aim of mandatory disclosure is to let government acquire enough information to mitigate potential risks, while

disclosing too many details of the corporates' strategy may interfere with its following commercial activities, the scope of disclosure content regarding "Strategy" should be limited from the Task Force. Moreover, the metrics and targets should be in accordance with Chinese national standards. Therefore there's no need for corporations to disclose the metrics method. The climate impact disclosure information should be designed as follows:

(1) Governance

a. Describe the organization's governance around climate-related risks and opportunities.

b. Describe management's role in assessing and managing climate-related risks and opportunities.

(2) Strategies

a. Describe the carbon-neutral plan and deadline of the organization.

b. Describe the annual projected and actual carbon emission allowance and the projected carbon emission allowance of next year.

c. Describe the resilience of the organization's strategy, considering different climate-related scenarios, including a 2°C or lower scenario.

(3) Risk Management

a. Describe the organization's processes for identifying and assessing climate-related risks.

b. Describe the organization's processes for managing climate-related risks.

c. Describe how processes for identifying, assessing, and managing climate-related risks are integrated into the organization's overall risk management.

4.3. Establish a system in which law enforcement and justice cooperate

A combined civil, administrative, and criminal enforcement approach should be applied to strengthen the disclosed system. The enforcement methods should be divided into the international level and domestic level.

Enforcement at the international level should focus on trade sanction articles. China should incorporate trade sanction articles as remedies to violation of environmental protection obligations into following IIAs. Firstly, experience in CPTPP could be referred to. In CPTPP, trade sanction is available when a country violates its environmental protection obligations [44]. It is also plausible for China to add trade sanction articles into IIAs as remedies. Therefore, a joint effort to sustainable development is guaranteed. Parties of BITs are urged to meet their environmental obligations and are required to commit to high standards of public participation. It would also be much more convenient

when the host state and the home state regulate the MNEs together through domestic law. Through sanction articles, China can bring other developing countries to the environmental protection campaign, and the power of supervising corporations is reinforced.

Enforcement at the domestic level may contain compensatory damages and punitive damages. According to the PRC Administrative Law, the penalties of individuals violating disclosure regulations in China are limited to ¥200,000 [45]. By adding punitive damages and raising the bar of penalties, companies will remeasure the cost of refusing to disclose. Moreover, the antitrust enforcement experience can also be referred to. Instead of regulating a specific number of penalties, the Ministry of Environment may choose to define penalties calculated as a percentage of annual corporate revenue [46].

5. CONCLUSION

Multinational Enterprises frequently cause environmental pollution in host countries during investment activities. Reforms in both international investment law and home states' domestic law are urgently needed. However, most states hold a conservative attitude towards reforms of existing laws regarding environmental protection, whereas a review process for the host state seems to be more applicable and feasible.

Internationally, disclosure duties have been made relevantly quite specific, including the broadening range of disclosure contents and the inclusion of MNE as a subject of disclosure.

Specific to China, given the reason that current company law and environmental laws both fail to effectively regulate the MNEs' liabilities in the prior review process, because of the lack in both subject and object of information disclosure, amending the Company Law and Environmental Protection Law, as well as IIAs to incorporate the review process into domestic law, is evident to prevent the potential risk of damage to the environment and thus protect it.

In terms of the methods of legalizing the process to Chinese domestic law, the Company Law needs to be amended to expand the scope of subjects, from listed companies to all types of companies, making them liable for fulfilling their environmental information disclosure obligations. Moreover, the environmental protection law should also be amended to comply with the Company Law, ensuring companies that do not directly emit pollutants shall also disclose environmental information, including climate change information, and shall be punished if not fulfilling the obligations. Based on the above recommendations, the regulations of environmental information disclosure will be improved,

and accordingly, prevent the environment from being damaged by MNEs in advance.

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