Technology Transfer through Joint Venture
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Lecture - 19
Risk Management and SPV

I welcome you in the Lecture 19, regarding Technology Transfer through Strategic Alliance and Joint Venture. I am in the module of Special Purpose Vehicle and specifically I will talk with you relating to the Risk Management and SPV. Now I have talk with you about the risk disclosure in my previous lecture, and risk is a very important factor for any venture to go ahead.

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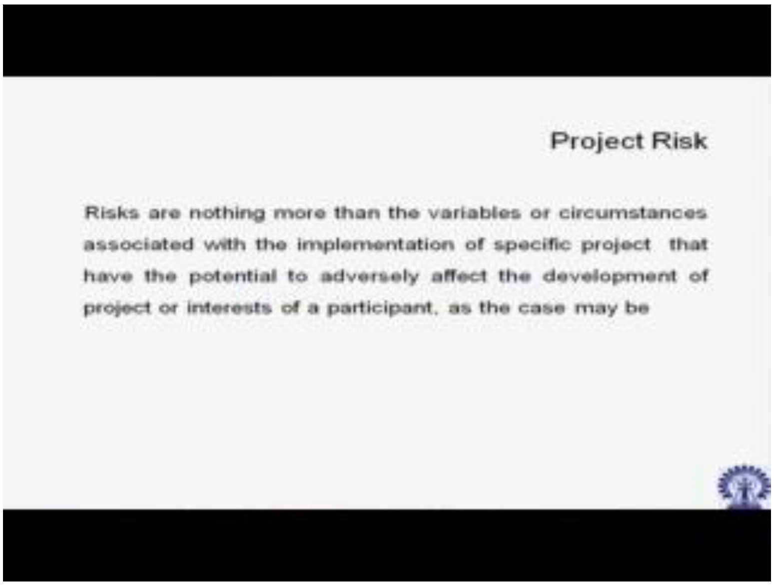

Now, when you talk about the risk; risk means nothing more than variables or the circumstances associated with the implementation of specific project that have the potential to adversely affect the development of project or interests of a participant as the case may be. So, this is you know kind of understanding related to the risk.

Now the understanding of the risk or the business risk is gradually increasing over the year and people are defining the risk for a particular segment or sector of the business. Now initially we never bothered about this particular risk because we thought the risk is basically the issue which needs to be managed by the people who are operating this particular joint venture or the managers who are involving day to day operation of the joint venture. But it is found that you know over the years that risk are need to be manage and risk are need to be allocated among the group of people who are involved in to that particular joint venture.

So, it is always advisable that you should plan the risk at the time of entering the joint venture and even in the later stage when you are operating the joint venture organization or the company which has incorporated out of the particular joint venture agreement and then you will see that how much risk will be observed or what are the risk will be observed by the SPV, what are the risk he is going to be carried by those people who are promoted the SPV or joint venture partner or strategic alliance partner or even if it is APP model, then in that case if the government is also partnering in this particular thing how was the government will take. And if there is anything left out then who is going to bear this particular risk.

So, management of the risk is no more management in absolute term, but it is basically coming into the legal government and we will try to sort out this particular issue through the matter of all the process of agreement, and many of the time we will find that to managing the risk we also enter into under writing agreement.

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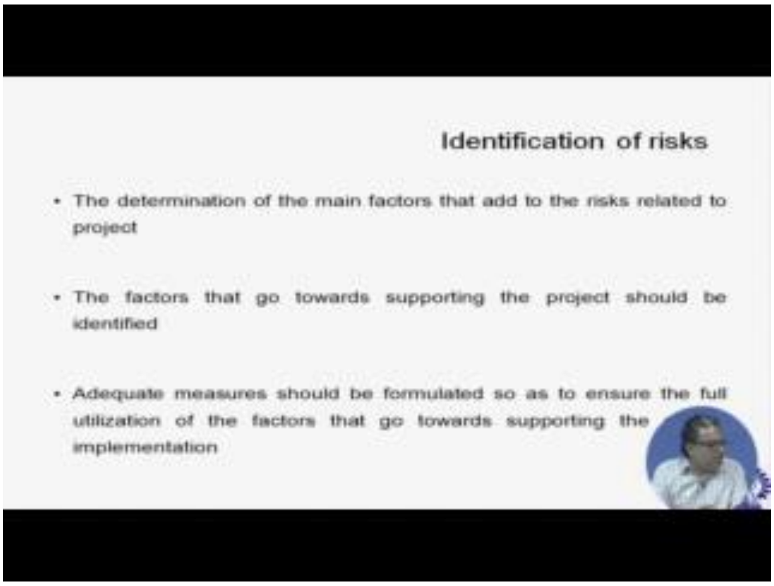

So, important thing is that as I said that you need to allocate the risk to the different people in this particular joint venture. Here in the important issue is that you should identify the particular risk. The first is the determination of the main factor that added to the risk related to that particular project.

So, there might be a several factor which is basically added to that particular project or risk which is added to the project. And it might be several things; it might be like geopolitical risk, it might be financial risk, it might be the exchange risk, it might be relating to the operation risk, it might be the regulated risk, and it might be the political risk which is there. So, whatever this particular risk are they need to identify that and that is the very consultation and I and possibly going to speak more on this in my subsequent part of the lecture.

Then you need to look in to the factors that go towards supporting the project should be identified, because that is the positive part of the issue and which also give you kind of leverage against these management of the risk. So, you should try to understand while you are executing the project that how risk is involved, what risk can be managed and what are the leverage will going to get in that particular project if you can manage those particular risk so positive or supporting point you should also identified.

Then you should talk about adequate measure for formulating to ensure the full utilization of the factor that go towards the supporting of implementation of the project. Please remember any business venture is not always a very (Refer Time: 05:22) venture like this particular lecture you are more on technology transfer through the joint venture and we are interested more on how to incorporate that you know how to observe the technology through the process of joint venture.

In those particular cases the risk are very high. I have discussed with you this particular risk factor when I was talking with you a joint venture. And then I said that they there might be a several issue once this particular technology transfer happening in a particular market, it might be that the consumable behavior which reject this particular technology or the technology cannot be directly implemented into that particular market you need to customize that particular technology.

There might be a several regulated barrier which you need to overcome. There might be some kind of political issues relating to particular issue particular aspect. Like you know some point of time in India people use to feel threaten to bring the information technology, because people use to think that now the moment information technology will be brought in India people will going to lose the job. And that is the reason you will find it is becoming a political legendary and for a long period of time many of the state government did not allow these information technology to penetrate in that particular state.

So, you know it can be several things and then in that circumstances you need to find out what are the supporting issue for your venture.

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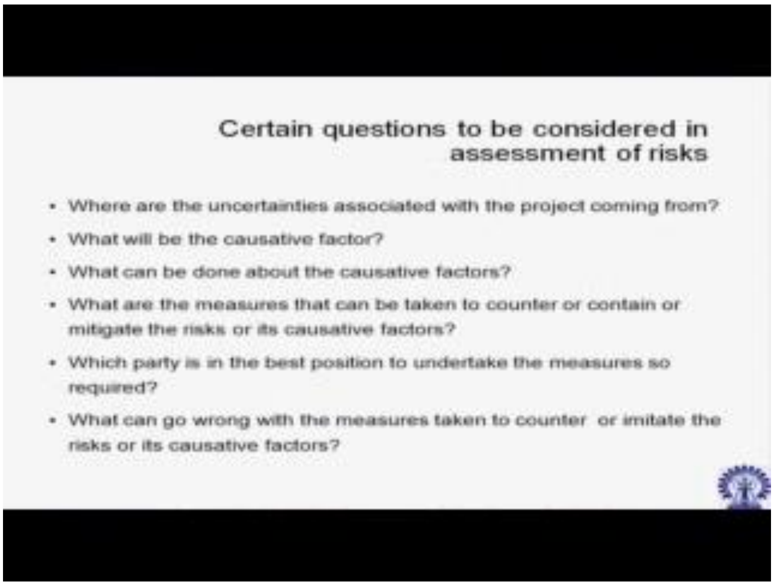

Now, you should you know consider certain question before in the assessment of the risk, you should you know ask that where this uncertainties associated with the project coming from. So, that as to be very clear to you that from where is this particular risk is coming. And next you need to talk about the causative factor and then how you can handle with this particular causative factor or what are the protections you can take into this particular causative factor. Because if you remember I just talked little before to you that sometimes you need to allocate the risk to the different people who are associated with the this particular you know venture like it can be allocated to the sponsorer, it can be allocated to SPV or sometimes you might even like to allocate that particular risk to unwrited; that means, who are not party to this particular entire venture, but who is having the business only to you know under write the risk and they get the premium out of that particular process.

Now, you need to look into what are the counter measure that can be taken to counter and to mitigate that particular risk and his causative factor which I have talked with you. And then you know party which is the best position to undertake that also I told you that you know who can take this particular risk is you know better. Now in case of the technology transfer one thing you should you know keep in the mind even the legal environment many of the time the people who are transferring the technology they are not sure about the protection of the technology or the protection of the intellectual property we are going to get in the country where they are transferring the technology.

So, in that circumstances if there is a increment and you know if you know sustain will loss because of this particular (Refer Time: 19:19) then how you are going to manage this particular entire issue that you need to you know decide. Either you are going to hold either you are going you are going to solve it through kind of (Refer Time: 09:34) process or arbitration. Or you are going to go for embracing of another countries you know law which is more protective about the technology, or you might look for (Refer Time: 09:47) account wherein you wanted to have better protection or try to get better protection.

So, whatever the way you wanted to you know protect it you should be you know clear about that and you should try to design it around so that you can have adequate protection to risk. Now, you can also need to talk about the what kind go wrong with the measures taken to counter or intimate the risk, so you know you need to have plan b. So, if you find that you know plan a is not working relating to the mitigating from the risks or balancing of the risk then you need to have a plan b through which you can really you know mitigate the risk or you can really control the situation if it is goes beyond the circumstances.

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So, what I did here I basically you know indicated the kind of risk which we generally try to handle through to the legal process the first one is find the pure risk which is quite identifiable. That means, you are sure about that you are going to expose to this particular risk moment you have decided to go for this particular venture. Now there is some risks which are particular risk to a particular business, like if you are interested to go for joint venture in power production there is a possibility that the power which you produce may not be observed in your entire capacity. Because the local demand is less or you are not going to allowed to connect with the national grid because of some kind of a local regulation.

So, these are the particular risk because you know that this particular risk is available before you go for this thing. There is something which is called a fundamental risk, fundamental risk is a which is fundamental in that type of transaction which you are doing like you know if you dependent on the exchange rate when you are bringing the technology then in that case there is a always possibilities that exchange rate will change and then that is the fundamental to that particular business. Many of the time because of the exchange rate you will find the entire business brand get upset and there is a cost over run and you know there is issues relating to the creators who might say that you know what about the projection was there, the venture did not able to address that particular projection, so much so things has happened.

This is the something which is called a speculative breaks which is not very clear to you, but you can speculate, like you know change in the government and government interest and it is very you know important whenever you are going for business which is having longer registration. Like you know today the government thinks that you know you know particular sector there should be lot of focus and the policies and the regulations and the law is a line towards that. And tomorrow the government might there is a change in the government, and new government might think in a different manner relating to that particular sector. Like let me give you example today you will find the present government is giving a lot of emphasis relating to defense manufacture or you know manufacturing the defense recumbent in India itself instead of (Refer Time: 13:54).

But tomorrow there might be another government or the new government to who might think that well defense production in India or exporting the defense product from the India he is not a very good sector or they might simply change their focus in some other sector. And please remember in some of the sector to setting up the manufacturer facility or to have kind of you know this technology absorption in that particular sector takes a long time. So, in those particular cases you need to be careful about the speculative and whatever I talked with you about the pure risks, particular risks, fundamental risks, speculative risks, you should decide that who is going to handle this particular risk or if there is a number of risk under this different heading, how many risks will be allocated to whom or rather to put it in other way round who is in better position to handle the risks. And accordingly you should enter in an agreement or you should frame your joint venture agreement or maybe you should incorporate the clauses in the memorandum association of article of SPV.

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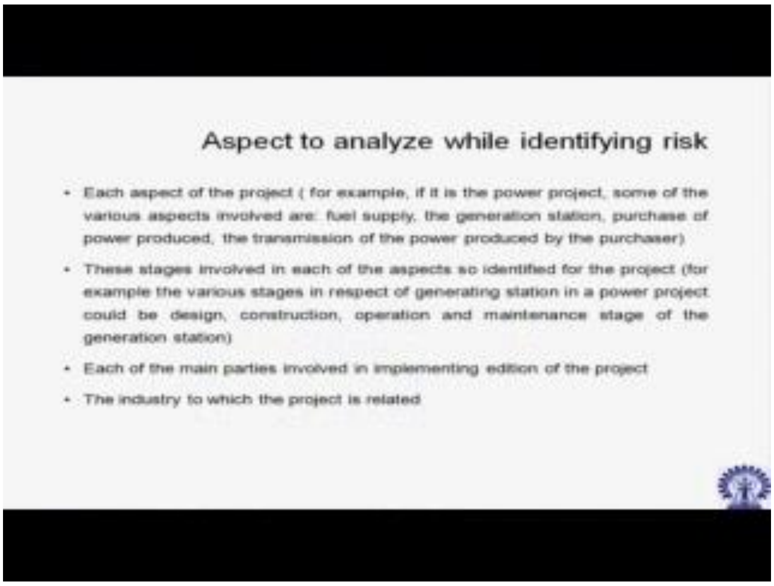

Now, let me take you to next issue aspect of analyze while identifying the risk, each aspect of the project like you know if it is a power project some various aspect like fuel supply generation station, power produced and transmission form. Some of this aspect which are pretty you know identify with the particular projects. So, that which I was staking about which is basically you know particular risk. So, you should know this particular thing now another important thing is that there can be stages of risks, like you know some of this risk might come when you are going for pre execution; that means, when you are planning to put up the project. Because please remember which I have discussed with you SPV is only a vehicle, vehicle of executing a particular project which you wanted to do through the joint venture.

So, while you are putting that particular project then you may know pre or pre project risks or at the planning stage there might be a risk there might be a risk at the time of a commissioning stage and then there might be a risk of the stage of operation. So, whatever this particular stage again as I have discussed with you the particular risk you need to identify this stage risk also and then you need to allocate that who are the better person to handle this particular risk in a different stage. The risk as I have told you may be related to a particular industry where you are wanted to enter or the segment where you want to enter.

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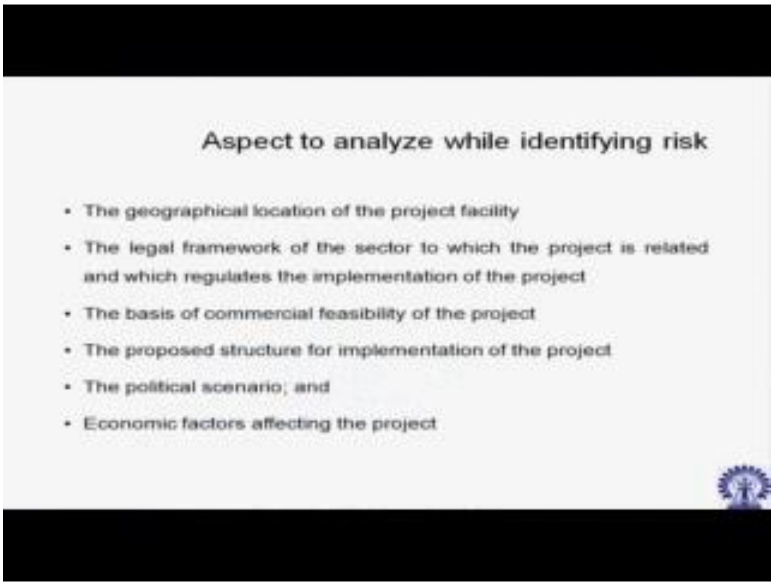

Now, here in I have basically list out some of this particular risk, but please remember this is not an exhaustible risk it can be - you know valid according to the business or it can be valid according to you know sector where you are entering into the business. Like it can be the geographical location it can be the legal frame work of that particular sector, it might be you know which I was talking about the regulated risk you remember a few minutes back then, it can be the basis of the commercial feasibility of that particular project might be you know which I have talked with and I was discussing with you venture that you might you to have a excellent idea or you know you might fill that you know it is commercially highly feasible. But when you have brought this particular project you found that people are not really accepted.

Now, it is not relevant in to this particular you know matter relating to technology transfer to joint venture, but let me tell you for your understanding of this particular commercial feasibility. Like you know when Ratan Tata conceive the idea of Nano, Ratan Tata thought that Nano will be the best car for Indian people because it is very economic, it is well efficient and it will take a less space for the parking or may be it can enter into the small length which individually having the different cities. But it will fine, ultimately, you have you know people did not like this particular car and then (Refer Time: 18:55) struggling with this particular car come that.

So, you know commercial feasibility may come I mean this commercial feasibility said back come from different reasons. Some people was telling that it as mean projected as a cheap car and that is what you know created a impression in the mind of the people and people did not like this particular branding.

Now, there should be proper structure for implementation of the project political scenario is very important and as I have discussed with you that you know once there is a change in the government there you might upset into your project or maybe you know if there is a strong political positions are there who are hesitating over this project they might try to upset the project, joint venture project. So, you know political risk is pretty high in some cases of you know the joint ventures had this pretty high in case of (Refer Time: 19:59) because I have given the example of importing the information technology few minutes before. Then economy factor might affecting the project and economy factor may be a range of things right from getting the investment in time, getting the learning in time, it might be relating to currency fluctuation, it might be relating to the inflow of money after providing the service, so much so forth.

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Now, in the last I have basically categorized some pre execution and post execution of risk. And again these are not exhaustible list, but it can give you kind of you know understanding to you and you might feel how to handle this particular risk it might be increase in cost, rejection of proposal by the concerned government authority, it might be the litigation, it might be you know litigation relating to the intellectual property, all of us sudden you find that somebody has filed litigation against you by telling that it is improvement of their product. Or, somebody it might go the computation commission and say that you know by bringing this particular technology they are trying to polarizing the market or this bringing of this particular technology and creating joint venture might at, firstly, impact over the market.

So, delay obtaining the requisition permission to commence the project and again it might be from the local government and you know in the recent times you might have seen the lot of delay is happening because of permission from the environmental (Refer Time: 21:54). Find the suitable equity invested for the project vehicle you might need for more equity eventually diffusion in the different stages and you have thought that where you are going to take this equate investor, you know as you go ahead and then there is a said back in to this particular and change in government and government policies as I have told you. In the post execution it can be you might be renewed risk, it might be you know construction risk, financial risk, legal risk, there kind be a force majeure and it can be as I have told you it can be design risk operation risk political risk and environmental risk.

So, you know here in if you looking into this particular thing some where it is indicated like construction and designing risk, these are more in those particular area which are related to an first structure or may be heavy machineries, but you know the other cases other risk which I have listed out here these are in generic in nature and it can affect the any segment.

So, the risk might put down the SPV and you should very concisely manage this particular risk factor when you are planning for a joint venture, or when you are incorporated the SPV for technology transfer or developing the product out of that technology transfer.

Thank you.