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Trade route revival

China's rise as a global investor has had a massive impact on countries around the world as they seek to diversify their sources of foreign direct investment (FDI), especially in critical, capital-starved sectors such as infrastructure, energy, resources and construction.

The biggest sectors for Chinese investment have been energy, infrastructure and construction. Transport is a pillar for construction, with rail projects getting the most money and roads seeing the most deals.

Chinese investment in Asia and Oceania has risen steadily from USD5.7 billion in 2005 to USD60.5 billion in 2020, and the ambitious Belt and Road Initiative (BRI) has been the big engine of China's outbound investment.

Chinese investments under the BRI have remained robust, although flat on a year-on-year basis through the pandemic, with the total value of contracts signed by Chinese enterprises reaching USD59.5 billion in 2021 compared with USD60.5 billion in the previous year, according to data from the Ministry of Commerce (MOFCOM).

Until 2020, Asia and Africa accounted for more than 80% of the business, with 56% and 26.6% of the newly signed contracts, and 57.2% and 24.6% of the completed turnover, respectively.

In 2021, Asian countries received 35%, the largest share of Chinese investment. However, African and Middle Eastern countries picked up an increasingly large share of Chinese engagement, up from 8% in 2020 to about 38% in 2021. Arab and Middle Eastern countries, particularly, increased investment by about 360% and construction engagement by 116% compared to 2020, MOFCOM data show.

President Xi Jinping, in a 2017 address, noted: "In pursuing the Belt and Road Initiative, we should focus on the fundamental issue of development, release the growth potential of various countries, and achieve economic integration and interconnected development and deliver benefits to all."

Central Asia, the Middle East and North Africa have been key geographic areas of strategic interest for both the central government and businesses. Foreign contracted projects covered a wide range of sectors including transport construction, general construction, power engineering and the petrochemical industry as the main fields, and newly signed contracts and completed turnover both accounted for more than 75% of the total.

China is also an important strategic ally to countries in the region, given that it is one of the largest consumers of resources and oil, which are economic mainstays of these economies. While several of the countries in the region embraced the BRI, others have sought to maintain strong business and government-to-government relationships with China.

Central Asia

The Russia-Ukraine war in 2022 and associated Western sanctions imposed on Russia have developed new dynamics in the region.

"China is effectively the only alternative to Russia, therefore, China becomes even more important for countries of Central Asia as the major market for export of goods from Central Asia (e.g. oil, gas, and agriculture projects) and major investor, lender and supplier of goods and technologies," says Marina Kahiani, a Kazakhstan-based partner at law firm GRATA International.

"Chinese businesses, both SOEs [state-owned enterprises] and private companies have even more opportunities in the energy sector including renewable energy, in the oil and gas sector, in public infrastructure (airports, roads, etc.), in the financial sector, in agriculture and industry in Central Asia," she notes.

"The BRI scaled up China's investment in infrastructure in Central Asia, however so far Chinese banks and companies have neglected the public-private partnership (PPP) as a specific mechanism available under the current legal framework, mainly because Chinese SOEs opted for special arrangements with local governments instead of participating in open tenders. Lately, however, Chinese companies have started considering PPPs."

Saniya Perzadayeva, the managing partner of Unicase Law Firm in Kazakhstan, says the transit role of Kazakhstan may strengthen as political instability worldwide and sanctions may pave the way for unprecedented amounts of goods being transported through the country.

"As Kazakhstan goes towards low-carbon development and green economy policies, we assume investments into the renewable energy sector will be welcomed by the Kazakhstan authorities," says Perzadayeva. "In addition, Kazakhstan has untapped potential in the agricultural sector, and further investments may provide for the export of agricultural goods into China and beyond, diversifying Kazakhstan's economy."

Chinese companies have outstanding experience in infrastructure development in Kazakhstan as investors, clients and contractors, and China and Kazakhstan have long-term mutual economic relations based on a shared commitment, she adds.

Perzadayeva says her firm has identified four sectors of increased attention for investors in 2022 – healthcare, big tech, solar power and IPOs. The most interesting legal practice areas in Kazakhstan would be finance, trade, energy and natural resources, oil and gas, nuclear energy, transportation and logistics, fintech, crypto, and IT.

The gradual shift towards PPP projects has come at a time when all governments in the region have enacted enabling legislation. While Tajikistan has had a PPP law since December 2012, Kazakhstan's PPP law dates back to October 2015. Uzbekistan adopted PPP legislation more recently in May 2019, while Turkmenistan and Kyrgyzstan introduced legislation in June and August last year, respectively.

"Public-private partnerships have an adequate institutional and legal framework in Kazakhstan," says Perzadayeva. "Chinese investors do not normally use public-private partnership mechanisms as investment tools compared to loans and direct investments. Therefore, implementing public-private partnerships can be viable long-term tools for infrastructure projects in several sectors of the economy,"

Yelena Manayenko, a partner and head of M&A at AEQUITAS law firm based in Almaty, Kazakhstan, says: "In our opinion, currently the most interesting and actual practice areas for Chinese companies in Kazakhstan are subsoil use, energy, project financing and investment, and M&A."

Arman Bigazin, a partner at Haller Lomax in Nur-Sultan, Kazakhstan, points out that traditionally Chinese companies have been interested in subsoil use operations in Kazakhstan such as oil and gas exploration and production, and acquiring companies with subsoil use contracts.

Of late, however, "there has been some interest in banking services – the Bank of China and Industrial and Commercial Bank of China have subsidiary banks in Kazakhstan," he adds. "However, we think they mainly work with Chinese companies operating in Kazakhstan and facilitate export-import operations between the two countries.

"Recently we saw the relocation of Chinese crypto-mining business into Kazakhstan. However, due to regulations imposed by the Kazakhstan government, the businesses are now facing hurdles."

Perzadayeva says: "As Kazakhstan emerged as a top destination for crypto miners, Unicase was approached by several mining companies from China seeking legal advice for the operation of crypto farms in Kazakhstan. In response, we launched a practice dedicated to the comprehensive legal advisory of crypto enthusiasts seeking business opportunities in Kazakhstan."

Uzbekistan is another regional economy that has seen increasing Chinese investor attention. Uzbekistan has announced plans to bring the annual volume of Chinese investment to USD5 billion by 2025.

In the past five years China has ranked as the biggest trading partner of Uzbekistan, with a share of 17% to 20% of the country's total annual trade. In total in the past five years, Uzbekistan has received investment worth more than USD4 billion from China.

Ilkhom Azizov, a partner at Azizov & Partners in Tashkent, the Uzbekistan capital, says there has been a visible increase of Chinese investment in the economy of Uzbekistan in the past few years. "At the beginning of this year, there were more than 1,800 enterprises with Chinese investment, of which more than 10% of enterprises are enterprises with 100% Chinese capital," says Azizov. "China's share of Uzbekistan's exports is about 13%, which is mostly agricultural products, minerals and natural gas.

"The main investment activities of enterprises with Chinese capital are the production of building materials (including cement, glass and facing materials), oil and gas, chemicals, pharmaceuticals, textile industries, transport, construction and telecommunications. Chinese companies are investing in areas such as telecommunications and industry, as well as in agriculture, water management and logistics."

In recent years, dozens of major projects have been completed with the help of Chinese investment in Uzbekistan, including: three branches of the China-Uzbekistan gas pipeline; Peng Sheng industrial park in the Syrdarya region, with over 30 projects; LT Textile International textile factories in Karshi and Andijan textile industrial zone; Ming Yuan Silu glass factory in Jizzakh; and new cement plants such as the Huaxin Cement Jizzakh, and Farg'ona Yasin Qurilish Mollari.

Chinese companies are active in credit financing in the country as well, says Azizov. "Areas of credit financing include highways (auto and railway), power lines and facilities generating electricity," he says. "The projects are implemented with the involvement of Chinese contractors and labour, equipment and materials. Chinese companies are often involved in projects financed by international financial institutions."

In Tajikistan, **Alisher Hoshimov, a partner at** Centil Law Firm in Almaty, says Chinese investments are mostly forwarded to mining, agriculture and infrastructure sectors of the economy. "There is also a significant increase in direct investments to local companies and projects," says Hoshimov.

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