

INTERNATIONAL LAW PERSPECTIVE
OF THE BELT AND ROAD INITIATIVE

“一带一路”
的国际法律视野

香港2015“一带一路”国际论坛文集

主 编

王贵国 李鋈麟 梁美芬



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编者序

“丝绸之路经济带”和“21 世纪海上丝绸之路”的战略构想系习近平主席于 2013 年 9 月和 10 月访问中亚、东盟期间提出。中共第十八届三中全会将之正式写入《中共中央关于全面深化改革若干重大问题的决定》。“一带一路”沿线不乏发展中国家,其中一些仍然缺乏基础建设与设施。故此,作为执行“一带一路”战略的重要措施,亚投行得以建立;创始成员国包括印度、韩国、俄罗斯、英国等。“一带一路”事关中国与亚洲、欧洲及非洲今后跨越半个世纪的发展,是百年难得一遇的机会。作为工业出口大国,中国可通过“一带一路”使企业走出去,利于技术、产品和产能优势,推动沿线国家的经济发展。香港特别行政区地处祖国的南大门,系国际金融中心,且融会东西文化,荟萃各界专才。作为生活在香港这块福地的中国人,对于推动“一带一路”战略的实施,有先天的优势和不可推卸的责任。

香港世界贸易组织研究中心和浙江大学法学院于 2015 年 7 月携手顺利举办了香港 2015“一带一路”国际论坛。有二十多位来自世界各国,包括俄罗斯、印度、法国、德国、瑞士、斯里兰卡、韩国和英国等国家,以及内地和香港的专家学者与会。这些专家齐聚一堂,真诚交流并分享了对“一带一路”的看法。虽然这些专家来自不同国家,有不同的文化背景和传统、不同的政治和法律制度,但有一点是共同的,即衷心祝福“一带一路”战略能够带动沿线国家的经济发展,使各相关地区人民的生活水平提高,使世界变得更美好!

作为生活在“一带一路”沿线国家和地区的我们,希望通过提出管见、拙见,抛砖引玉,推动“一带一路”战略的研究。望读者赐教。

王贵国 李鋈麟 梁美芬

2015年11月18日

于香港

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专家观点篇

Keynote Speech at “One Belt One Road” International Forum

John C Tsang*

Distinguished guests, ladies and gentlemen,

Good morning.

I am delighted to join you all at today’s forum on One Belt One Road. This is the first international forum staged in Hong Kong that focuses on the Belt-Road initiative. My gratitude to the Hong Kong WTO Research Institute and the Guanghua Law School of Zhejiang University for organising this meaningful event at this opportune juncture.

This is, indeed, the right moment and the right place for us, coming from different corners of the world, to discuss and to explore in depth the impact of the development of the Belt-Road initiative on the global economy, on international and regional politics, on social and cultural exchanges as well as on economic collaboration of the various regions along the Belt-Road.

I say this is the right moment because the global economy has long been yearning for a vision that is powerful enough to create the necessary momentum to bring us out of the global financial gloom that began in 2008. The world economic outlook, as we speak, is still clouded by considerable uncertainties and volatilities. Demand in the advanced econo-

* GBM, JP, Financial Secretary, Hong Kong SAR, China.

mies remains lackluster, growth potential anemic. The key markets are expected to encounter varying degrees of economic slowdown this year. But we do see this glimmer of hope along the horizon not so distant.

The Belt-Road initiative can provide the world economy with a fresh and much-needed impetus to the otherwise mundane global growth outlook. Judging from the overwhelming participation by nations from different continents in the establishment of the Asian Infrastructure Investment Bank, the AIIB, which is the key financial institution supporting the development of the Belt-Road initiative, I think it is apparent that the global market regards this vision as the driving force for the world economy in the coming years.

I say this is the right place because I have every confidence that Hong Kong can help implement and help deliver in full the enormous possibilities and opportunities presented by the Belt-Road initiative. We have all it takes, from the perspectives of history, geography, financial and human resources, market infrastructure and network, as well as business and professional know-hows, to contribute to the successful and sustainable development of this valuable package.

Hong Kong is blessed with the unique advantages offered by the “One Country, Two Systems” framework. We enjoy a special intimate working relationship with the inland of China. As one of the international financial and business hubs of the world, we are extensively connected with markets around the world. These attributes firmly place us as the principal gateway connecting the inland market with the 60 plus economies along the Belt-Road, in particular those emerging economies that dominate the landscape.

For us in Hong Kong, the Belt-Road initiative is a once-in-a-lifetime opportunity that brings to us and to the world in an unprecedented way immense business opportunities. To put things in context, the Belt-Road initiative could likely be the guiding path for us, for our economic

development for the next 30, or even 50 years.

Hong Kong's pillar industries—trade and logistics, financial services, professional services as well as tourism—together with some of our emerging industries, including the creative and technology sectors, all stand to benefit from different aspects of the Belt-Road initiative.

Hong Kong is an international business centre that boasts an extensive market network. Business conventions and exhibitions, some of which are the largest of their kind in the world, are staged right here in Hong Kong. Coupled with our status as Asia's major aviation and maritime hub, we are the premier centre for business facilitation and high-end logistics services.

On the finance side, Hong Kong is the world's largest offshore Renminbi business centre and Asia's largest asset management centre. The financing options that are offered here in Hong Kong, from public offerings and loan syndication, to private equity funds and raising funds through Islamic finance have already attracted a large pool of quality capital seeking reasonable returns. Hong Kong's financial sector can serve the Belt-Road initiative by providing countries with the necessary funds for infrastructural and business development at reasonable cost.

Another one of Hong Kong's prominent strengths is the large pool of world-class professionals with expertise in areas such as accounting, law, architecture, engineering management and more. These professionals boast the requisite competence and experience to lead consultancies, construction projects, operations and management of the many infrastructural projects under the Belt-Road initiative.

I am certain all the legal experts present here today would agree that with our well-recognised and robust legal system, Hong Kong is the ideal centre for resolving potential commercial disputes arising from business collaborations and inevitable disagreements among different parties.

Hong Kong has always been a popular destination for tourists. Last

year, we welcomed over 60 million visitors. As a shopping paradise and a culinary capital, Hong Kong will have plenty of appeal to people living along the Belt-Road.

Beyond our traditional pillar industries, Hong Kong can also take up, for example, the role as the training hub in the region for developing talents for emerging economies. Potential new markets will also open up for our technology and creative sectors, including the film and cultural industries, our education and healthcare services as well as product testing and certification services.

To translate the potential of the Belt-Road initiative into economic benefits, I think it is important for us to follow three guiding principles:

First of all, we must abide by market rules, and let the market decide what is the most efficient way to allocate resources, to pursue reasonable returns, and to manage risks in a prudent manner. The Government, on the other hand, should play the part of facilitator, and engage itself in a more active role only when the market has found it difficult to operate.

Secondly, we should seek to achieve long-term, sustainable benefits for all the participants in different collaborations under the Belt-Road initiative. The services offered and products generated should be environment-friendly, as well as commercially viable.

Finally, we must ensure fair and equitable treatment of capital regardless of origin. This, in a way, will reinforce the credibility and sustainability of the collaborations under the Belt-Road initiative.

Ladies and gentlemen, events like today's forum are imperative in taking forward the Belt-Road initiative. With the collective wisdom of the business sector, academia and governmental organisations, we can

seek to understand more about the different perspectives of the Belt-Road initiative, and become better prepared in consolidating ourselves in seizing the opportunities ahead of us.

We look forward to hearing about your insights on the development of the Belt-Road initiative. I am sure that you will find today's program rewarding and interesting. For those of you joining the event from overseas, I wish you an enjoyable and fruitful stay here in Hong Kong.

Thank you very much.

香港“一带一路”国际论坛主旨发言

仇 鸿*

尊敬的曾俊华司长、王贵国教授：

大家上午好。非常高兴参加由香港 WTO 研究中心、香港城市大学司法教育与研究中心以及浙江大学共同举办的首届香港“一带一路”国际论坛，我谨代表香港中联办对“一带一路”国际论坛在香港举办表示热烈的祝贺。

我们所说的“一带一路”，全名实际上是指“丝绸之路经济带”和“21 世纪海上丝绸之路”。建设“丝绸之路经济带”和“21 世纪海上丝绸之路”，是我们国家顺应国际国内发展形势变化、立足构建全方位对外开放新格局、推动经济长远健康发展的重大战略部署。“一带一路”贯穿亚欧非大陆，连接东亚经济圈与欧洲经济圈。通过“一带一路”的建设，我们将与沿线各国一同促进经济要素快速有序自由流动，促进资源高效配置和市场深度融合，推动沿线各国实现经济政策协调，开展更大范围、更高水准、更深层次的区域合作，从而打造政治互信、经济融合、文化包容的利益共同体、命运共同体和责任共同体。

根据有关方面的匡算，“一带一路”的沿线国家和地区，人口大约是 44 亿，经济总量大约是 21 万亿美元，分别占全球总量的 63% 和 29%。沿线地区大多为新兴市场，或发展中的经济体，处于经济发展的上升期，后发优势明显。通过“一带一路”的建设，将构建以我国为中心，串联主要

* 中华人民共和国中央人民政府驻香港特别行政区联络办公室副主任。