‘It is the world’s largest trader of energy . . . but Texas-based ENRON Corp cannot seem to shake off its Indian headache. For the umteenth time in six years, it has become locked in a dispute over its power project at Dabhol, in the Indian state of Mararashtra. And again, the dispute is with its sole customer, the Mararashtra State Electricity Board.’

The Economist, 21 April 2001, p. 57.

Introduction

This case focuses on the international market environment and political behaviour—particularly, the dynamic and conflictual co-existence of Corporations and States—within national regulation of the impacts of Multinational Enterprises (MNEs). Firstly, modern relations between MNEs and governments have evolved through four distinct eras: domination by MNEs (1945–1960s); confrontation by governments (1960s–1970s); accommodation (1980s); and contention to appropriate gains from MNEs activity (1980s–1990s and beyond). Secondly, ‘the rivalry between states and the rivalry between firms and the rivalry between states and firms for a secure place in the world has become much fiercer, far more intense’ (Stopford et al, 1991, p. 1). Thirdly, ‘Transnational Corporations have become central organisers of (global) economic activities’ (UNCTC, 1992, p. 1). The balance between the two predominant perspectives on international engagement—interdependency between the firm and economic environment, and interdependency between the firm and political-legal environment—is tilting in favour of the latter. This defines areas and sources of conflict visible in the involvement in India by ENRON Development Corporation (EDC). India represents market environment extremes in which MNEs encounter—‘a land of indescribable complexity and contrast’ (Thomas and Philip, 1994, p. 92).

In viewing the case, two perspectives are cogent:

1. Conflictual political behaviour prevails when:
   a. the actions of MNEs and Governments have high strategic salience for the other party;
   b. both sides perceive the situation as a zero-sum game; and
   c. the parties have sufficient power to affect the uncertain outcomes of their bargaining over who wins and who loses; and

2. Intensity of political behaviour on the part of governments and MNEs is greater when:
   a. the stakes are higher;
   b. opportunities to leverage and arbitrage government policies are more abundant; and
   c. the firm’s political competencies are more developed or can be enhanced.

Furthermore, firms entering the global game of Foreign Direct Investment (FDI) and foreign market servicing face cultural adjustment costs. Therefore, given the ‘flagship’ nature of a market access investment with strategic salience, as the biggest investment project since Indian economic liberalisation, ENRON should have developed and demonstrated high political competencies. It did neither (until well after 1996) despite having a presence in India since 1992.

The nation, state, ENRON and their political and legal crisis

The case of ENRON cannot be divorced from India’s economic trajectory of central planning, with attendant factionalism and centre versus state tensions within the federal bureaucracy. At independence in August 1947, the Indian economy exhibited the ‘old international division of labour’ typical of colonial economies—piecemeal incorporation of agricultural production; limited, although
significant, industrial sector development based principally in and around Bombay and Calcutta; and a very high level of primary sector exports. This created the peculiarly Indian version of import substitution—the ‘license raj’ (essentially extensions of war-time controls) subjecting establishments or expansions of productive capacity to approvals from three ministries—Industry, Commerce and Finance and linked to allocating foreign exchange. Perversely, this strategy suited firms which managed to penetrate the license wall, either by themselves or through technology Joint Ventures with an Indian collaborator, since they could then exploit the protected domestic market via inherent monopolistic-oligopolistic advantages. To date, despite liberalisation in 1991, the persistence of this wall is reflected in the Indian constitution which provides ‘three lists for demarcating areas of jurisdiction: the union list, the state list, and the concurrent list’ (Kumar and Thacker-Kumar, 1996, p. 11) and continues to frustrate MNEs.

The principal economic players in society—large, nationally-based industrial capital and regional rich farmer and commercial élites, who constituted the majority of Congress Party activists and legislators at regional level—in a devolved system of government possess considerable political influence. After independence a third element was introduced—the bureaucracy—comprising a managerial cadre overseeing state-owned enterprises and parastatal organisations.

The high expectations of full-scale economic liberalisation in 1991 have not been fulfilled. Of the 19,000 FDI proposals valued at some US$130 billion lodged with the government by the mid-1990s, and the hoped for attraction of US$10 billion per year that peaked in 1998, only a fraction has been implemented and state subsidies are still about 15% of GDP. This means that state electricity boards are still financially unviable because their ability to invest in new capacity and alleviate the chronic problem of power shortfalls are severely constrained. The government’s solution to this perennial problem—contracting MNEs to construct large-scale projects—produced the ENRON crisis of 1995/96 which is the subject of the discussion.

ENRON’s political and legal predicament

In 1991 the government signalled its commitment to major change in economic strategy by appointing a technocrat Manmohan Singh as Finance Minister. However, this could not prevent the economic liberalisation strategy being assailed by a change in party control of government at the state level. The attempt by India to ameliorate its image as a viable market and investment location is encapsulated by Mr N. K. P. Salve—India’s Power Minister—‘Enron is not simply another power project, the credibility of our reforms depend on it’ (Nicholson, 1995a, p. 4). In the post-1989 world, MNEs find themselves in unfamiliar territory where they need stability and a predictability essential for private sector activity but obtain instead a challenging and perplexing combination—the fusion of markets on the one hand (which they welcome unreservedly) and fission in politics on the other hand (for which they are unprepared). Notwithstanding the advantages of scale from access to larger markets and the weakening of the nation-state, the problem in this process of agglomeration and fragmentation is that without the state—tangible operative institutions and viable structures—there cannot be FDI and foreign market servicing.

International market engagement is concerned with how MNEs deal with environmental, endemic and structural market failure. In India in general, although negotiating with the bureaucracy at the central level may not be difficult, the going can be very arduous at the state level, and there is scant attention to how MNEs develop a posture of dialogue with other than incumbent authorities. This incapacity is the kernel of the ENRON debacle in India and shapes the agenda for avoiding political and legal pitfalls.

The assault on ENRON took place in 1995 after foreign market entry in June 1992 and three years of negotiations with ‘at least 30 state and central government ministries and departments’ (Nicholson, 1995b, p. 23). In a spectacular fashion, it had a severe impact on the ENRON’s Dabhol Power Project investment in the state of Maharashtra. The market access FDI (the most significant in India since the 1991 economic reform) was planned by ENRON with minor equity positions of 10% each for BECHTEL and General Electric. The US$2.8 billion investment was negotiated and agreed in 1991 with the central government and the Congress (!) government of Maharashtra, as the first part of a multi-billion US$ competitive tendering for eight power projects. This initiative intended to address the massive and perennial problem of the Indian economy—power shortfalls.

The underdeveloped political competencies and inability of MNEs to deal with other than incumbent
governments was given vivid illustration through dramatic events leading to political and legal conflict. The strategic capability of ENRON was unable to position its organisation, despite ample warning signs, in a manner that would prevent political changes and law suits jeopardising valuable investments. Conflict broke out fully after the victory of the opposition coalition of two ultra-right Hindu nationalist parties in the March 1995 state elections. The Maharashtra regional party, the Shiv Sena (SS) (the major coalition partner), and the nationally spread Bharatiya Janata Party (BJP) had made vigorous resistance to market access by foreign capital a central plank of their election campaign. By the beginning of April 1995, the new state government was talking about ‘corrective measures against Enron’ (Sidhva and Nicholson, 1995, p. 7). By the end of June a ministerial committee had recommended cancellation of the project. This cancellation was effected on 4 August 1995, despite some critical evaluation in anti-BJP/SS sections of the Indian press following some blood-curdling threats from US and UK administrations (an attempt at leveraging source government policies), and dire warnings from central government ministers about the damage to India’s chances of attracting further inward FDI. In a volte face, chastened by possibilities of high damages and litigation costs, and amid deepening confusion, the state government indicated suddenly that it had not terminated the contract, and was open to ‘renegotiation’. The renegotiations with ENRON resulted in a revised agreement with the Maharashtra government being concluded on 8 January 1996.

These events and pitfalls were evidently a complete surprise to ENRON and a nasty shock to both foreign and Congress (I) governments. However, despite evident political machinations in a pre-election period, there are long-term factors at work which will not only affect future FDI in India but which may have more general application to market access by other international firms. MNEs have to better develop their organisational ‘wherewithal’ to deal, not with incumbent authorities, but with latent and nascent political forces. Subsequent events confirmed the ‘invitation to power’ presented to the BJP after the April 1996 elections and the application of bargaining power and the strategic salience of ENRON’s actions. Exit poll data from the elections indicates how the social elite—the segment of the population normally considered to be the most favourably inclined towards deregulation—supported a party which emphasised hostility to globalisation in general and towards MNEs and the ‘baggage’ that they bring along in FDI and marketing operations in particular. The Congress (I), in power for 44 years, captured only 25% of graduate voters as against 36% for the BJP. Even more strikingly, the social group which above all embodies elite characteristics—high caste graduate Hindus—registered a 52% vote for the BJP as against 25% for Congress (I).

Avoiding ‘stepping into the wrong puddle’

The central logic of the ENRON case is that when the fission of politics-fusion of markets dynamic confronts state-MNEs relations, and results in local ‘losers’ (parastatal managerial cadres, vested interests), globalisation is resisted and conflict ensues. Corporations have financial relations with political parties. What is the potentiality of MNEs becoming better political entities?

MNEs require a more stringent awareness that political formations, such as the SS and the BJP, generate conflict by representing interests that do not necessarily perceive globalisation or liberalisation as conferring any benefits. Their social base typically rests upon state employees (who perceive liberalisation as a threat) and industrial and commercial interests with local or regional (i.e. state level) markets. Classically, in losing the competition for barriers, they perceive the entry of MNEs as crowding them out. Even worse they see themselves being marginalised—one reason for the increase in the SS/BJP vote in Bombay City in March 1995. These host reactions to a specific consequence of liberalisation extend beyond the ranks of those who actually recorded a vote for the SS/BJP alliance. The favourable comment from sections of the press, not historically aligned to such parties, indicates that their agenda possesses an extensive legitimacy among the Indian middle-classes.

In other words, the ENRON affair was neither an ‘accident’ nor isolated. It was a consequence of the federal-state strategy of liberalisation and ENRON’s lack of awareness of social forces which perceived the strategy as a threat, and which had appropriate political organisations to articulate their opposition to MNEs. First, conflict prevailed because of: the strategic salience of ENRON’s FDI (the first, the largest, the most valuable market servicing project since the 1991 reforms); the zero-sum game situation, perceived by the nationalist tendency (using ENRON as a whipping boy helped considerably in the SS/BJP’s winning of state power);
the state demonstrated sufficient and necessary power to create uncertainty over investment outcomes. Secondly, the level of political behaviour, while intense on the part of the state, was feeble (in effect, absent—certainly in the early phases of FDI) on the part of the MNE. The Chief Executive Officer (CEO) of ENRON—Rebecca Mark—let slip, in a moment of unguarded candour reflecting poor political capability, the words ‘we never thought for a moment we would have to fight a political campaign.’ (Euromoney, Oct 1995, p. 32) At the time, it could be reported that ‘ENRON had no friends in India. They still have no friends, only contractual obligations’ (Euromoney, Oct 1995, p. 31). Only after the state had demonstrated its power to affect negatively the results of bargaining and conflict for the MNE, and thereby shift the relationship to a zero-sum game, did ENRON become a political animal.

Both ENRON (whose ignorance is explicable) and the central government (who certainly should have known better) were lulled into a feeling of complacency based on an assumption that the policies of liberalisation and globalisation are unstoppable. They are not and the hostility of large sections of the Indian population will not evaporate since these sections have the potential to propel into office parties reflecting their aspirations. Investing MNEs need to take these elements into account for it is not simply the case that this is a purely Indian phenomenon.

The approval of the revised agreement concerning ENRON by the short-lived BJP cabinet in May 1996 reinforces this point. Far from demonstrating the victory of global realities over local parochialism, it may be seen as a cynical manoeuvre by the BJP in an unsuccessful attempt to repudiate the charges of unfitness to govern that were being made against them prior to the confidence debate. It remained, therefore, a provisional rather than substantive decision. The ability of ENRON to pursue, and win, redress in India and internationally as well as the logic of its own strategy of internationalisation via infrastructure projects, meant that the carrot of a further US$10 billion of power project investment in India was always going to be hard to resist. However, events are still uncertain because, despite renegotiation and expansion, there is the financial inability of the state to acquire equity in the expanded project and local antagonism to ENRON continues.

As MNEs continue to be the drivers of world prosperity among their organisational attributes should be not only the ability for their production chains to span national and regional boundaries, but also the capacity for intermediation between the future apparatus of the state and the market. It may be argued that ENRON (an engineering project oriented firm—which recruited extensively from the managerial ranks of the US military) could not deal with other than central government because it had not internally available an organisational mechanism or mandate to deal with any other locus of power. In a world of fragmented politics, this is precisely what MNEs need to develop. ENRON’s view of the host location could be said to be distorted by perception of its ‘good’ relations with central authority. The question arises—How does the strategic centre of MNEs deal simultaneously and in a meaningful way, with incumbent governments and their oppositions? MNEs by their very definition maintain simultaneous engagements with spatially differentiated sovereign authorities across economic borders. Learning to manage concurrent and spatially differentiated relationships with authorities within borders is required increasingly. One example of the requirement has been that of MNEs in South Africa during the apartheid era.

The ENRON case demonstrates clearly that the position of even the most powerful MNEs appears precarious (because of the extended articulation of integrated international sourcing, production and marketing networks) when FDI and foreign involvements are approached with organisational structures incapable of dialogue with other than central government. The approach to a high context business and cultural environment exemplified by India with the mind set of a low context culture (that of the USA) without capacity for dialogue of an essentially political nature carries high risk of political conflict and legal failure. In October 1996, it was reported that ENRON’s FDI was ‘still mired in controversy.’ With the Bombay High Court having just concluded its hearings in the 14th PIL (Public Interest Litigation) filed against the company’s Indian subsidiary, the Dabhol Power Company (DPC), it is hardly surprising that DPC’s director, Joseph Sutton, was provoked to say that ‘PILs are an abuse of the judicial process, a weapon of harassment, and actually harm public interest since they cause uncertainty for foreign investors’. The saga of conflict came to a close only after ENRON had demonstrated intense, almost brutal, political behaviour. Among its actions were: leveraging the US Energy Department; suing the Indian state for US$300 to 500 million; pursuing arbitration in international and Indian courts (to eventually win 24 law suits); and dangling the irresistible prize of US$10 billion in further FDI. The development of political behaviour by the MNE in this
conflict has been intense. In early 1997, the same CEO, who had previously admitted naiveté in the extreme, could boast ‘political uncertainties don’t bother me anymore’ to dismiss the power of the state while paying heed to wisdom from a former ENRON adviser, ‘Indians must be stroked if you want them to purr. ENRON went at the country like an Exocet missile’ (Euromoney, Oct 1995, p. 33). The saga is far from over as ‘government officials are repeating accusations thrown around in the mid-1990s that ENRON is behaving arrogantly’ (The Economist, 21 April 2001, p. 57).

Better ways forward

The case of ENRON in political and legal conflict stimulates new views of international marketing—environment and management—for organisational capability in engaging with emergent (or nascent) political movements given trends in global deregulation that add new complexities to internationalisation. Due to political fission and market fusion, MNEs require an increasingly sophisticated ability to engage concurrently with a wide range of political actors. In a world characterised by intensifying social tensions caused by disruption consequent upon the reduction of barriers, MNEs face the potential of losing substantial assets if they fail to engage in this activity of political legitimisation. In these circumstances, it is reasonable to propose that there are returns to value on the development by MNEs of high political capability in order to gain maximum legitimacy in prevailing conditions of hostile host attitudes to globalisation. In the case of ENRON it would appear that the MNE possessed, for a long time, a low political capability in an environment with an increasingly hostile attitude towards globalisation and an explicitly anti-MNE bias.

This is analogous to the problems experienced by companies which fail to take into account the dynamics of re-contextualisation and internationalisation. ‘If . . . cultural hegemony were the case, however, one would expect products transferred cross-culturally to retain their original meanings in their new environment. But . . . they don’t. More often than not there is a kind of skidding of the meanings of these products when placed within new environments. The complex interweaving of declining bloc ‘spheres of influence’ discipline and a strengthening dynamic for world trade and investment combined with frequently increasing hostile host attitude to globalisation, are introducing situations where MNEs require high political capability to manoeuvre through cross-border transactions. An inability to develop this capability can lead to spectacular political and legal failure with concomitant financial losses. An alternative strategy for ENRON might have been to negotiate with all the local interests over a longer time to produce a consensus that its market servicing was ‘a good thing’—in other words not being perceived as part of the globalisation process at all. Thus they could insulate themselves from any general hostility to globalisation generated within the Indian polity. The validity of such a strategy is supported by the fact that ‘other power companies have taken their cue from Enron’s experience’ (Kripalani, 1997b, p. 24) and behaved in a political manner.

The case demonstrates that firms confront a variety of political and legal barriers when operating internationally as illustrated by ENRON’s firm specific disadvantages which placed it in conflict with Indian hosts. The situation is a metaphor with India representing large power distance and collectivist behaviour in juxtaposition with ENRON as an internationalising firm from a country characterised by small power distance and individualist behaviour. It fell short in its sensitivity to developing high context (civil society rather than contractual) relations with actors in the political system (other than central authority). Employing the model—Political Capability Imperative—MNEs could identify processes and structures required to attain legitimacy in circumstances of fragmenting polity. Firstly by scrutinising non-economic, non-financial performance variables such as level, frequency and intensity of cross-cultural engagements, ‘surfacing assumptions’ (Minkes, 1994, p. 81) and interactions by management operatives and location-bound organisational decision-making to ascertain learning. Secondly, by looking anew at variables which capture cultural separation. Hofstede’s (1984) four variables form but one subset of factors which encapsulate the issues towards which MNEs should be acquiring proactive sensibility. Other factors include the etymological effects of socio-linguistics on managerial behaviour in international marketing at the interface of MNE managers and hosts, and the emergence of oppositional social forces which overtly perceive MNEs as malign, in intent and outcome, and therefore to be either constrained or rejected.

The paucity of management’s attention to roles and tasks in the new environmental, strategic and organisational context (globalisation) increases the need for managers to develop applications from a sophisticated
view of the business and marketing environment. From a strategic marketing perspective, the organisational boundaries of the firm have become increasingly fuzzy and permeable. While MNEs have adjusted well to immediate operational implications, they have barely begun to grapple with the task of developing the new skills and capabilities required in this case. ENRON appears typical in taking its time to develop the kind of behaviour that avoids political and legal pitfalls—besides, does it matter? As ENRON ‘is losing interest in owning power plants in poor countries’ (The Economist, 21 April 2001, p. 57).

Questions

1. Identify and characterise the nature of the marketing environment represented by a developing country such as India.

2. What are the kinds of market research and environmental assessment that would have proved useful to ENRON?

3. Identify and discuss the major errors that ENRON appears to have made in its Indian market entry.

4. ENRON’s problems ‘are not over’. How can ENRON solve its Indian headache?

5. Given the difficulties in marketing in Developing Countries, why should firms like ENRON engage with countries like India?

References


The Economist (2001), 21 April, p. 57.
