

# RISKS, COMMON ERRORS

## PEOPLE RISK

India's meteoric rise is fuelled by its people resources. People are its greatest asset, and its greatest risk. The reputation and integrity of any proposed local partner can impact in unexpected way on our Clients' capital and reputation.

## KNOW YOUR PARTNER, EMPLOYEE, LOCAL ADVISOR

Of all risk factors, this is most crucial in managing market entry down-side risks. Clients neglect at their peril the history of personal and business conduct of local partners, employees and advisors, their modus operandi with foreign partners, successes and failures, their cultural leanings and tactics, conflicts of interest, and even political affiliations.

A common mistake is to take no steps to uncover these 'soft' aspects – particularly in the face of intense friendliness, bonding and warm hospitality for which Indian business culture is well known.

Knowing your local partners can be a complex, multi-layered and prolonged effort throughout the life-cycle of the relationship

## MANIPULATION

A primary risk to any new project, investment or initiative in India is the threat of manipulation by proposed local partners of these negotiations and the local system. This can be an underlying process difficult to detect by Clients without expert help within their team. Manipulation can be during the relationship initiation stage, the opportunity

## IMPORT RISKS

Failing to understand ones proposed partners or employees may import via such persons risks of corruption, fraud and money-laundering. Your partner's reputation in the local market, political leanings and hidden promises to the establishment – may become yours to shoulder irrespective of the legal or contractual frame-work.

## UNWINDING SITUATIONS

In India this can be complex and expensive. A popular tactic when things go sour is to bury matters in the over-burdened Indian judicial and court system – delays of many years are endemic and the process amenable to ongoing manipulation. For this reason Indian parties often concede what seem to be very attractive legal contracts to the European side

## COMMON ERRORS

Most common errors by European Companies include:

- Overwhelmed by local good-will and politeness
- Assumption that Indian conduct will mirror European business behaviour and norms
- Accepting conflicts of interest disclosed by Indian side – including own local advisors - at face value and good faith
- Accepting references or 'positive background data' provided without further scrutiny of the image being projected by Indian side
- Failing to spot the real 'stakeholders' and decision-makers on the Indian side
- Assuming that the FDD and LDD process was comprehensive and fully effective
- Overcome by warm local hospitality and failing to conduct ground checks
- Misled by "tough negotiator" conduct of Indian side. Failing to spot the real agenda
- Failing to spot subtle manipulation by the Indian side of the negotiation process, or the local system/ establishment
- Missing vital clues during social interaction and the negotiation process as to the real goals of Indian side
- Failing to conduct an integrity and reputation scan
- Failing to investigate and understand relevant local community-based business practices
- Failing to induct into India team relevant local expertise on local cultural practices and tactics
- Assumption that local employees have the required expertise and talent in spotting 'soft' risks
- Assuming local advisors adhere to the same high standards of disclosure and conduct as one's home country
- Being too focussed on achieving a 'perfect legal contract', rather than establishing a deal architecture that inherently discourages under-hand conduct