# M&As in India and China, Inorganic growth to soupcon the Organic Skies- from a Legal-Managerial Lens and its impact on global economy

E-conomy: Global Solutions for Recovery

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**Abstract** – The great Chinese General and Military Strategist Sun Tzu's observation that 'Opportunities multiply as they are seized', perfectly describes the unbundling opportunities for the world through amplified interaction amongst the Rising Asian Tigers. With the sun shining on the horizons of the two Asian Goliaths and the world looking up to them for a new economic dawn, the paper contemplates as to why notwithstanding their heightened global M& A, the commotion amongst Corporations in the two countries is minimal. Are different legal systems and cultural backgrounds hindering the marriage between the 'two most eligible' partners or is it simply a 'un-conscious' choice, that deserves deliberation. Accordingly, the paper discusses how the 'cool economic breeze' from increased M&A across the Himalayan Border can prevent global meltdown, the multiplier effect it will have on global recovery and the remarkable advantages that the world and the two economies in particular can leverage from each other's competitive advantage in manufacturing and services sector respectively in terms of Economies of Scope, Scale and Technology and how the unswervingly 'neutral' Indian Corporate 'String of Pearls' Approach can bring the two distant 'neighbours' together and catapult the world economy to acme of growth like the proverbial phoenix.

## Introduction

If numbers can speak, then these numbers definitely speak loud and clear. Consider this, the present population of the world is about 6.5 billion; the population of the two most populous nations viz China and India together accounting for 2.5 billion that is about 37% of the world population. If we add to this headcount, the statistics of the other two highly populous Nations in the Indian subcontinent viz Bangladesh and Pakistan, we have 41.9 percent of the world population. Also consider these numbers in the light that they have the largest population at the Bottom of the Pyramid. Furthermore, notwithstanding the average growth for 2008 pegged at 3.7% for the world economy, 1.4 percent for the developed world (IMF, 2008), China and India grew by 9 %( 2008, National Bureau of Statistics, China) and 7.6 %( Q2, 2008, National Council for Applied Economic Research, India) respectively. These number are not mere figures, they are an invitation for action and a goldmine for policy-makers and Corporates alike to help recover the world economy from its present recession blues deepening into suicidal depression tendencies. Thus, the need for the two Asian Tigers to come together and leverage from one another's strength in Manufacturing and Services respectively and as it seems, to follow an alternative route to growth viz. from following the Western model of Development, the time has come to 'leapfrog and innovate' through Sustained Resource Allocation(Prahalad, 2004). China's rise in manufacturing has been meteoric. Compare this with India's unprecedented ascendance in the services sector. The important question is how can this be used as an asset, what are the legal & managerial impediments to the vision and in the light of this how do we build a 'sustainable framework for poverty alleviation' of the world.

## Body: A case for 'inorganic growth'

### A. *Ease of Doing Business*

***Table 1: Ease of Doing Business, 2008***

| *Economy* | *Ease of Doing Business* | *Starting a Business* | *Dealing with Construction Permits* | *Employing Workers* | *Registering Property* | *Getting Credit* | *Protecting Investors* | *Paying Taxes* | *Trading Across Borders* | *Enforcing Contracts* | *Closing a Business* |
|---|---|---|---|---|---|---|---|---|---|---|---|
| ***Singapore*** | 1 | 10 | 2 | 1 | 16 | 5 | 2 | 5 | 1 | 14 | 2 |
| ***China*** | 83 | 151 | 176 | 111 | 30 | 59 | 88 | 132 | 48 | 18 | 62 |
| ***India*** | 122 | 121 | 136 | 89 | 105 | 28 | 38 | 169 | 90 | 180 | 140 |

As can be seen from the Rankings in terms of ease of doing business, the two Asian giants rank very lowly when compared with their modest in size, agile in operations neighbor Singapore that leads the list. Given the size of the Hidden Dragon and the Sleeping Elephant & infrastructural bottlenecks, we look at an alternative preferred approach viz inorganic growth to soupçon the organic skies.

### *B. Ways to Grow Inorganically*

In life what sometimes appears to be the end, is actually a new beginning. As with all human challenges, so with the current recession. ChIndia (China and India) through increased interaction amongst themselves and with the world, have much to benefit from and offer in the present turmoil. Agriculture, Dairy, Food Processing, Auto, Pharma, Healthcare, Machine tools and the ubiquitous Informational Technology to name just a few. An interesting case study how this advantage can be beneficially-leveraged through inorganic growth is that of Vancouver-based MIV that successfully made an acquisition of Suzhou-based Chinese medical devices manufacturer ‘Vascore Medical’ and the Gujarat-based Indian designer and developer of interventional cardiology products ‘Biosync Scientific’. MIV thereby successfully implemented its vision of leveraging from strong R&D(Research & Development) capabilities of the acquired Indian firm and Vascore’s manufacturing know-how and product permits & powered by the ChIndia phenomenon, is well on its way to realize her dream of commanding a sizeable share of the international US$8 billion international cardiology market and in the process provide the much needed life-saving technology to those in the developing world.

India and China have their operational efficiencies at different levels in the value chain. If India is primarily services driven, China is manufacturing driven and has a negligible share of IT(Information Communication) led services in its GDP(Gross Domestic Product). Chinese have an advantage in terms of ‘production’ & ‘manufacturing’. If India has to offer global marketing, fluent English and global know how, thanks to her ‘always on the prowl’ managerial talent and cutting edge technologies, the Chinese have their advantage in ‘mass production’ at the most competitive rates and world-class ‘infrastructure’ to support R&D initiatives.

In the words of the Director of Sundaram Fasteners, this is not so much because China is cost-wise competitive. However, the policy making in China has been such that it has played a catalytic role in the creation of ‘Geographical Clusters’. This is the lesson for policy-makers – Competitive advantage is not some natural resource or cheap labour, however, it is one that is developed and one that is sustainable. The key is to bring synergies and benefit from these operational efficiencies at different points in the value chain. More particularly in the ChIndia context this can be through M&As(Mergers & Acquisitions), which are the most preferred ways to grow inorganically.

Thus, coming together of the two tigers separated by the Himalayas is in the interest of both and the world at large, as it gives access to huge markets and creates a vibrant economy. The Manufacturing based industries can realize the cross-border synergies like procurement, production and sharing back-office services. China’s TCL, which is the world’s largest producer of TV tubes leapfrogged momentously by making an inorganic growth in the Indian market. Interestingly, when the demand of TV tubes was falling everywhere, TCL found India to be the only growing market and it is anticipated that the demand in India may soon surpass China’s, to become the largest market for TCL. Similarly, India with her huge IT industry and burgeoning population has an ever-increasing voracious demand for Computer and related equipments, Lenovo foresaw her as a Shinning Star in the scheme of BCG (Boston Consulting Group) Matrix, when it made an acquisition of IBM's Personal Computer Division. These benefits that perceptibly translate into lower production costs due to increasing 'economies of scale' can be transferred to the consumer in the form of lower prices, thereby creating a value for those at the bottom of the pyramid. Furthermore, initiatives like Indian Tobacco Company's(ITC) e-choupal and Amul of direct procurement from those at the bottom across the countries can remove the middlemen and create significant cost advantages and also in the process a *fortune for the bottom of the pyramid* (BOP). We revert to this on our discussion on Sustainability and Strategic Corporate Social Responsibility (CSR).

Similarly, the Indian Competitiveness in the Services Sector, Technology and R&D can be leveraged to create synergies to work together and have a Multiplier effect across the region. To illustrate China is the world's fastest growing Wireless Market. Also China is the window to South Korea which is Asia's third largest economy and Japan which is the world's second largest market for IT. Indian giants like Reliance Infocomm, Infosys, Wipro and Tata Consultancy Services(TCS) can offer value in terms of significant cost advantages and value add in IT sector. Due to the presence of 'network effect' in technology- enabled services such as telecom and wireless services, they are marked by 'economies of scale in consumption'. Thus, as the consumer base increases the value add to each individual consumer also increases. Thus, the e-technologies so developed can be subsequently dispersed across the region to benefit and in the process raise the standard of living. Moreover, Financial Services and telecom are the two most celebrated ways to participate in and contribute to a Nation's economic growth.

### C. *A Case for M&A*

The primary reasons why firms merge & acquire is to have diversification, growth, corporate control, synergy, cost advantages, market control or market share, breadth of product range, technological edge, globalization, access to otherwise inaccessible source and markets, lower gestation period compared to the time in Greenfield Projects, Managerial Capability and Shareholder Value(source www.ncmpl.com ). More particularly, in the Asian context, the major motivations to go for M&A are to consolidate the position in the existing market, followed by the impetus to move into a new market and new sector (see Fig.1). With such an impulse, the ChIndia story is surely a beloved proposition.

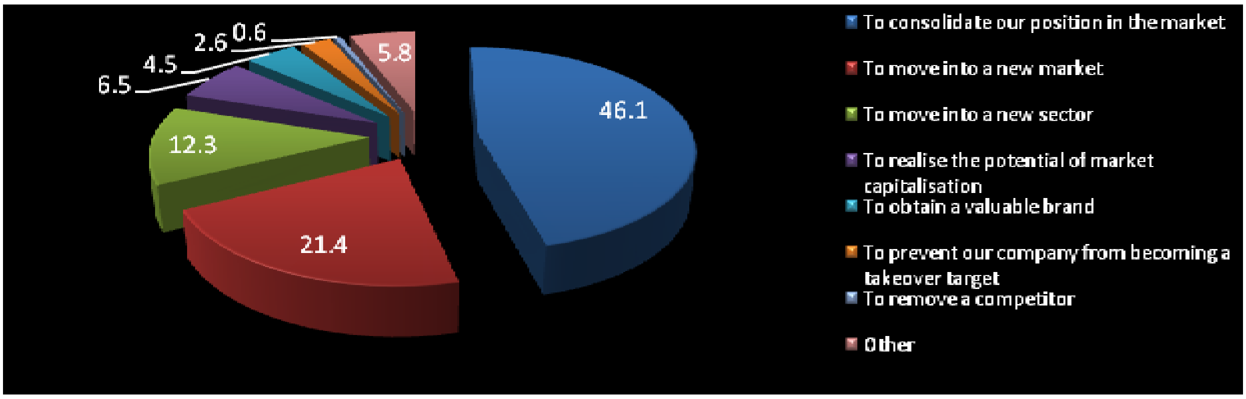


*Fig.1 Main Goal in an M&A Transaction (source: Economist Intelligence Unit)*

The only meaningful concept of competitiveness at the national level is productivity (Porter 1998). If this be the parameter, then if China has a strong base in Manufacturing, India has a strong Competitive advantage in services. China, the world's factory and India, the back-office for IT services, apparently seem to be made for each other. The Porter's Diamond structure suggests the reasons for their respective competitive advantages are the factor conditions, firm strategy, structure and rivalry; related and support industries and demand conditions (Porter 1998). *And this diamond is mutually re-enforcing that according to the model is also influenced by Government and chance events.* This development of clusters as manufacturing in the case of China can be factor-driven, investment driven or innovation driven. At this point it would be relevant to mention the case of

Indian heavyweights TCS and Sundaram Forge that were driven by the last two factors viz related and support industries and demand conditions in China to set up a base in those markets. Due to the presence of all the major multinationals India's largest nuts and bolts maker Sundaram targeted viz General Motors, Ford, Daimler Chrysler, Fiat, Cummins, Delphi, the Indian firm was inspired to be amongst the first to invest at Zhejiang in China. Similarly TCS had an ambitious expansion plan for China to offer IT services and support to its global clients and domestic Chinese firms, when TCS saw her top 20 clients including General Electric, Motorola amongst others make deeper inroads into China. This as suggested by Gugler et al(2007), reflects *the impact of Multinational Enterprises in Porter's Diamond Model*. Similarly, India's Silicon Valley 'Bangalore' is a venerable example of an IT cluster. However, the nature of the two clusters is different. If China's cluster which was initially primarily factor driven and now investment driven; the Indian cluster is innovation driven. And the Governments in both the countries had an important catalytic role to play with the Chinese famous Special Economic Zone policy and the Indian Government's tax sops to the IT sector.

Thus, having traversed the first stage of development, the next important question for policy-makers is how to ensure that the domestic firms benefit from spillover of this technology transfer. This depends on the absorptive capacity of the firms (Gugler et al 2007). The Government can contribute to this through a combination of both liberalization(less government) and promotional intervention (more government) (Tessler et al 2003), we revert to this in our discussion on policy-making.

*D. Challenges to this strategic marriage*

Another important question that stares us in the face is if this 'strategic cross-border marriage' is a win-win for both all across the globe, then what are the hiccups that thwart it.

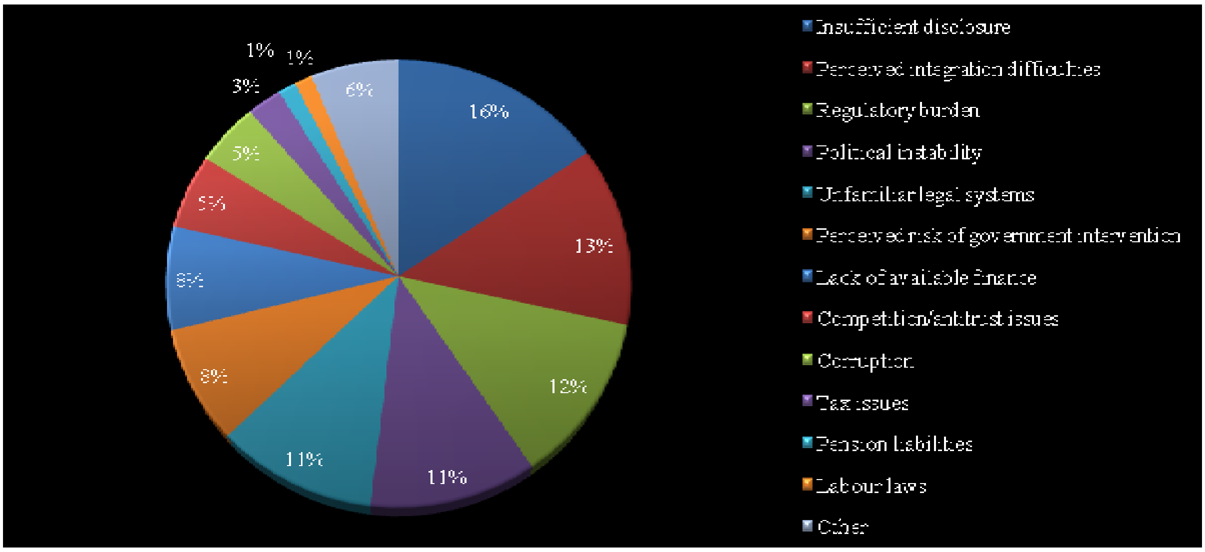


*Fig 2 Most deterring factors for M&A in Asia (source: Economist Intelligence Unit)*

Though this survey was carried out across Asia, but it befittingly depicts the dilemma of managers across ChIndia, as majority of those surveyed were from the two countries. Insufficient disclosure at 16% and regulatory burden at 12% are two amongst the top three deterring factors for companies. As for the perceived integration difficulties which is a close second at 13%, it can be attributed to diverse cultures, language and social set-ups. If India scores high on compliance with law, an active judiciary and rule of law, then China is seen as new entrant with the age old Confucian thought ached into the Chinese psyche that looked down upon litigation as a way to settle disputes. Thus, rule of law and judiciary are still at their infancy in China. Moreover, even the system of law that the two countries follow are very different. If India has a well-developed Common Law system with a plethora of legislations, then the Chinese borrow the tradition of Civil Law from the Romano-Germanic family. This only compounds the problem further from a legal perspective. With her 'dictatorial democratic' set-up, China is apparently politically stable, however, India with her largest democracy, is quite accommodating and sometimes lackadaisical about the intermittent 'political tsunamis and instability'! The recent Mumbai terror attacks, infamously referred to as 'India's 9/11' have only heightened this sense of instability. Unclear or non-existent regulations and corruption in China and the stifling red tape and poor infrastructure in India further throttle the green-eyed M&A dream. Tax though a minor aggravation, can become an important concern in the future with China's forthcoming law on taxing Cross-Border M&A's and the Indian judiciary's decision in the Hutch-Vodafone deal.

A related question to be deliberated upon is the most difficult Asian markets to operate in. China has been voted as the most difficult market to operate in by a whopping 24.6%. This was an interesting finding that China was voted as the most-difficult market, not only by the Indian executives, but also by the Chinese themselves. This is definitely a message in bold for the policy makers in China. However, this is no solace for India which came at a close third position with 20.3% finding it as the one of most difficult market to operate in. Ostensibly, ChIndia have a lesson to learn from the Chinese special administered territories of Hongkong and Taiwan that were assessed as one of the tranquil markets to operate in with perceived difficulties at 2.6 and 2.2% respectively.

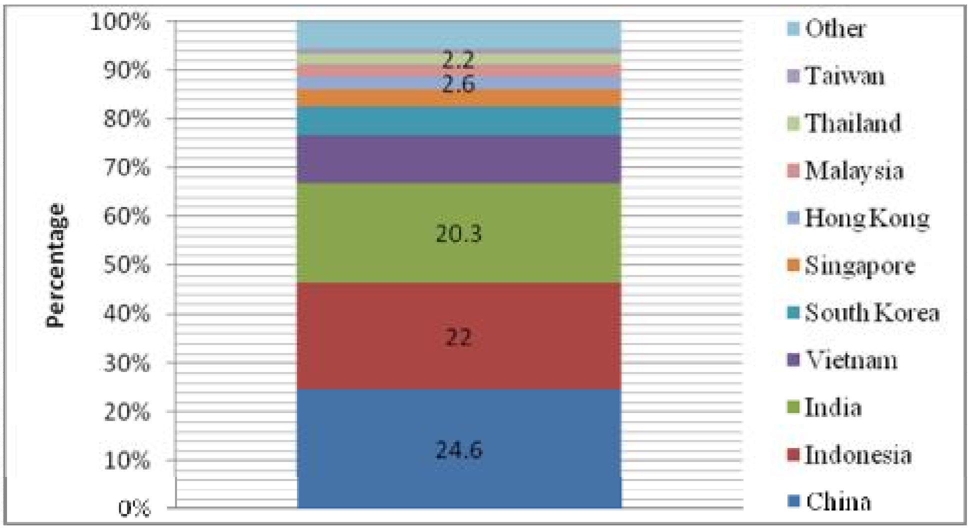


*Fig. 3 Most Difficult Asian Markets to operate (source: Economist Intelligence Unit)*

When asked which country's government is most likely to block M&A transactions due to strategic/ political reasons, the Chinese were at a close second spot with 23% with USA leading the race at 23.8% and India at a distant fifth position with 4.3%. This is substantiated by the experience of Telecom major British Telecom, when it made an entry into the two rising economies. These strategic/political reasons get further magnified in ChIndia M&A due to historic and political reasons, which further impedes their trans-border interaction. Infact fears of 'resource nationalism' as reflected by growing number of global takeovers by state owned enterprises(SOE) from China is leading to rising 'strategic and security' concern amongst Nations. Notable amongst them is when Chinese telecom leviathan Huawei Technologies Ltd. was blocked from bidding on projects because security clearance had been withheld, in an otherwise liberal and forthcoming India. Similarly, China is also concerned about foreign takeovers of its SOE. Such security concerns that may eventually fructify into legislations, can & infact do abort many an otherwise 'economically beneficial' strategic unions.

Thus, economic-harmony of these strategic transborder marriages notwithstanding, Himalayan-like challenges impede the union of two extraordinarily 'Made For Each Other' partners.

### *E. ChIndia, LDCs and the Flying Geese*

ChIndia's prosperity augurs well for other countries in Asia-Pacific and Africa as well. Alemayehu et al(2008) argue India's attractiveness to African countries lies in its ability to offer soft infrastructure including IT & pharmaceutical products, the global presence of its corporates like the TATA Group, Mahindra & Mahindra and Arcelor Mittal, as well as its increasing donor role. Likewise, China's attractiveness lies as it is world's factory offering consumer goods at the most competitive rates.

Secondly, as the demand for raw materials in ChIndia rises, Africa with its rich and abundant natural resources can benefit from this, as Africa has a Revealed Comparative Advantage (RCA) in resource-based industries. To benefit from it rich natural resources, Africa's engagement with ChIndia in the new economic order must be sustainable, for instance, by down-streaming linkages and local partnership (World Economic Forum, 2006). Thus, the policy making in Africa should encourage investment in infrastructure building through FDI(Foreign Direct Investment) and not let it remain gullible to exploitation as has happened historically. Thus, Africa through effective policy-making to benefit from this new wave of growth must define its terms of engagement which may include the possibility of exploiting a Joint venture with the Asian drivers as well as the need to identify niches for African exporters. There is also the need to actively seek investment linkages with the drivers as well as locate one's country to benefit from being part of some industrial supply chains with the drivers. (Qureshi et al 2008).

Thirdly, research shows why ChIndia does well in certain sectors is due to RCA. It is however seen that such an RCA is not sustainable, it wanes away with time. Thus, FDI through M&A in Africa would ensure that as ChIndia lose their RCA, the MNEs with significant investments in the African continent share the knowledge and resources to help Africa strengthen her RCA. This as suggested by Qureshi et al(2008), there is infact evidence of shifting RCA from ChIndia to Africa as the flying geese theory predicts, with South Africa being the leading goose followed by Kenya. According to the flying geese theory, late entrant nations successfully adopt a strategy of entering into sectors in which they have an RCA by importing technology from a more mature economy that traditionally had an advantage in that particular industry. The latter in turn use their innovative edge in developing newer products and technology. A classic case study is how pax Americana-led macro-clustering resulted in Flying Geese style chase by East Asia and hence, the ascendance of countries in East Asia as developed economies.

*The vision of the author's framework is to create ChIndia-led macro clustering result in Flying Geese style chase by South Asia and Africa, basically the Least Developed Countries (LDCs).* If the countries in the Africa are endowed with resources and thereby have a rising RCA in manufacturing based industries such as Automobiles and Consumer durables, then countries in the Indian sub-continent such as Bangladesh and Pakistan have a rising RCA in textiles and agro-based commodities. *The vision is to leverage from these rising RCA, translate them into sustainable comparative advantage through increased 'inorganic' interaction meaning M&A, between ChIndia and these nations & thereby create fortune for those at the BOP.* To facilitate translation of this dream into reality requires integrative policy-making initiatives at the regional level, which we discuss in the last section of Conclusion on policy-making.

## Conclusion

The dream of a borderless world can be supplanted only by 'unobtrusive' legislation that incentivize firms to operate sustainably and deliver the fortune for the less advantaged. The Multinationals on their part should be proactive and look upon CSR as a positive tool for development and not a mere doctrinaire affliction to be shed by piecemeal approach of Public Relations and making periodic payments to covetous Non Governmental Organizations working for a sustainability. Accordingly the conclusion is divided into three sections viz the lessons for management, policy-makers and for both.

### *A. Lessons for Management*

*'Pearl of Strings' Strategy*: As for Mergers they may be horizontal, vertical or conglomerate. Vertical Mergers which may be forward or backward happen when two or more firms involved in different stages of production come together. The much-lauded 'string of pearls' approach, which has also been the traditionally cautiously adopted strategy of Indian Corporates can be greatly instrumental in benefitting from these synergies. In the 'pearl of strings' approach, each subsequent acquisition made is like a pearl to the existing string and is a step-up in the value chain through forward and backward integration. Forward Integration in mergers happen when the supplier integrates with the buyer and in the backward merger, the firm integrates with the supplier. Thus, amongst the two firms, if it is a backward integration for one firm, it will be forward for the other one. India's TCS' case is illustrative of such an approach as TCS and Microsoft entered the Chinese market with a US$14.7 million Joint Venture with three Chinese firms Beijing Zhongguancun Software Park Development Company, Uniware company & Tianjin Huayuan Software Area Construction and Development Company. In

the words of Ramadorai, the CEO (Chief Executive Officer) of TCS, the objective of the inorganic route to growth was to leverage from the India's software competitiveness and be China-centric from resource allocation perspective to eventually provide IT services and solution to the domestic Chinese and global market. Thus, the first lesson is the time and tested cautious strategy of 'pearl of strings' could be a well-planned move to climb the value chain by maintaining growth momentum by improving operating margins and efficiencies and accessing newer markets.

*'Marketing' is the Mantra*: Secondly, Branding & Marketing are extremely important in a developing economy as an average consumer spends his hard-earned savings on the consumer goods that s/he purchases and thus, views them as an investment, unlike their more prosperous western counterparts, who sees it an 'just another purchase'. This coupled with the fact that market in the developing countries can be highly fragmented due to their sheer size, diversity and a rich cultural legacy. Apparently it was due to these reasons that Asian paints even after its acquisition of the world-wide operations of Berger International, is yet to tap Berger's Chinese operations. Thus, marketing in such economies though a thorny road nonetheless is quite a tempting cake. However, successful examples in action too galore. Lenovo and Haier successfully integrated their Marketing strategy with M&A by hiring local talent who understood and appreciated the sensitivities of the target market. Sundaram Forge and TCS from India made similar inroads into the Chinese market.

*'Cultural' Integration*: The key to 'cultural integration' as befittingly suggested by Jalaj Dani of Asian Paints, lies in 'performing not only accounting due diligence, but also human resource due diligence', every time a company makes an acquisition and consequently make the requisite cultural adaptations. Thus, as famously echoed by Vaclav Havel, "We now live in a single global civilization, that is no more than a thin veneer that conceals the immense variety of cultures and traditions forming attitudes'. The need is to appreciate and adapt to cultural diversity in this increasingly borderless world. And for people-oriented enterprises to operate, the reigns need to be loosened even further. As has been Indian I'flex, Sundaram Forge and Tata's mantra, the apposite strategy is to have a 'loosely coupled integration' as opposed to full integration. This means set the vision for the acquired company, operate at the board level, do not meddle with the day-to-day functioning and retain and hire local talent that can best appreciate the local cultural nuances. Succinctly put, the key is to 'think global, act local'. And Indian managers with their extensive exposure to rich diversity back home, have learnt this lesson well which they successfully bespoked in their international operations to turn the local workforce in their favour in seemingly difficult international M&A's like Tata-Land Rover-Jaguar and Mittal-Arcelor. The requirement now is to transplant the lesson in ChIndia interaction.

*Uphill M&A in Economic Downturn*: The present downturn should be no reason to halt the galloping M&A horse. In fact, acquisitions during a recession actually can create greater value and impact for a simple reason the competitive valuations at which a desirable buy may be available, which is like a low hanging fruit, for an acquisitive firm on the prowl. The keys to successful M&A during a downturn are the same as during prosperous times which are to ensure that the underlying valuation correctly measures realistic revenue potential, secondly the management must stay committed to growth strategies and look at targets that increase competitive positioning by filling an identified need; properly address synergies; and effectively execute the integration of an acquisition so that the enterprise can meet the operational and financial targets justifying the deal.(Kristin et al 2008) A strategy so adopted, is not just beneficial for the firm to grow exponentially, it is good for the industry and economy as a whole to bring the much-need restructuring and build economies of scale and scope in times of downturn. Thus, the view is not to be seen from a pigeon-hole, it is beneficial from the macro-economic perspective as well.

### *B. CSR-MNE- M&A-Policy-Making*

The Multi National Enterprises(MNEs) too can play a responsible role in the framework for poverty alleviation. At present the CSR activities are namesake and a load shedding exercise to lighten the legal burden on the fragile shoulders of otherwise profit-driven MNEs on M&A skulk. The key is in understanding that CSR is not a legal impediment; instead if MNEs resort to 'structural' CSR initiatives, it can be beneficial to all the players in the society. Notable suggestions include amongst others hiring local economically and socially-disadvantaged workers, developing comprehensive employee healthcare programs, soliciting community consultation in planning projects, supply chain analysis for sustainable suppliers and an active involvement in the education. ITC's e-choupal initiative in India to help the farmers get the best price for their produce and Amul India's initiative to procure milk directly from millions of dispersed milk producers helped not only the marginalized raise their income, but also streamlined the value chain of these firms and also created a market for their products by creating fortune for the BOP. Thus, such a *sustainable procurement is a reciprocally symbiotic initiative* that helps create a *fortune for those at BOP* and helps tap the fortune at the BOP. Similarly, in the field of education, Cisco's initiative to design, structure and provide necessary infrastructure in terms of resources and faculty helped the students not only acquire industry-relevant education, but also created a talented resource pool for Cisco to hire from, in an otherwise talent-short field. Thus, the resolve should be to have an intrinsic motivation and intuitive appeal to CSR which should get reflected in the firm's Corporate Vision, ideology and strategic initiatives.

Policy-Makers can incentivize such a role by creating industry specific sops for such Enterprise-led initiatives. For instance, the present blind-eyed appeal to attract FDI at all costs should be done away with. The objective should be to encourage such investments – whether Greenfield or through inorganic route that further strengthen this 'egalitarian vision' for the society.

At the Nation-State levels, the policy-makers in the developing world should realize that while the demand in developing regions is high, there is little or no regulatory control. Thus, there is a need to evolve 'appropriate regulatory standards' that raise the quality of products and drive greater product innovations, instead of creating bottlenecks. Incentivize and legislate for creation of reverse supply chains, closely co-ordinated with a forward supply chain to create a closed-loop system. Bosch and Kodak are excellent case studies in this context. To ensure this, policy like the one in European Union should be introduced wherein for every new tire they sell, the tire manufacturers have to re-cycle one tire. Further, tax incentives can be provided to such M&As that promise to invest more towards R&D leading in product innovations that specifically cater to those at BOP. In brief, encourage investment in the area of environment health and safety, technology and R&D. This can be done through incentivizing FDI that develop tie-ups with Universities for R&D and shares the technology available at their Lead Technology Centers with technology centers in the region they invest in.

### *C. Policy Initiatives at National-Regional and Global Level*

Generic and specific policy stances that emanate from the foregoing paper are following.

Policy-Making at the National level calls for significant initiatives in developing better anti-trust, regulatory and disclosure laws. Since anti-trust and competition laws are in their infancy, in the developing world, Porter's suggestion in this regard is noteworthy viz 'productivity growth' should be the basic goal of antitrust policy and it should employ tools like industry structure analysis and locational analysis to evaluate potential impacts on competition and thus, the hierarchy of antitrust goals should be reassessed accordingly. In this regard both China and India's antitrust laws leave much to be desired.

In China, aspiring M&A's face problem on multiple fronts. While conducting due diligence, non-availability of public records on important business assets like legal title to land use rights, existence of pending litigation and priority security interests over assets, are often either unavailable or unaccountable. Corporate accounting too leaves a lot to be desired. This coupled with the ubiquitous rigid secrecy policies of SOEs only further compounds the problem. Moreover, laws relating to Closing in M&A are not well-developed in China which makes it virtually impossible to effect a simultaneous closing. Such impediments definitely leave a bad taste in the mouth of contending parties because one of the reasons for resorting to M&A as opposed to Greenfield Investments is to have a swift access to the markets.

Another particular problem in ChIndia M&A context is with regard to debt financing, which can become all the more significant in the current downturn. The ChIndia firms as they have been on an acquisition spree in the last decade such as the Tata's are subject to maximum leverage ratios, which puts a limit on their borrowing ability. Since the procedures for pledging equity interests or registering security interests in assets are not yet fully developed, and since enforcement of such interests is usually very difficult, hence, the banks reluctance to loan funds for acquisitions. Cash payments too cannot be relied upon since the Chinese RMB is not fully convertible.

In the Indian arena too, the M&A saga has its share of difficulties. Most notable is the 'lack of laws' in a country with plethora of legislations. The Indian Companies Act, 1956 under section 391-396 contain general laws relating to M&A and reconstruction. In any given M&A, this piecemeal approach is looked upon as a one-size fit all solution. Recommendations of Rangarajan committee are laudatory; however lamentably remain paper tiger so far, but if implemented can be a panacea to many an ills currently plaguing the cross-border M&A in India.

Moreover, the archaic MRTP Act (Monopolies and Restrictive Trade Practices Act) in India has long outlived its utility and the much debated Competition Act, 2002 as amended in 2007 is yet to be implemented. Even with that Competition Act coming into force, there are important areas of concern such as availability of skilled talent to staff the Commission amongst others. China's antitrust laws similarly are namesake and arbitrary at best. Developing appropriate antitrust laws is not a luxury that comes up with development. Infact it is a necessity to promote development. This is because 'competition' and 'vigorous antitrust policy' are strongly associated with national prosperity. As for regulatory and disclosure laws, mandatory laws should be formulated and stringent punitive measures should be invited in case of failure to adhere to the same. The opinion of Industry-leaders, academicians can be a vital input in developing such mandatory disclosure regimes. The CSRC (Chinese Securities Regulatory Commission) & SEBI (Securities Exchange Board of India) should be given more canine teeth to stringently deal with erring Corporations that fail to abide by their disclosure & takeover codes, since at present both CSRC and SEBI are crouching toothless tiger.

At a more at global & regional level, in order to remove the impediments to inorganic growth, the policy making should be an initiative towards '*converging' tax, compliance and regulatory frameworks*. This will facilitate trans-border M&A's significantly.

According to the Global Competitiveness Report, the quality and quantity of local suppliers and extent of clusters in a national economy have a strong positive co-relation with GDP per capita. Moreover, the geographic clusters act in a self-enforcing manner as local competition provides an exceptional stimulus to productivity growth which is extremely valuable to firms. This concept of cluster, however, should not be constricted by the narrow scope of national boundaries. It can as suggested by Porter(1998), traverse the geographical divide. Thus, the lesson is that at the regional level, the policy making initiative should begin with ChIndia to create a *'Comprehensive Economic Co-operation Agreement'*. Such a comprehensively drawn agreement should benefit from the strength of both the economies viz India's competence in services and China's manufacturing strength. Within a time-bound frame, as the Agreement begins to deliver result, its ambit should be made more inclusive to begin with the Nations in the Asian subcontinent and gradually those in Africa. Such a *sustainable integration arrangement would ensure that the 'sphere of influence' of 'economic prosperity' evenly spreads out her angel-wings across the globe.*

Global challenges call for global solutions. And hence, the necessity for policy-makers across the world to come together and fight these challenges together. If these are the worst of times, then in the words of Dickens, they are also the best of times, because the challenge called 'present' if fought effectively through concerted action can be a roadmap to newer, brighter and more sustainable world in which the benevolent benefits of development shall be equitably shared by all and inorganic growth can be the first such footstep on that long organic route to development.

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