

China's previous anti-corruption drives have often fizzled out after a few months, but the latest one is different.

**ST. JOHN MOORE** and **GORDON GUO** of Brunswick, Beijing consider a new campaign that shows signs it will run long and deep, as the government seeks to protect its legitimacy while addressing public anger over corruption

# NEW CLAMP



THE TRIAL AND CONVICTION OF HIGH-RANKING Communist Party official Bo Xilai in September 2013 – when he was sentenced to life in prison for bribery, embezzlement and abuse of power – was trumpeted by official Chinese media as the clearest sign to date that the country would no longer tolerate corruption at the highest levels and would prosecute offenders to the full, in open court.

As *Xinhua*, China's official news agency, noted, "Media commentaries said Bo's treatment, fully in accordance with the law, shows that nobody is exempt from Party discipline and national laws. Whoever is involved will be thoroughly investigated and, if punished, severely punished, in accordance with law."

The tough stance on corruption has extended to foreign companies, too. In August, for example, the Chinese authorities issued their largest-ever fine for alleged price fixing – \$109 million – against six infant milk producers, five of which are foreign: Mead Johnson Nutrition, Abbott Laboratories, Dumex Baby Food, Royal Friesland, Fonterra Co-Operative Group, and Biostime International, which is based in Hong Kong.

The latest crackdown on corruption is part of a major campaign led by Xi Jinping since he ascended to the leadership of the Communist Party of China (CPC) in November 2012.

While the downfall of Bo was set in motion months before Xi took office, his trial was seen as a move to dispose of a powerful political rival and also as a signal that corruption would not be tolerated at any level. "The resolute legal punishment of Bo Xilai fully demonstrates that there are no exceptions before Party discipline and state law," *People's Daily*, the Party's main newspaper, asserted.

Many anti-corruption drives under previous leaders were announced with a flurry of publicity but quickly petered out. This latest campaign, however, is clearly different. It has been running since late 2012 and all indications are that the current leadership will continue in their resolve. The new Xi leadership team has taken on board that corruption is one of the most corrosive problems facing the country, and the campaign is clearly aimed at protecting the very legitimacy of the Communist Party.

Xi stated early in 2013, "We must uphold the fighting of tigers and flies at the same time, resolutely investigate law-breaking cases of leading

officials, and earnestly resolve the unhealthy tendencies and corruption problems which happen all around.” Xi’s “tigers and flies” reference is a typical metaphor from Chinese officialdom, in this case signaling that both high- and low-ranking officials are targets.

In November 2013, two key documents were released following the meeting of CPC top brass at the Third Plenary Session of the 18th Party Congress: a communiqué and *Decision on Major Issues Concerning Comprehensively Deepening Reform*. Both stressed that the anti-corruption drive had official backing and would continue, and that endemic corruption threatens the legitimacy of the Party and long-term sustainable economic growth and innovation.

The smallest misuse of government expense accounts, official cars, private clubs, receiving pre-paid cards, or even hosting a wedding with too many tables, is enough to attract an investigation. Unlike earlier campaigns, previous sins are not being forgiven with just a warning and a slap on the wrist. At the time of writing, more than a dozen senior officials (ranked at the ministerial level) and about 20,000 junior officials have been replaced or put under investigation for corruption.

### CASTING THE NET WIDE

The fate of Bo Xilai, one of the highest ranked officials in China at the time of his downfall and a contender to join the higher ranked Politburo Standing Committee, is a rare outcome but not unprecedented. Historically, committee members have been exempt from investigation. However, reports indicate that committee member Wang Qishan, who heads the Central Commission for Discipline Inspection of the CPC, the top Party watchdog, scrapped a long-standing unwritten rule in 2013 that exempted incumbent and retired members of the Politburo Standing Committee from investigation for corruption.

The current campaign is not simply “killing a chicken to scare the monkeys,” as the saying goes. It goes deeper; senior figures in the domestic business community have come under scrutiny too. For example, Jiang Jiemin, a former Chairman of PetroChina and head of the State-owned Assets Supervision and Administration Commission, which is responsible for overseeing China’s leading state-owned enterprises, was relieved of his duties in September due to corruption allegations.

**Senior Party official Bo Xilai pictured (left) during his trial for corruption and abuse of power in 2013. “We must uphold the fighting of tigers and flies at the same time,” said Xi Jinping in 2013, shortly before taking office as President, warning both high- and low-ranking officials against all forms of corruption**

In addition, more than a dozen senior executives in major state-owned enterprises and private companies have been investigated for corrupt activities.

Academia hasn’t escaped scrutiny either. Several senior academic leaders at prestigious institutions, including Renmin, Zhejiang and Sichuan universities, have been removed from their posts.

The China Securities Regulatory Commission (CSRC) has also intensified oversight of listed Chinese companies. In September, the CSRC initiated 39 investigations, a 50 percent increase on the average for the previous eight months, resulting in a number of fraud penalties.

### RULES OF THE ROAD

It is not yet clear how many tigers and flies need to be caught, or how many organizations or companies will be investigated. What is clear is that both foreign and domestic interests are at risk and must ensure they comply with existing policies and practices. The authorities will act on individuals in companies if they are found to have conducted corrupt activities. They will also impose fines for wrongdoing. And, while at the time of writing no foreign investor has faced corporate criminal charges in China, this may just be a matter of time.

Responding to accusations of wrongdoing is challenging at the best of times. Chinese authorities are aggressively using the media and are able to quickly build a public case against those being investigated. Allegations travel quickly, undermining reputations in China and abroad. In this environment, companies must undertake an honest and thorough review of their operations to ensure that they are compliant with global values and principals – and that these are being effectively implemented locally too.

Local compliance requires more than just a translation of global documents and ensuring all employees, partners and suppliers have signed the appropriate forms. Many foreign companies have invested heavily in localization, with significant returns, and they need to undertake a genuine review of local market practices and investment in customized local procedures to verify compliance.

The risks of complacency are painful. They bring increasing chances of high profile investigations, a tarnished reputation among Chinese customers and consumers, and a →

potential long-term disruption to the China growth story. The risks beyond China can be even greater, with penalties from multiple jurisdictions in relation to foreign corrupt practices and a damaged global reputation.

In October 2013, the US-China Business Council (USCBC) published a report, based on a survey of 30 of its member companies, offering guidance for managing compliance in China. For decades, the basis for all US companies operating abroad has been the Foreign Corrupt Practices Act (FCPA), which applies to many non-US companies, too, since the US began to apply the act to foreign businesses with substantial US operations in an effort to level the playing field. The USCBC report notes that, "On paper, current Chinese regulations are extremely strict [but] these rules have only recently begun to be enforced."

This is the dilemma for foreign companies operating in China. As noted in a previous USCBC report, a big concern for companies is that they might lose competitive advantage in China to other companies that aren't required to comply with the FCPA and which operate according to custom, even if that custom violates official Chinese rules.

That is a temptation that should be avoided, especially in the new climate. As is becoming

**The campaign is not just targeting officialdom or foreign companies. The domestic business community has come under significant scrutiny, too**

increasingly clear, attitudes are shifting definitively and there are strong political underpinnings for this move. As Linda Yueh, Chief Business Correspondent for the BBC and an authoritative voice on Chinese business, commented recently, the crackdown is not aimed specifically at foreign companies but is driven by political realities.

"Chinese President Xi Jinping has made clamping down on corruption one of his main aims in his first year in office," she wrote. "The reason is straightforward. There are tens of thousands of protests across China every year, and many of the complaints are over corruption. With growth slowing, such tensions lying just beneath the surface are more likely to flare up."

The clampdown is, in other words, an inevitable consequence of the maturity of China's continuing transition to a market-driven economy, even as the leadership tries to assert political control. ♦

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## In China, corrupt officials are second only to rising prices as a concern

China's political elite has come to recognize what outside experts – and many of its own people – have long known: corruption not only is morally reprehensible, it also holds back economic progress.

In its annual Global Competitiveness Report for 2013-2014, the World Economic Forum noted that China remains stuck in 29th position, even though its economy vies with the US to be the largest in the world by GDP, because "weaknesses – including corruption, security issues, and low levels of accountability and ethical standards among businesses – remain."

Meanwhile, the Pew Research Center's Global Attitudes Report on China in September 2013 found that more than half of respondents in China thought political corruption is "a very big problem." Indeed,

"corrupt officials" was the second greatest concern after rising prices, the survey found. (Notably, the next biggest concern was the "rich-poor gap," followed by worries about the environment and food safety.)

It is no wonder that politicians in China are paying closer attention to the issue of corruption, especially the enrichment of well-placed officials seeking bribes and special favors from foreign companies.

Clearly, it has been a tough year for multinational companies in China, but domestic politics are the driving force. The corruption crackdown needs to be seen as consistent with the government's efforts – as emphasized in November 2013's five-yearly Plenary meeting of the Communist Party – to address citizens' expectations, including more consumer protection, affordable healthcare and a better standard of living.

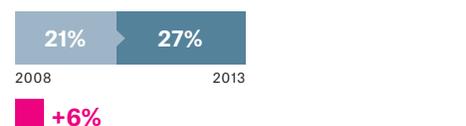
### PUBLIC CONCERNS IN CHINA 2008-2013

**In the survey, the Chinese public ranked corruption the 2nd and 9th biggest problems out of 17 issues of concern**

2nd biggest concern: **corrupt officials**



9th biggest concern: **corrupt businesspeople**



SOURCE: PEW RESEARCH CENTER'S GLOBAL ATTITUDES REPORT ON CHINA, SEPTEMBER 2013