

Environmental Aspect of China's Belt and Road Initiative and its Economic Benefits

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Abstract: *The Belt and Road Initiative project is one of the largest progress ever witnessed by the recent human history. The staggering cost and its coming into force in the year 2049 by the People's Republic of China's pushes us to look towards the future, especially with regard to environmental law. Since the environment has no borders, a project of such an importance compelled us to questions about its environmental consequences. This paper has taken a pragmatic approach towards the environmental legal provisions and the involvement of China on an international front. Hence, this paper reflects a clear intention of China towards establishing an "ecological civilization" along with economical benefits for the world in general which deliberates that China has sufficient means to carry out such a project by respecting international environmental standards. The hosting of the 13th Conference of the Parties to the United Nations Convention to Combat Desertification in September 2017 and the preparation to host COP15 in May 2021 is a viable proof that China is serious in tackling the issues relating to the environment which will then puts its impact on the world economy.*

Keywords: Belt and Road Initiative, Environmental Law, Paris Agreement, International Law, Environmental Protection law of the People's Republic of China, Economic Benefits

1. Introduction

The International environmental law is relatively young, as the same is barely a century old. It refers to all international legal rules designed to protect the biosphere and as well as the global ecosystem. Initiated in 2013 during a speech by XI Jinping in Astana (Kazakhstan), the Belt and Road Initiative (BRI)¹ which aims towards building a new infrastructures from the Pacific sea towards the Baltic sea. Schematically, two roads would be mapped: one in the north, and another Belt would become part of an ancient road; in south, the objective of this project is to develop sea routes between the Indian Ocean connecting towards the Mediterranean sea through the Red Sea.

The relationship between international environmental law and the BRI project is quite obvious. On one hand we have a relatively young law consisting of multiples legal sources which is comprised of numerous countries including China which is a signatory to the law. On the other hand, we have a large-scale project initiated by China which extends to further more than sixty countries. The respect of international environmental law by China is a part of the BRI project and therefore, it is a sensitive subject due to three reasons.

The first reason is political, as it is about putting a brake on the skepticism emanating from European countries.² They fear China's inability to carry out an ecologically clean

project. To certain aspect this is understandable because it is a colossal project as rarely seen in the history of peoples republic of China. At the same time, it must be remembered that China is dedicated to ecological projects of great importance³.

The second reason is juridical since the proclamation of the People's Republic of China in 1949, the process of development of Chinese environmental law has gone through different stages: starting from the period of 1949 to 1973, and then it can be seen that the development progress continued onwards from 1973 to 1989. After a relative inefficiency of an ambitious legal system which was set up in 1989, which is known as the beginning of an era concerning true modernization⁴.

The third reason is practicality it is known that the Chinese law is quite elaborate and improved over the years especially the last revision of 2014 has greatly modernized the environmental law. As such, the comparison between environmental protection law of the People's Republic of China which was promulgated on April 24, 2014 and the previous environmental protection law which was passed on December 26, 1989. Which is uplifting and thereby, proved how far we have gone in this era where the environment is an integral part of social and political life and with the use of new terms directly integrated in the law such as "sustainable economic and social development" or "ecological civilization" which was used for the first time by the economist Ye Qianji in 1987.

¹It is useful to specify that "Belt and Road Initiative" is the official translation as government considered in 2016 the term "One belt One road" as prone to misinterpretation notably because this project aims to connect Asia Europe and Africa along five routes

²See of European and American press in general

³See 东滩 - Dongtan city is the biggest ecological city project

⁴See BIN (L), *The changing chinese legal system, 1978 - Present: Centralization of Power and Rationalization of the legal system*, ed. Routledge, 2012

The development of a Chinese environmental law emerged as a natural consequence of the development that China is known for more than thirty years. The recent adoption of unprecedented and ambitious requirements and the government's will to ensure a more effective application of environmental legislation on the territory⁵ are two sources of joint efforts that can be expected in the future. In this case we can raise the following question: if China has the will to erect the first ecological civilization, does it also possess the necessary means to achieve its objective?

The Part of the answer lies in Chinese national Law and in the ability of the Chinese legislator to elaborate the Law in accordance with current standards along with new challenges. Another part of the answer remains in the international Law of the environment and Chinese involvement on the international forum. The International environmental Law contains more than 300 international treaties, 1000 bilateral agreements and comprised of numerous other domestic and community Laws.

1.1. Background and History

The Stockholm declaration of the United Nations conference on the human environment⁶ was adopted in June 1972 which states that "*Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being, and he bears a solemn responsibility to protect and improve the environment for present and future generations*".

The convention on the rights of the child⁷ signed in November 20, 1989 states in article 24 "*taking into consideration the dangers and risks of environmental pollution*". The work to carry out BRI will generate real ecological upheavals and the damage caused by it will be irreversible. The priority of a sustainable development, in line with all environmental issues mobilizing numerous governments and civil society actors, are recalled by China⁸ along with the importance of an environmental protection Law. The first article of the environmental protection Law states that the aim of such a Law is about "*protecting and improving environment, preventing and controlling pollution and other public hazards, safeguarding public health, promoting ecological civilization improvement and facilitating sustainable economic and social development*".

At the same time, the analysis of international environmental Law provides an overview about the direction of this Law for the upcoming decades. On the one hand, professionals denounce the non-respect of this Law and a lack of effective

sanction for the faulting actors. On the other hand, the international Law has improved in the last thirty years and it could have an influence on how China will manage the BRI project in the context where this Law has an influence on the signatory countries. The Paris climate agreement, for example, of which China is a signatory, requires countries to respect a threshold at the end of which the increase in Earth's temperature will be limited. Article 2 states the aim about "*Holding the increase in the global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels, recognizing that this would significantly reduce the risks and impact of climate change*".

Since its revision in 2014⁹, the environmental protection act, now devotes an entire Chapter on information and public participation. Article 53 provides in particular that "*citizens, legal persons and other organizations shall have the right to obtain environmental information, to supervise and to participate in the protection of the environment*". The principle of public participation is first illustrated in the Law development. It is also sought at the stage of implementing certain Laws, particularly in the field of environmental impact assessment.

The article 21 of the People's Republic of China's environmental impact assessment act¹⁰ states that developers of construction projects have the obligation to prepare an impact report on the environment. The aim of cooperation principle as enshrined before is to promote, both inside and outside the country, the exchange and communication of technical know-how, scientific knowledge, information and communication in order to protect the environment.

1.2 Importance of Belt and Road Initiative For China's Progression

For understanding the relationship between economy and environment it is necessary to go back in the pages of history when we look back towards the late 1970s we will observe that the difference in environmental policies are found to be less stringent in developing countries as compared to developed countries¹¹. It is true that the country considered as developed must necessarily adhere to the principles of international environmental Law¹². However, many countries prefer to opt for a model of economic development which is harmful to the environment rather than supporting a clean environmental policy. Likewise, in the case of China the question is whether it is complying with the environmental Law. The Article 1 of the

⁹See KITAGAWA (H), *Environmental Policy and Governance in China*, ed. Springer, 2017

¹⁰See Law of the People's Republic of China on Environmental Impact Assessment [Online] Updated 2018 Consulted 2018.11.07] Available at the following address: <http://www.chinaeia.com/en/policiesregulations/lawsregulations/4659.htm>

¹¹See INGO (W), *Resources Policy*, Vol 4, Issue 3, Pages 200-204, September 1978

¹²See RABIEI (S) ALVANDI (M), RABIEI (M), *Sustainable Development, China's Emerging Role via One Belt, One Road*, ed. International of Economics and Management Engineering, 2018

⁵See YANG (D), *Chinese Research Perspectives on the Environment: Urban Challenges, Public Participation, and Natural Disasters*, ed. Brill, 2013

⁶See NORDQUIST (M), NORTON MOORE (J), MAHMOUDI (S), *The Stockholm Declaration and Law of the Marine Environment*, ed. Brill, 2003

⁷See FREEMAN (N), *A Commentary on the United Nations Convention on the Rights of the Child*, ed. Brill, 2007

⁸See ANDRESSEN (C), MUBARAK (A), WANG (X), *Sustainable development in China*, ed. Routledge, Contemporary China Series, 2016

environmental protection is interesting because it deliberates support for sustainable development in order to build an ecological civilization which could be an alternative with a cleaner development mode. The direction undertaken in developing environmental Law can be understood by the environmental protection for ensuring the better future of present and next generations. The legislators has several clues which could assist them in following this approach. In addition to major international environmental guidelines¹³ economic stakes are presents at the national level. Economic standards are taken into account in the context of the development of an effective environmental Law. The relationship between the economy and the environment is equivocal and circumstantial¹⁴ for using Professor BOIRAL's formula. This relationship is complex and calls into question which is the "win-win" or "win-loose" hypothesis usually found in public debates. The limitation of environmental impact by China as part of its BRI project represents a considerable investment¹⁵ of government and the companies. The environment now being a concern integrated into productive activities even if it is harmful for the latter. The economic stakes of the BRI project and their understanding cannot be found only in the relationship between the economy and the environment but also in the study of Laws. The question is Whether the Laws currently in force could be different with the opening of the BRI in 2049? What is the criteria that can help us in understanding the future direction of legislators and the doctrine as a whole? It is a legitimate question because the knowledge of international Law requirement for environment can help the Chinese legislators to take a step ahead in order to perfect the national Law that can respond to environmental concerns with a construction of the BRI in accordance with international standards.

1.3 Relationship of Economy and Environment

The close relationship between economy and environment is a regular subject of discussion. As these issues are linked to the economic development of societies¹⁶ as the economic activities impact the environment. Hence, this is precisely one of the central points which needs discussion in the context of a major project like Belt and Road.

On one hand, we must be able to respond to environmental pollution issue through legal measures by permitting compliance to all the entities. While on the other hand, legal measures should not be very obvious because on the one hand, too many laws kills the Law itself¹⁷ and leads to legislative inflation¹⁸ which is harmful and it deserve

development that has no place here. On the other hand it is not necessary that environmental measures soften economic development and prevent development. This is precisely where the work of reconciliation between economic development and the environment begins, a essential step towards the framework of a such a project.

1.4 The Impact of Economic Activities for China and the Environment

It is true that the United States has dominated the world in the last century. However, with the help of BRI project China can use the opportunity to change the future in its favor. Where the European countries are already in crisis¹⁹, this is an opportunity for China to take advantage of the situation particularly, by establishing a win-win strategy by purchasing strategic foreign infrastructures²⁰ including: ports, airports and the shipping companies.

It is high time to keep International competition aside, and focus on what is essential and what will constitute the focal point of future developments meaning the impact of economic activities on the environment. There can be no economic development without environmental protection, the latter being a corollary of the first. One of the central question here is whether Chinese environmental Law and international Law are able to measure the intensity of economic development of BRI project and will it generate and establish barriers that are able to ensure environmental protection.

The answer of this question lies in the economic-industrial characteristics of the BRI project in the extent where their content would allow us, by studying national and international doctrine, to analyze whether it is necessary to soften environmental measures or on the contrary, whether it will be necessary, to reinforce those very measures.

2. Detailed Relationship of Environmental Protection and Economic Development

The link between economic activity of BRI project and the environmental protection is pretty obvious, the first generates a strong increase in economic activity leading to greenhouse gas emissions and organic deposits. The analysis of environmental policy instruments allows us to understand how they can change the nature of productive process and the very content of the economic growth phenomenon²¹. Economic growth is largely supported by China but remains difficult to implement because it is at the origin of several

¹³ See Hans Kelsen's hierarchy of norms conferring on international treaties a higher authority than the laws

¹⁴ See BOIRAL (O), *VertigO – La revue en sciences de l'environnement / The environmental law Journal*, Vol 5, No 2, September 2004

¹⁵ See Investments measured by expenditure on pollution control equipment, market research, infrastructure quality with regard to sustainable development ect.

¹⁶ See VICTOR (P), *The environmental impact of Economic Activity;: a multidisciplinary view*, Vol 1, No 1, 1971

¹⁷ See FRIEDMAN (M), *Free to choose – a personal statement*, ed. Harcourt, 1980

¹⁸ See In its book, Milton FRIEDMAN takes as an example the

Federal Register created to consolidate all laws and regulations. The number of pages when it was created in 1936 was 2.599, 10,528 pages in 1956, 16.850 in 1966 and 36.487 pages in 1978. In 2017 this number reached 61.950.

¹⁹ See Each crisis has two inseparable constituents, the risk (危) and the opportunity (机).

²⁰ See The purchasing of Piraeus greek port, Toulouse-Blagnac airport in France, the acquisition by Cosco Expedition of almost all parts of the Hong Kong shipowner OOCL ect.

²¹ See BURGENMEIER (B), *Politiques économiques du développement durable / Economic policies of sustainable development*, ed. De Boeck, 2008

disturbances that could affect environment. It is based on the development of production factors, linked to the industrial revolution with railway construction, seaports, power line, land routes. The BRI project will promote the economic development of more than 60 countries, from different continents including : Africa, Europe, America and Asia.

According to a French economist François PERROUX²², economic growth can be defined as the sustained increase during one or more long periods of a dimension indicator²³. Pollution caused by economic growth negatively affects sectors of the economy including the well-being of populations. In the elaboration of the new environmental protection Law in 2014, the legislator specified in Chapter 2 “*Supervision and Management*” the measures applicable in order to mitigate the impact of the economic development on the environment.

Article 13 states that “*The People's governments at or above the county level shall include environmental protection work into their respective economic and social development planning*”. This article lays out a clear principle : environmental protection must be included in the economic development planning. Article 14 refers to the use of opinions from experts or stakeholders: “*When developing economic and technical policies, relevant departments of the State Council and people's governments of provinces, autonomous regions and municipalities directly under the Central government shall take into full account their environment impacts, and solicit opinions from experts and relevant stakeholders*”

The direct effects of economic development on the environment are about the biodiversity loss with which includes the disappearance and the rarefaction of certain animals, plant species, water scarcity and as well as global warming, even though the latter is called into question by numerous studies²⁴. Article 29 mentions the environmental protection of sensitive areas and regions with the provision of a specific list : “*The State defines ecological redline for strict protection on key ecological functional zones, areas of sensitive and fragile ecological environment. The people's governments at various levels shall take measures to protect regions representing various types of natural ecological systems, regions with a natural distribution of rare and endangered wild animals and plants, regions where major sources of water are conserved, geological structures of major scientific and cultural value, famous regions (...)* Damage to the above shall be strictly forbidden.

This observation raises the question of whether economic

²² See PERROUX (F), *Dictionnaire économique et social / Economic and social dictionary*, ed. Hatier, 1990

²³ See GDP being one of the indicators

²⁴ It is useful to specify here that global warming is the subject of serious controevsers with a plethora of conflicting studies on the subject. On the one hand those who believe that global warming is due to human activity and economic growth and on the other hand those who believe that global warming is a natural process that has nothing to do with human activity. Finally, there are also many studies questioning its very existence, going so far as to emphasize the use that is being made to prevent developing countries including China from developing rapidly.

development should prevail over environmental protection ? The concept of sustainable development could be an answer. It implies to the present development that does not compromise future development²⁵. It is a concept that unites the economy, the environmental and the social development on the long term. It appears in the 2014 environmental protection Law,s preamble before the first article and as well as in its first article.

The drafters of the 2017 Belt and Road Ecological and Environmental Cooperation Plan used thisterm several times by the way of implementing the2030 Agenda for Sustainable Development²⁶. It underlines the cooperation on eco-environmental protection and the way in which the green transformation of regional economy can be realized through Belt and Road Initiative. The latter is significantly helping China as well as countries along the routes to explore the model of coordinated environmental and economic development and vigorously boosting the green economy. The drafters emphasizes the need for environmental protection in a presence of economic development : “*It provides an important way to achieve green transformation of regional economy by facilitating bypass that harmonizes economic development and environmental protection with minimum impact on the ecological environment*”. Thus, countries along the route gathering around the common project would benefite from mutual benefit includingcommercially and environmentally.

The legislator in its Law-making role observes whether they respond to an idea of justice when a legitimate need is needed, it takes care of its elaboration. The question is whether the Law currently in force is sufficient or if it is necessary to move towards more progression of environmental Law. One of the latest major breakthrough is China's signing of the Paris Agreement on climate change, which came into effect on November 4, 2016²⁷. This is a declaration of intent rather than based on coercion unlike the Kyoto Protocol as the main objective of limiting the increase in temperatures is below 2°C or 1.5°C by next century.

The question is Will China succeed in complying with Paris Agreement and respect the international environmental Law as part of BRI? The reading of the Paris agreement tells us that no special attention is given to China and this is understandable because it is a general text addressed to all signatories. Correlatively to its population and its size, China is the first greenhouse gas emitter country²⁸ and the

²⁵ See Sustainable Development Goals [Online] Updated 2018 [Consulted 2019.01.15]

Available at the following address: <https://sustainabledevelopment.un.org/?menu=1300>

²⁶ See The Belt and Road Ecological and Environmental Cooperation Plan [Online] Updated on May 14, 2017 [Consulted 2019.04.28]

Available at the following address: <https://eng.yidaiyilu.gov.cn/zchj/qwfb/13392.htm>

²⁷ See Paris Agreement [Online] Updated on december 12, 2015 [Consulted 2019.01.15]

Available at the following address: https://unfccc.int/sites/default/files/english_paris_agreement.pdf

²⁸ See OECD.Stat - Greenhouse gas emissions [Online] Updated on January 15, 2019 [Consulted 2019.01.16] Available at the

huge scope of the BRI project may deserve particular attention to China because all countries are on an equal footing, while not all of them have the same economic development, and not all realize that a very large-scale project requires considerable efforts in term of environmental protection.

The development goals asserted in the Belt and Road Cooperation Plan resume the objectives of Paris agreement and go much further. By 2030, the main aim is to promote cooperation on eco-environmental protection with higher standards and at deeper levels in order to accomplish the sustainable development goals. Through Belt and Road Initiative, countries along the routes which would benefit from a better environmental protection in the field of environmental pollution control, ecological protection, nuclear and radiation safety and as well as technological innovation.

Another question is does China intend to favor environmental protection with sustainable development? Declarations of the president XI Jinping at the Belt and Road Forum for International Cooperation on May 14, 2017²⁹ is encouraging. As he stressed the need to practice new concept of green development, by sticking to the green, low carbon, recyclable and sustainable way of production and living, to strengthen cooperation in the field of ecological protection, to build ecological civilization and achieve together the objectives of sustainable development on the horizon 2030, signed by 193 countries in September 2015.

Furthermore, the Belt and Road Ecological Plan underlines the importance of implementing the 2030 Agenda for Sustainable Development. Paris agreement is taken into consideration by the drafters, affirming "*Green development has been recognized by the world community*". BRI is the spearhead of a large-scale ecological project with the implementation at the forefront of sustainable development as well as international cooperation. This project is beneficial for both national and international Law as the drafters asserted in the following sentence : "*The cooperation on eco-environmental protection under the framework of the Belt and Road Initiative will inject an effective impetus to accomplishment of environmental targets in the Agenda in countries along the routes*".

2.1 The Economic-Industrial Characteristics of The Belt and Road Initiative

The industrial characteristics of Chinese development was released for the first time when China was an emerging country but the parallel with the BRI project is interesting to build because they are still relevant and corresponds in many ways. They are essentially distinguished by the following

traits³⁰: the use of planning as an authorized route to industrialization; high rate growth; predominance of heavy industry; focus on incentives at work; labor-intensive production units and finally, multiple industrial localizations.

BRI project being the biggest investment project since the Marshall plan after the second world war³¹, therefore, it is necessary to focus on the economic characteristics. This project will shake the entire Chinese economy as it will encompass more than 60 asian and european countries accounting for almost 55% of global GDP and 70% of the world's population. The estimated cost exceeds to \$ 1000 billion and loans from China may reach \$ 8 trillion for the construction of the future infrastructure in different countries crossed. These vertiginous figures exceed by more than three times the GDP of France for the year 2017³² which underlines the strong economic activity which China will be involved with in the years to come.

2.2 Reconciling Economic Development and Environmental Protection

Reconciling economic development and environmental protection is arduous because the two concerns may appear contradictory³³. On the one hand, it is about ensuring economic development without hindering environmental protection. Many economic activities have a negative environmental impact because they use natural resources in the production process and contribute to reducing natural capital.

On the other hand, environmental protection objectives could have a negative impact on economic development with regulations or fiscal measures meaning one part of BRI project success must go through the environmental protection without hindering economic development.

Where as the establishment of green growth is economically and environmentally justified. The Business opportunities associated with investing in sustainability could be measured in billions of dollars by 2050. The important question is why Chinese government is concerned about environmental issues as part of the BRI project ?

It is because a well-conducted environmental policy is one of the best guarantees for the long-term success and government cannot be insensitive to various environmental risks. Hence, the reducing of greenhouse gas emissions can be one of the best investments the government can do to prepare for its future profitability. Certainly the emission reduction will require a lot of expenditure but the economic value of reducing emissions will be much more important in

following address:
https://stats.oecd.org/Index.aspx?DataSetCode=AIR_GHG

²⁹ See Full text of President Xi's speech at opening of Belt and Road Forum for International Cooperation 14 May, 2017 [Online] Updated on 2017.05.14 [Consulted 2019.01.16] Available at the following address:
http://www.xinhuanet.com/english/2017-05/14/c_136282982.htm

³⁰ See HSIA (R), *Les caractéristiques du développement industriel de la Chine continentale / The characteristics of industrial development of mainland China*, ed. Revue Tiers Monde, 1961

³¹ See NALBANTOGLU (C), *One Belt One Road Initiative: New route on China's Change of Course to Growth*, ed. Open Journal of Social Sciences, 2017

³² 2,583 billions USD in the year 2017

³³ See FAGNART (J-F), HAMAIDE (B), *Environnement et développement économique / Environment and economic development*, ed. De Boeck, 2012

the long term³⁴.

2.3 Environmental Protection Without Economic Hinderance

It is more difficult when it comes to protecting the environment without hindering economic development. The last is hardly wellperceived by developing countries³⁵ and it is understandable that the environmental protection have been developed at a time when environmental laws were non-existent and there was no regard to environment. China having started its industrialization after the late 1970s, and the first ever environmental protection Law was adopted on September 13, 1979 makes China one of those countries with fast environmental concerns taking into account the period passed between the beginning of its industrialization and the entry into force of the first environmental Law.

On 30 June 2015, China submitted its Intended Nationally Determined Contribution³⁶ which is an anticipated climate announcements for the years to come until 2030. This contribution shows a clear willingness to cooperate with the international community and discusses the objectives of the Paris Agreement and to emphasize Chinese implication evoking “*the view to making the Paris Conference a great success*”.

Actions by 2030 has been determined as follow : achieving the peaking of carbon dioxide emissions around 2030; to lower carbon dioxide emissions per unit of GDP by 60% to 65% from the 2005 level; to increase the share of non-fossil fuels in primary energy consumption around 20%; to increase the forest stocks volume by around 4.5 billion cubic meters on the 2005 level. The government hereby recalls that the objectives previously established in 2005 include the reduction of fossil energy consumption, the increase of green energies such as hydroelectric power (2.57 times higher than 2005), wind energy (90 times higher than 2005), solar energy (400 times higher than 2005) as well as the installed capacity of nuclear energy (2.9 times higher than 2005).

The problem of the economy and the environment is successfully confronted by the Chinese government since the latter invests in facilities thereby preserving the environment without hindering economic development. By continuing along this way with the economic growth that is more respectful of the environment and with less greenhouse gas emissions, it will be possible to erect the first ecological civilization, which indeed lie among the goals of the

environmental protection Law as article 1 refers about “*promoting ecological development improvement*”. The Belt and Road Initiative project is not mentioned in the INDC but its date of completion is mentioned through the following formula by the evocation of “*a prosperous, strong, democratic, culturally developed and harmonious modern socialist country by the middle of this century*”.

3. Glimpse at the Future Influence of Environmental Law

It is a fact that Current Laws are likely to be different in the future. China's ambition is to fully finalize the BRI project by 2049. The question is what would be the shape of future international environmental Law? Will it be the same as we know today or do we have to see a hardening or softening of this Law ? What about Chinese Law ? Will it comply with international Law ? Will China respect its commitments in the Paris Climate Agreement ? These questions, however, reflect the interest of States about the environmental Law because their absence would point out a legitimate concern that reflected the lack of interest of the States to ensure a clean environment.

This express request for an environmental Law originates from the States and refers us to the beginnings of the international environment Law . States concern for the environment is recent and dates back to the mid-twentieth century after the end of the second world war long after first known industrial revolutions of European and American countries. The first joint consultations and agreements are only a few decades old. Their reminder would provide an overview of concrete actions that have been taken at the international level. The advantages of enumerating the conventions, treaties and bilateral agreements that made the international environment Law would make it possible to know in which direction this Law is orienting for the next thirty years and without this data, the establishment of a connection between the respect for the international Law of China's environment as part of its BRI project would be much harder.

It is true that the climatic risks and the adverse effects of industrialization have led to a reaction, the States are wishing for more Laws and greater respect for the environment. If this international environment Law is recent, the motivation of the States has never weakened . It has gradually translated into ever greater States participation and has given birth to more conventions and treaties. At the same time, this progressive and collective elaboration of international Law was achieved by taking into account large-scale projects and by drawing up major and realistic common objectives which has given birth to the common will of States to build an international environmental Law which was then translated into three periods according to the progress and investments of States on international scenario³⁷: The period after the Second World War with a first salvo of conventions, bilateral treaties or agreements : International Convention for the Regulation of Whaling

³⁴ See Negative effects of environmental pollution resulting in expenditures exceeding the costs that would have been spent to annihilate them

³⁵ See England having benefited from the industrial revolution at the end of the eighteenth century followed by other countries in the nineteenth century including France, Belgium, Switzerland, Germany, Japan, United States ect.

³⁶ See Enhanced actions on climate change: China's intended nationally determined contributions [Online] Updated in 2015 [Consulted 2019.01.17] Available at the following address: https://unfccc.int/files/adaptation/application/pdf/all__parties_in_dc.pdf

³⁷ See SANDS (P), PEEL (J), FABRA (A), MACKENZIE (R), Principles of International Environmental Law, ed. Cambridge University Press, 2018

signed December 2, 1946; Foundation of the International Union for Conservation of Nature on October 5, 1948 grouping 68 States; International Plant Protection Convention signed on 6 December 1951; Antarctic Treaty signed on December 1, 1959; International Union for the Protection of New Varieties of Plants adopted on 1961; World Wide Fund for Nature created on April 28, 1961; Environmental Protection Agency created on December 2, 1970; Man and the Biosphere Programme launched in 1971 as well as the Ramsar Convention on Wetlands of International Importance especially as Waterfowl Habitat signed on February 2, 1971.³⁸

The period after the United Nations Conference on Environment and Development also known as the Earth Summit was organized in 1972. From then on, the planet is considered as a global or planetary village : The World Heritage Site adopted on November 16, 1972; London Convention on the Prevention of Maritime Pollution by Dumping of Wastes and Other Matter entered into force on August 30, 1975 after its opening for signature on December 29, 1972; Convention on International Trade in Endangered Species of Wild Fauna and Flora entered into force on July 1, 1975; Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean adopted on February 16, 1976; Convention on the Conservation of Migratory Species of Wild Animals came into force in 1983; Berne Convention on the Conservation of European Wildlife and Natural Habitats came into force on June 1, 1982; United Nations Convention on the Law of the Sea signed on December 10, 1982; Montreal Protocol on Substances that Deplete the Ozone Layer signed on August 26, 1987; Inter-governmental Panel on Climate Change established in 1988; Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal signed on March 22, 1989.

The period after the Rio Earth Summit which is the biggest inter-governmental conference organization which has set up general principles is now part of everyday language as sustainable development. The holding of this conference resulted in particular : Convention on Biological Diversity signed on June 5, 1992; Agenda 21 published on April 23, 1993; United Nations Convention to Combat Desertification signed on October 14, 1994; OSPAR Convention which came into force on March 25, 1998; UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters signed on June 25, 1998; Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade signed on September 10, 1998; Cartagena Protocol on Biosafety to the Convention on Biological Diversity signed on May 15, 2000; Stockholm Convention on Persistent Organic Pollutants signed May 22, 2001; Kyoto Protocol signed on December 11, 1997 and entered into force February 16, 2005; Sustainable Development Goals in 2015; Paris Agreement adopted on December 12, 2015 and entered into force on November 4, 2016.³⁹

³⁸ *Ibid.*

³⁹ *Ibid.*

3.1 Importance of Required Measures For BOR,S Success

The developing of a large-scale project while striving to respect international environmental Law is arduous because the government must adopt a long-term vision in order to comply with international standards as well as an active participation on the international platform in order to benefit the best assets for the future. At the same time, States have sought to develop binding measures and enforced them through the establishment of an international environmental Court. It has not yet emerged and is currently a failure but the elements that allowed its establishment are already in place and it is not impossible that China must face the issue of such Courts once the BRI project is completed. China must necessarily reflect on the actions which it must perform and their legality in the framework of its BRI project, statements of intent are made by government because this doctrine is necessary in order to guarantee a long-term vision.⁴⁰

3.2 Belt And Road Future Prospects on Environmental Law

Prime Minister Li Keqiang explicitly declared war on pollution in March 2014 National People's Congress. The expression used "*ecological civilization*" is symbolic and already announced a major change. One month after this declaration, Chinese environmental Law was one of its most emblematic reforms. A significant strengthening of the major environmental protection Law of 1979 was amended in April 2014 by the National People's Congress. This reform then changed the legal framework for environmental protection through a series of fund reviews and, above all, by recasting the means of implementing these provisions.

The Constitution of the People's Republic of China⁴¹ contains several articles that may be related to environmental issues. Article 9 specifically requires the State to make a "*rational use of natural resources*" and to protect "*rare animals and plants*" while article 22 protects "*sites of scenic and historical interest*". The most significant constitutional provision on the environment is article 26, which asserts that the State is responsible for protecting and improving the "*environment in which people live and the ecological environment. It prevents and controls pollution and other public hazards. The State organizes and encourages afforestation and the protection of forests*".

Laws adopted by the national people's assembly or by its standing committee, constitute the main source of Chinese environmental Law whereas Laws adopted by the State council or local governments are another source of regulation in the field of environmental Law. Most of the time, they are use to implement Laws or treaties on the

⁴⁰ See Vision and Actions on Jointly Building Silk Road Economic Belt and 21st-Century Maritime Silk Road [Online] Updated on march 28, 2015 [Consulted 2019.01.24] Available at the following address: http://en.ndrc.gov.cn/newsrelease/201503/t20150330_669367.html

⁴¹ See National People's Congress, *The Constitution of the People's Republic of China*, ed. ICP Intercultural Press 2015

national territory, where they can regulate certain issues themselves.

The Supreme Court and the Supreme People's Procurator can issue interpretations of the Laws, in connection with questions to lower Courts or prosecutors. Once issued, these interpretations will then have a binding force⁴². Unlike common Law countries, the rule of precedent does not apply in China, and case Law decisions do not have the force of Law on the decisions to be made. However, in recent years, more and more decisions published by the Supreme People's Court have a particular importance⁴³. Section 260 of the civil procedure act of the People's Republic of China states that "when a treaty signed and which the People's Republic of China is party contains provisions that go against certain provisions of the domestic law, the provisions of international treaties shall apply unless those provisions are those in respect of which the People's Republic of China has made reservations"⁴⁴.

4. Conclusion

The Belt and Road Initiative is pushing China to improve its national and international Law through international community. The Belt and Road Ecological and Environmental Cooperation plan emphasizes the importance of cooperation in order to create a win-win situation for economic development and environment protection. Its adherence to the agreements as well as the plan to build an ecological civilization foreshadows the framework in which the Belt and Road Initiative project will be put into service in 2049. Its recent adhesion to the Paris Agreement in 2015 and its intention to respect the objectives set by the convention shows Chinese government's will to ensure a good image on the international scene.

Beyond the intention of China to build an ecological civilization, it is certain that China has the necessary means to complete its aim as it is enunciated in environmental protection Law. This commitment is also reflected in the desire to convince other States for the Belt and Road Initiative. Which is important to convince and respect its environmental commitments to establish a society where the whole world will benefit. It is true that the Challenges are not only economic, but also legal in nature. However, despite having all the problems it is probable that China will head towards a fantastic golden age the benefit of which shall then be served to the entire global community.

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⁴² See FENG (C), NELSON (L), SIMON (T), *China's changing legal system*, ed. Palgrave Macmillan, 2016

⁴³ See ZHAO (Y), NG (M), *Chinese legal reform and the global legal order: adoption and adaptation*, ed. Cambridge university press, 2017

⁴⁴ See BAHAR (R), BESSE (J), *Commercial arbitration in the people's republic of China between chinese and foreign entities*, 1999

- misinterpretation notably because this project aims to connect Asia Europe and Africa along five routes of European and American press in general
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- [17] In its book, Milton FRIEDMAN takes as an example the Federal Register created to consolidate all laws and regulations. The number of pages when it was created in 1936 was 2.599, 10,528 pages in 1956, 16.850 in 1966 and 36.487 pages in 1978. In 2017 this number reached 61.950.
- [18] Each crisis has two inseparable constituents, the risk (危) and the opportunity (机).
- [19] The purchasing of Piraeus greek port, Toulouse-Bagnac airport in France, the acquisition by Cosco Expedition of almost all parts of the Hong Kong shipowner OOCL ect.
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