

Chinese Investments - An unhappy affair: The changing fortunes of a China and Hong Kong funded Bahamian mega-resort project

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In April 2017, the first part of the Baha Mar, a 1,000 acre luxury mega-resort in the Bahamas that will eventually consist of several hotels, a 100,000 square foot casino, a golf course, spas, shops and restaurants, constructed by China Construction America, finally opened. The event was marked by a ribbon cutting ceremony attended by then Prime Minister of the Bahamas, Perry Christie, who labelled the opening, “the most significant economic development event ever to occur in a single phase within the Bahamas and the Caribbean”[1].

Plans for this \$3.5 billion project had first been initiated after Christie had approached Sarkis Izmirlian, a Swiss-born businessman and billionaire heir to a peanut empire. In the mid-2000s, Izmirlian then bought land that Christie had persuaded the previous owner to sell, secured financing and contracted a construction company to work on the resort’s construction. After US company, Harrah’s Entertainment Inc., pulled out of the project in 2008 during the economic crisis, however, a search for new investment and financing had to commence. The search resulted in significant Chinese investment being made in the project that came with conditions that were to have important implications for its future direction.

A contract for the resort’s construction was subsequently awarded to China Construction America (CCA), a subsidiary of China State Construction Engineering Corp. Ltd. (CSCEC), a major Chinese state-owned company and the third largest construction company in the world. CSCEC invested \$150 million and reportedly directed Izmirlian (who was providing \$850 million) to the Export-Import Bank of China (Exim), which provided \$2.45 billion in construction loans[2]. Exim is a Chinese state-owned bank subordinate to China’s State Council and aims to implement state policy in promotion of foreign trade and investment as well as development assistance. The loans by Exim were reportedly made under the provision that Izmirlian could not fire the construction company and that work would be carried out by Chinese labour.[3] Work on the project has since then involved more than 4,000 Chinese construction workers.

Under the new agreement, the resort was originally intended to open in December 2014. But complications soon arose and significant delays, which in turn led to legal disputes, kept on stalling the project. Soon this major investment project was being described by the media as having turned into “the world’s biggest white elephant”. [4] In June 2015, blaming CCA for the delays that were costing Baha Mar, which had already hired staff to work at the resort, around \$4 million per month, Baha Mar Ltd. filed for bankruptcy protection in Delaware in the United States. CCA claimed that the delays were the fault of the developer and its mismanagement. After the bankruptcy filing was largely dismissed by the US court on the grounds that Baha Mar’s future should be decided in the Supreme Court in the Bahamas, the Bahamian court put liquidators in charge of the resort, and the China Export-Import Bank appointed Deloitte & Touche as a receiver. In a letter to the bank,

Izmirlian is reported to have complained about the process, stating that, “Many have already commented that the sale process for Baha Mar launched by the receivers is opaque, fraught with obstacles and irregularities and is not designed to maximize value for all.”[5] As the contract between Baha Mar and CSCEC had been signed under English Law, Baha Mar also filed a \$192 million claim for damages due to breach of contract against CSCEC at the UK High Court, however this was stalled when the liquidators were brought in[6].

Following the legal battle over its delay, Baha Mar Ltd. and Izmirlian lost control of the project, with the Bahamian government dependent on Chinese investment favouring the Chinese creditors and at one point reportedly threatening to revoke Izmirlian’s residency permit[7]. New investors were then sought. Eventually, after many negotiations between the Bahamian government and Exim and prospective buyers a deal was agreed, brokered by the Bahamian government, for Hong Kong conglomerate, Chow Tai Fook Enterprises (CTFE), to own and operate the resort. CTFE planned to invest an additional US\$200 million in the project. Owned by the family of Cheng Yu-teng, who made his fortune through jewellery and property including through significant investment in mainland Chinese property shortly after the 1989 crackdown, CTFE has been described as being long-time friends of mainland authorities and also has investment in Macau’s gaming industry. The agreement that was signed by CTFE and the Bahamian government, and which was initially not disclosed to the public, was later revealed to have awarded highly favourable terms to CTFE, including exemptions from value-added tax and property taxes for designated time periods as well as an agreement that the government would spend \$4 million per year on marketing the resort to international tourists for the next eight years.[8]

This deal with CTFE has subsequently led to some degree of criticism and controversy. On the one hand, Izmirlian has continued to criticise the deal, not only claiming that his company made a superior offer but also for its continued delays, staggered opening, and lack of use of Bahamian workers.[9] Moreover, prior to election as the governing party in May, CTFE’s ownership of the resort was also criticized by then opposition party the Free National Movement. In March 2017, Hubert Minnis, who following the elections replaced Christie as Prime Minister, pledged that if his party was elected it would find a, “a qualified and respectable purchaser who believes in Bahamians”, only engage Bahamian labour, and disclose details of Baha Mar deal (which at the time had not yet been disclosed) as well as other Chinese investments[10].

In fact the project appears to have been very politically and economically important to both the Bahamas and Chinese governments from early on. Chinese investment in Baha Mar has been accompanied by high profile visits to the Bahamas by Chinese officials. In September 2009 agreements between Izmirlian and Exim and CSCEC were signed during a visit by Chairman of the Standing Committee of the National People’s Congress, Wu Bangguo, to the Bahamas, who was at the time the highest ranking Chinese official to have visited the Bahamas. In response to this visit, a US embassy cable that was subsequently leaked by WikiLeaks made the following comment:

“The Chinese appear committed to establishing a firm financial hold on projects, such as the Baha Mar, that will have a major impact on the Bahamian economy and leave the GCOB [Government of the Commonwealth of the Bahamas] indebted to Chinese interests for years to come.”[11]

Indeed, the project represents a very significant investment project involving Chinese capital. In 2011 when involvement by China State Construction was agreed, it was reported that the resort would be the largest property to be built and partially owned by a Chinese company outside of China[12]. Chinese investment in Baha Mar also coincides with a trend towards increased importance being attached to investment by Chinese state-owned enterprises more generally in the Caribbean, and some Chinese officials have more recently linked the Caribbean to the Maritime Silk Road and claimed that funds for China’s Belt and Road Initiative will also include Caribbean

countries.[13]The way that such investments have been made has raised concerns about contributing to the risk of making Caribbean economies dependent on China. As is commonly the case in such treaties, the 2010 Bilateral Investment Treaty that China signed with the Bahamas, for instance, includes Investor State Dispute Settlement provisions that will potentially allow Chinese investors to sue the country for changes to government policies that affect the interests of the investment[14].

Meanwhile, for the Bahamas government, the resort has been seen as highly important for its economic impact, increasing tourism to such an extent that it was expected to boost the island's GDP by 12%[15]. Despite being 97% complete, the potential impact on the economy after the project's delay was such that it led to the Standard & Poor's credit rating for the Bahamas being downgraded to one step above junk. With the project initially aimed to have a single opening, and with the partial opening ceremony in April having occurred so close to the elections, some critics in the Bahamas labelled it a "sham opening"[16]and it been subsequently alleged that only unpaid guests of the Progressive Liberal Party attended[17]. It might be worth asking whether the election of a new government that had been highly critical of the former government's approach to the Chinese investment in Baha Mar will concretely lead to any future changes regarding the government's handling of Baha Mar matters in the future. In this regard, it is interesting to note, that the original developer, Izmirlian, attended the swearing in of new Prime Minister Minnis. Nevertheless, by late June of this year the new government was already stating its intention to push the project's completion ahead due to its economic impact on the Bahamas.

While the Baha Mar case is notable due to the way it highlights some of the potential high level stakes and political interests and conflicts involved with Chinese overseas investment, additional concerns also relate to the impacts that mismanagement and conflict between the different investors has on those involved in working on the project. According to reports, the management of the construction and delays of the project also negatively impacted on 2,000 workers who had been employed to work at the resort in advance of its original expected opening date were dismissed in October 2015. It was reported that while local workers from the Bahamas eventually received compensation for wages and severance, around 200 foreign employees (mostly in management and specialist skills positions) reportedly had not received anything as of April 2017 and the Supreme Court later ruled that sums owed to these foreign employees, which reportedly included wages, gratuities, benefits and living expenses, did not rank ahead of Exim in the creditors' queue[18].

On a side additional note, recently in September 2017 the resort came under further criticism when it was forced to evacuate guests and told them they had to seek shelter elsewhere ahead of Hurricane Irma. Despite the resort's location in a hurricane belt, it has been suggested that poor planning when the resort was being constructed meant that the resort was unable to deal with guest safety there.

With the resort still incomplete (there are plans for additional hotels to open in stages later in 2017 and 2018), a change in government in the Bahamas to one which might be more critical of the Chinese investment, and a change in attitude by the Chinese government towards certain types of overseas investment, including a ban on investments in the gambling industry and restrictions on investments in the hotel industry, the future of this resort and other similar projects[19], the workers they employ and the impact of Chinese investment on the Bahamian economy are perhaps still uncertain.

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* BORDERLESS MOVEMENT. OCTOBER 20, 2017:
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