

21st Century silk road

The Middle East is set to gain significantly from increased trade and investment from China's Belt and Road Initiative (BRI), especially in the technology, infrastructure and energy sectors. David Pang of Bracewell LLP elaborates.

WHAT IS BRI?

One of China's most significant foreign and trade policies in modern history is the "revitalisation" of the ancient Silk Road, namely the Belt and Road Initiative, which combines a rail route (being the "land economic belt") and a sea route (being the "maritime silk road") that will transform the economic geography from China to South and Central Asia, the Arabian Gulf, North Africa and then finally into Europe.

Essentially, the BRI's objectives are to enhance: (1) investment policy coordination; (2) financial integration; (3) unimpeded cross-border trades; (4) infrastructure connectivity; and (5) people synergy, amongst the participating countries through significant investments in various industry sectors.

With an enormous USD3 trillion worth of planned investments into 100+ participating countries, the BRI is, unsurprisingly, the biggest foreign investment strategy by any single country in world history. Currently, the majority of the funding for BRI projects will come from

Chinese policy banks, such as the Asian Infrastructure Investment Bank, the China Development Bank and the Export & Import Bank of China, as well as the Silk Road Fund.

BRI investments in participating countries will open new markets to various Chinese exporters in the fields of energy, construction, rail, port and technology (including health care and education). In return, the financial resources and expertise deployed by the BRI will benefit the people in the participating countries, with coordinated investments in power plants, railways, ports and other critical infrastructure such as hospitals and schools, having the potential to spur growth in the businesses and improve standards of living.

BRI FOR UAE AND THE GCC

China's President Xi Jinping's summer 2018 visit to the UAE highlighted the massive BRI investments to be made in the UAE due to its status as a magnet for regional and global business and its infrastructure capabilities

as an energy and trading hub (especially in the air and maritime sectors). Such co-investment projects include, for example, the Al Badea Bridge in Sharjah, the Al Amal Hospital in Dubai, and the 700MW Solar Power Plant in Dubai (which will be the world's largest and most advanced solar



thermal power plant). Consequently, the UAE and China are continuing their joint efforts to strengthen trade and economic ties through bilateral trade agreements in 13 vital areas being consumer products and services, energy and renewable energy, education, financial services, healthcare, heavy industries, infrastructure, innovative industries, international standards and measures, small and medium-sized enterprises, space and aviation, technology and tourism.

A key tenant of the BRI consistently articulated by the Chinese government is the vision of “security through development” (being that any solution to hot-spot and political issues hinges on economic growth and better life for the people), with the result that the BRI will reach beyond the UAE and into other GCC countries so that: (1) it adds to the Middle East’s economic diversification and revitalisation considerations; (2) it offers GCC countries scope for multilateral partnerships beyond the Middle East; and (3) it could serve as an incentive for China to assist (when appropriate) in the Middle East’s political and security dynamics.

BRI AND LEGAL DEVELOPMENTS

Given the cross-border nature of BRI, the related projects and transactions are inevitably more complex due to regulatory, business landscape and language differences. Consequently, the BRI has been conducted within the confines of international rules and law, observing both international law and the domestic laws of participating countries. Nonetheless, it is essential to strengthen the rule of law for BRI to further evolve in the world stage, and to provide legal safeguards against uncertainties and challenges. In particular:

» Harmonisation of rules and regulations under the BRI should continue. China has aligned its domestic rules and standards with international ones, and it has joined a large number of inter-governmental organisations and acceded to 500+ international conventions. By 2018, the correlation rate between China’s national standards and international ones was over 90 per cent.

» Legal safeguards for the BRI should continue to evolve. All participating countries should update the relevant treaties, and continue the establishment of a network of treaties that meets the BRI’s

needs. It is imperative to put in place an effective BRI dispute settlement mechanism that integrates litigation, arbitration and mediation services to properly resolve disputes, and create a secure and certain business environment.

» Legal exchanges and cooperation under the BRI should be deepened. All participating countries should facilitate further legal exchanges between the governments, the public and private sectors, and the academia to promote understanding of different legal frameworks and business cultures, share experience and best practices and work together to forestall legal risks under the BRI.

CONCLUSION

Since President Xi Jinping introduced the BRI, this game-changing global vision has gained increasing recognition and momentum from around the world.

Looking at the world around us today – with an imminent trade war, unpredictable political winds and growing social issues – it is no wonder that the BRI’s purpose of creating security through development is regarded by many as a sensible solution to a volatile world.

The World Bank estimates that the countries currently participating in the BRI encompass 33 per cent of the global GDP, 68 per cent of the world’s population and 75 per cent of currently known energy reserves, and the official BRI Portal says that the initiative already has the support of more than 100 countries and international organisations, with 50 countries having signed co-operation agreements, whilst China has built 56 economic and trade zones so far in 20 BRI countries.

Unsurprisingly, ‘ambitious’ is a word frequently used to describe the BRI, but it is an understatement. Perhaps this is why Napoléon once said, “China is a sleeping giant. Let her sleep, for when she wakes she will shake the world.” 🇨🇳



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