

“一带一路”
沿线国家法律
环境国别报告

(中英文对照)

第一卷

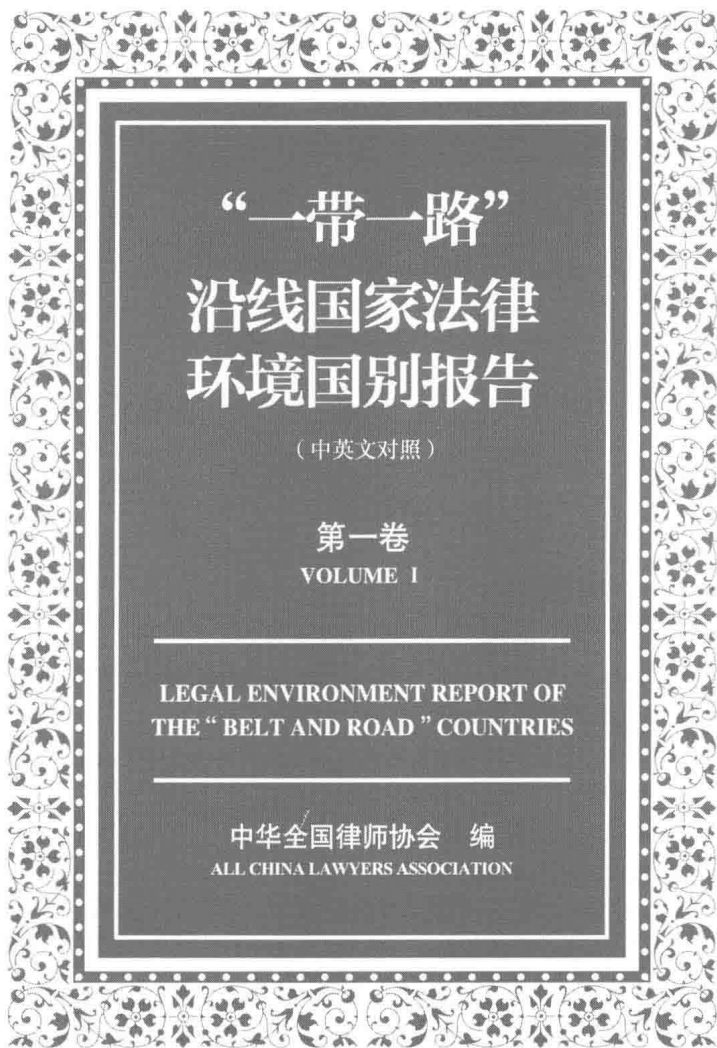
VOLUME I

LEGAL ENVIRONMENT REPORT OF
THE "BELT AND ROAD" COUNTRIES

中华全国律师协会 编
ALL CHINA LAWYERS ASSOCIATION



北京大学出版社
PEKING UNIVERSITY PRESS



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编写说明

“丝绸之路经济带”和“21世纪海上丝绸之路”（简称“一带一路”）是中国主动适应全球经济形势深刻变化提出的重大合作倡议。为推进律师行业投身“一带一路”建设，中华全国律师协会于2016年启动中国律师服务“一带一路”建设项目，着手编写《“一带一路”沿线国家法律环境国别报告》（以下简称《报告》）。

《报告》旨在介绍“一带一路”沿线国家的基本法律制度和法律环境。本次出版的《报告》分为第一卷、第二卷，含“一带一路”沿线43个国家的投资法律环境报告。报告内容涉及投资、贸易、劳动、环境保护、知识产权、争议解决等领域。具体包括相关国家的法律制度及基本法律环境概述，相关国家市场准入、外汇管理、融资、土地政策、公司设立与解散、并购、竞争管制、税收政策、证券交易、投资优惠、贸易法律规定及管理、工会与劳动组织、劳动争议解决、知识产权保护、环境保护、争议解决方式及机构等具体法律制度。

上述介绍有利于增强我国政界、商界、学界对“一带一路”沿线国家法律环境的了解，为中国企业在“一带一路”沿线国家投资、合作、发展提供法律支持。同时，《报告》的出版还有利于搭建“一带一路”沿线国家国际法律服务合作网络，聚集一批从事“一带一路”沿线国家法律服务的顶尖国际律师，为我国深入推进“一带一路”建设提供智力支持。

本书编写特点：

一、中外合作，共同撰写

《报告》由中华全国律师协会国际业务专业委员会委员和中华全国律师协会涉外律师领军人才联手“一带一路”沿线国家律师事务所的律师共同撰写。沿线国家参与撰稿的律师事务所的选择，是按照国际著名法律评级机构评定前五名的律师事务所。中国律师两人一组作为一个国家的国别协调人，负责联络该国家两家律师事务所，请他们指定本所律师根据中华全国律师协会拟定的写作提纲及要求，撰写本国英文版法律环境报告。报告在规定的时间内完成后，中国律师将英文稿翻译成中文稿，交中华全国律师协会编审汇总后，交付出版机构。

二、规模宏大，逐步推进

根据项目安排，2016年共计完成了43个国家的法律环境报告，2017年或以后将继续完成余下20余个国家的法律环境报告。参与《报告》写作、编译的境内外律师将纳入中华全国律师协会服务“一带一路”跨境律师人才库。随着项目的发展，中华全国律师协会还将适时推出针对特定法律领域和热点问题的专门报告和指南，为政府、企业及其他相关部门提供持续的专业法律支持。

三、内容翔实，实用权威

有别于其他同类出版物，《报告》由“一带一路”沿线国家顶级律师事务所的律师撰稿，真实反映了“一带一路”沿线国家实际法律环境状况，具有很强的实用性、权威性和可操作性，可以为社会各界与“一带一路”沿线国家开展官方与民间交流提供科学准确的法律环境参考，同时本书在“一带一路”沿线国家的法律环境报告后收录了参与写作的境内外律师事务所、律师介绍，可以为参与“一带一路”建设的中国企业聘请中外律师提供相关参考信息。

本书资料丰富，涉及面广，内容庞大，作者来自不同国家。由于各个国家的社会制度不同，法律环境各异，在撰稿、编译及编辑过程中难免出现各种不同理解及错误遗漏，希望各位读者及时反馈，以便我们在后续的项目中日臻完善。

中华全国律师协会

2017年4月

INTRODUCTION TO THE REPORT

The Silk Road Economic Belt and 21st-Century Maritime Silk Road, in common parlance the “Belt and Road”, is an important initiative raised by China proactively adapting to the profound changes of the global economy. To encourage lawyers to participate in the construction of the “Belt and Road” (hereinafter referred to as “the B&R Project”), the All China Lawyers Association (hereinafter referred to as “the Association”) in 2016 initiated the project of “Chinese Lawyers’ Service for the Construction of the ‘Belt and Road’”—the compilation of the “Legal Environment Report of the ‘Belt and Road’ Countries” (hereinafter referred to as the “Report”).

The Report aims to introduce the basic legal systems and legal environments of the “B&R” countries. The Report published this time is divided into the first volume and the second volume, including investment legal environment reports of 43 “B&R” countries. These reports cover several fields of investment, trade, labour, environmental protection, intellectual property and dispute resolution, etc. They include general introductions of legal systems and basic legal environments of the “B&R” countries, as well as their specific legal regulations on national market access, foreign exchange management, financing, land policies, company establishment and dissolution, mergers and acquisitions, competition control, tax policies, securities trading, investment privileges, trade laws and management, labour unions and labour organizations, employment dispute resolution and intellectual property protections, environmental protections, dispute resolution, institutions, etc.

The aforementioned reports give a better understanding to our government, enterprises and academia of the legal systems of the “B&R” countries, providing Chinese enterprises with legal support regarding investment, cooperation and development in “B&R” countries. Additionally, the publication of the Report is also conducive to building the legal service cooperation net of “B&R” countries, culminating a group of top international lawyers practicing in legal services for the “B&R” countries, and providing intellectual support to further the “B&R” initiative.

Features of the Report:

Firstly, the Report is a co-written product stemmed by the cooperation of China and other foreign countries. The Report is jointly written by the International Committee of the Association and the leading lawyers engaged in foreign-related business of the Association in cooperation with selected lawyers from law firms in the “B&R” countries. The participating law firms are selected from the top 5 local law firms ranked by an

internationally renowned law firm rating agency. Two Chinese lawyers working in one group as the coordinators for one country are responsible for contacting two law firms in that designated country and inviting them to appoint their lawyers to contribute legal environmental reports in English according to the syllabuses and requirements of the Association. After the report is completed, the Chinese lawyers translate the English reports into Chinese and submit them to the Association to be edited for the purpose of publishing.

Secondly, the Report is a big project meticulously executed step by step. According to the arrangements of the B&R Project, legal environment reports of 43 countries in total were completed in 2016, and the remaining reports of the additional 20 countries and regions will be completed in 2017 or later. The domestic and foreign lawyers participating in the Report compilation will become members of the “B&R” talent pool of the Association. With the development of the B&R Project, the Association will also timely introduce special reports and guidance on specific legal fields and hot issues to provide to the government, enterprises and other organizations continuous professional legal support.

Thirdly, the Report features informative content and practical guidance. The Report, compared to other similar publications, is of higher practicability, authority and operability, and provides a proper and accurate legal environment reference to various social communities. The Report provides reference for the “B&R” countries to carry out official and non-governmental communications, and due to the fact that it is written by the lawyers of the top law firms of “B&R” countries, it truly reflects the actual legal environments of the “B&R” countries. Additionally, the Report includes the contact information of the participating domestic and foreign law firms and lawyers, which can provide Chinese enterprises participating in the B&R Project with useful information regarding engaging Chinese and foreign law firms and lawyers.

The Report contains much valuable information as its authors originate from many different countries and regions. Due to the different social systems and legal environments of other countries, errors and omissions may appear in the process of writing, compiling and editing. If you find any mistakes or have any questions, please feel free to contact us so that we can improve in the follow-up projects.

序

2013年，中国国家主席习近平提出建设“丝绸之路经济带”和打造“21世纪海上丝绸之路”的倡议。这一倡议体现了和平、发展、合作、共赢的时代主题，顺应了世界多极化、经济全球化、文化多样化、社会信息化的潮流，符合国际社会的根本利益，彰显了人类社会共同理想和美好追求，是国际合作以及全球治理新模式的积极探索。三年多来，“一带一路”相关合作稳步推进，受到各方普遍欢迎和积极参与。截至目前，全球100多个国家和国际组织积极参与“一带一路”建设，40多个国家和国际组织与中国签署合作协议，亚洲基础设施投资银行正式运营，丝路基金、中国—欧亚经济合作基金等顺利组建。“一带一路”建设正在向落地生根、深耕细作、持久发展的阶段迈进。

法律服务是“一带一路”建设的重要保障。推进“一带一路”建设，打造新欧亚大陆桥等国际经济合作走廊，建设畅通安全的海上通道，促进基础设施建设、国际贸易、跨国投资、能源资源合作、航运金融等，都离不开“法律护航”。中华人民共和国司法部高度重视并积极为“一带一路”建设提供法律服务和保障，成立服务“一带一路”研究中心，制定《关于司法行政工作服务“一带一路”建设的意见》，指导中华全国律师协会开展中国律师服务“一带一路”建设项目，取得了阶段性成效。中外律师共同撰写《“一带一路”沿线国家法律环境国别报告》，是中国律师服务“一带一路”建设项目的重要组成部分，也是推动中国律师服务“一带一路”建设的实际行动。今后，我们还将积极探索创建国际法律服务论坛，促进中国律师与“一带一路”沿线国家律师的交流合作；扶持中国律师事务所在“一带一路”沿线国家设立代表机构，推动一批中外律师事务所建立联合经营和业务联盟关系；发起建立“一带一路”律师联盟，充分发挥中国律师在“一带一路”建设中的作用，为中国律师与“一带一路”沿线国家律师的交流合作提供更加便捷高效的平台；加快建设发展涉外法律服务网络，为中国律师服务“一带一路”建设和中国企业“走出去”提供政策法律支持和信息参考。

2017年1月，中华人民共和国司法部、外交部、商务部、国务院法制办公室联合印发了《关于发展涉外法律服务业的意见》，对发展涉外法律服务业作出全面部署。可以预期，中国律师和“一带一路”沿线各国律师，在“一带一路”建设中将有大有可为，大有作为：在政府制定有关政策措施过程中，参与研究论证，提供法律建议，防范法律风险；积极参与政策制定、规划设计和国际规则适用，充分发挥政策法律咨询和参谋作用，在全球性议题上研究提出新主张、新倡议和新行动方案，促进“一带一路”建设在法治轨道上运行；参与交通、能

源、通信等基础设施重大工程、重大项目的立项、招投标等活动，提供法律服务，防范投资风险；通过代理诉讼、仲裁等方式，依法妥善处理基础设施建设过程中发生的合同纠纷，维护当事人合法权益，为沿线各国企业提供优质高效法律服务，推动构建联通内外、安全畅通、绿色高效的国际大通道；在执业活动和对外交流中加强信息沟通，畅通信息渠道，传播中国法治声音，增进国际社会对中国法律制度的认知和了解，增进互信，凝聚共识。

2017年5月，我国在北京举办“一带一路”国际合作高峰论坛，多国元首共聚北京、共襄大计，“一带一路”建设将迎来更高层次和更大范围的推进，《“一带一路”沿线国家法律环境国别报告》的推出适逢其时，展现出相关国家律师的风采和才能，发挥应有的作用。

伟大的事业呼唤高素质的人才。下一步，中华人民共和国司法部将进一步推进涉外法律服务人才培养工作，出台更为具体的实施举措，为“一带一路”法律服务坚实牢固而可持续发展的人才基础。

希望中国律师与“一带一路”沿线国家律师携手努力，加强交流合作，共同为推进“一带一路”建设，促进沿线各国经济繁荣发展作出新的更大贡献。

是为序。

熊选国

中华人民共和国司法部副部长

2017年4月

PREFACE

In 2013, Chinese President Xi Jinping proposed an initiative of the construction of the “Silk Road Economic Belt” and “21st Century Maritime Silk Road” (“B&R”). This initiative, as an active exploration for a new model of international cooperation and global governance, embodies the theme of peace, development, cooperation and mutual benefits; echoes the trend of global multipolarization, economic globalization, cultural diversification and social informatization; conforms to the fundamental interests of the international community and supports the common ideals and pursuits of mankind. For more than three years, the “B&R” cooperation has been progressing steadily, and has been generally welcomed and well participated in by the parties. So far, more than 100 countries and international organizations have actively participated in the construction of the “Belt and Road” (hereinafter referred to as “the B&R Project”); more than 40 countries and international organizations have signed cooperation agreements with China; Asian Infrastructure Investment Bank has officially started running and Silk Road Fund, China-Eurasia Economic Cooperation Funds, etc., have been successfully established. The B&R Project is approaching the stage of steadily rooting, deeply plowing and sustainable development.

Legal services are of significant importance for safeguarding the B&R Project. A proper legal system is indispensable for forging ahead the B&R Project. This project includes building international economic cooperation corridors such as a new Eurasian Continental Bridge, setting up a safe and unimpeded maritime channel, and promoting infrastructure constructions, international trades, transnational investments, energy resources cooperation, shipping finance, etc. The Ministry of Justice of the People’s Republic of China attaches great importance to providing supporting legal services and protections for the B&R Project, and it can be seen from the establishment of the “B&R” research centre and the publication of “Several Opinions on Providing Judicial and Administrative Services for the Construction of the ‘Belt and Road’”, which has achieved progressive momentum in guiding the All China Lawyers Association to process its project of Chinese lawyers’ services for the B&R Project. The “Legal Environment Report of the ‘Belt and Road’ Countries”, jointly written by Chinese and foreign lawyers, is an important component as well as an actual step of the Chinese lawyers’ services for the B&R Project. In the future, we will actively explore the possibility of creating a forum focusing on international legal services to bolster the communication and cooperation between Chinese lawyers and the

lawyers from the “B&R” countries; facilitating Chinese law firms setting up representative offices in the “B&R” countries; building joint operation relationships and business alliances between Chinese and foreign law firms; initiating the establishment of the “B&R” lawyers union, giving full play to the Chinese lawyers in the B&R Project and developing a more convenient and efficient platform to communicate with lawyers from other “B&R” countries; expediting the construction of the international legal services network and providing policy analysis, legal support and information reference for Chinese lawyers to serve the B&R Project, as well as, for Chinese enterprises to go global.

In January 2017, the Ministry of Justice, the Ministry of Foreign Affairs, the Ministry of Commerce, and the Legislative Affairs Office of the State Council of the People's Republic of China jointly issued the Opinions on the Development of Foreign-related Legal Services, and made a comprehensive plan for the development of foreign-related legal services. It can be expected that Chinese lawyers, as well as lawyers from other “B&R” countries will make an impact in the B&R Project in the following aspects: facilitating the government in formulating applicable policies and measures, participating in research and discussions, giving legal advice and avoiding legal risks; participating in the approval, bidding, etc. of energy, communications and other major infrastructure projects, providing legal services, and avoiding investment risks; safeguarding the legitimate rights and interests of the parties by means of litigation, arbitration, mediation, etc.; disseminating the strong voice of China's action of improving its legal system during legal practice and external communications, enhancing the international community's understandings of China's legal system, and promoting mutual trust and consensus.

The B&R Project will move forward to a higher level and a broader range after the “B&R” International Cooperation Summit Forum is held in Beijing in May 2017, where the leaders of the relevant countries will gather in Beijing and accomplish a great achievement with concerted efforts. The “Legal Environment Report of the ‘Belt and Road’ Countries” is launched at an opportune time, with respect to presenting the world the brilliance and competence of the lawyers participated in the Project, and as well, fully playing its role under this context.

This glorious undertaking calls for highly competent talents. The Ministry of Justice of the People's Republic of China, at the next step, will further promote the cultivation of talents for transnational legal services, introduce more specific implementation measures, and build a firm and sustainable talent base for the “B&R” legal service.

We hope that Chinese lawyers, together with the lawyers from other “B&R” countries will further develop their communication and cooperation so as to make new and greater contributions in promoting the B&R Project and the economic prosperity and development of the “B&R” countries.

Xiong Xuanguo
Vice Minister of the Ministry of Justice of the People's Republic of China
April, 2017

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