

15 BELT AND ROAD INITIATIVE IN THE WORLD OF INTERNATIONAL ORGANIZATIONS

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15.1 INTRODUCTION

The world's international relations and the international law which governs them had been determined by the states and their legal acts for long centuries. This has not changed fundamentally; however, by the advance of modern age and globalization –as opposed to international relations based on bilateral treaties– multilateral cooperation has come to the front. Consequently, multilateral legal regulation, by which the states have become able to enforce their interests more effectively and to regulate interstate issues to give effect to the compliance with the rules.

The first international organizations began to develop in the 19th century established mostly around the states and their interest; then, in the 20th century, international organizations and institutions rapidly advanced and were established to organize states, regions and the world along certain regional or global issues, interest and ideologies. The Yearbook of International Organizations keep count of 37,500 active international organizations,¹ into which, besides the intergovernmental international organizations, the exponentially growing number of lively non-governmental international organizations (NGOs) are also counted. Other sources estimate their numbers as around 20,000, while other calculations take account of its half, that is about 10,000 international organizations “only.”

This huge number, that sums to fifty times the number of the states even in the most scepticist case, shows clearly that, in the modern age of globalization, how important the international organizations² established to solve problems concerning more than one states have become.³ If a problem occurs on the international stage that concerns more

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1 Yearbook of International Organizations, <https://uia.org/yearbook>.

2 From the point of view of our subject, hereafter, we shall mean international organizations as intergovernmental international organizations.

3 M.N. Barnett & M. Finnemore, ‘The Politics, Power, and Pathologies of International Organizations’, *International Organizations*, Vol. 43, No. 4, 1999, pp. 699-732.

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states, it is predictable that an international organization will also appear in order to solve it.⁴ Despite the sarcastic wording, it can be found that, in solving the problem of an international dimension, the general purpose of international organizations is to force the interest of the founding states. According to certain idealistic opinions, international organizations are created with the aim of the salvation of mankind.⁵ It is for sure, however, that they may have diversified functions. International organizations organize the states into networks along these diversified aims and functions. In our modern age, the importance of networks is also indispensable, as a matter of fact, we live in the age of networks. Almost every aspect of human life is full of and supplemented by the multitude of networks. Complexity of networks, that evolved together with the development of technology, multiplies the power and possibilities of peoples, cities, economies and states. At the same time, networks can multiply the crisis of a state or a region, expanding and increasing its effect to a global scale.⁶ International organizations as networks may provide state parties greater weight and effectivity in the international scene. The more significant and complex an international goal is, the greater and the more important and effective the network is formed around it, the greater the role that international organizations have in international governance shall be. Insomuch that it is hard to imagine the international life of the states without official organizations with international legal status. On the other hand, international organizations are not uniform entities of the same nature, therefore their objectives, tasks, formation, transferred sovereignty, competence and organizations may vary. Having obtained original and derived international legal personality from the founding states, the international organizations introduce new techniques in international law through special and various legal acts by which they institutionalize and centralize international legislation and shape the traditional sources of international law. This way, they affect the development of the international relations of the world, and become the actors of global governance.⁷

Entities in global governance, of course, function and act under the regulations of international law, at the same time, they do not exist in a vacuum, they are integral part of the all-time system of states, international events and political developments. Although they try to act as autonomous international entities not dependent from their members, and to appear as independent international actors, still, as a result of their original function, they indirectly advance the interests of the member states or that of a member state of a greater influence during their activity.

4 See: N. Krisch & B. Kingsbury, 'Introduction: Global Governance and Global Administrative Law in the International Legal Order', *The European Journal of International Law*, Vol. 17, No. 1, 2006, p. 328.

5 Cf. J. Klabbers, 'The Emergence of Functionalism in International Institutional Law: Colonial Inspirations', *The European Journal of International Law*, Vol. 25, No. 3, 2016, p. 646.

6 Cf. N. Csizmadia, *Geopillanat – A 21. század megismerésének térképe* (Geofusion: Mapping of the 21st Century), L'Harmattan Kiadó, 2016, pp. 176-217.

7 Cf. M. Díez de Velasco, *Instituciones de Derecho Internacional Público* (Institutions of International Public Law), Editorial Tecnos, 17th Edition, 2009, Madrid, pp. 229-243.

Due to the number and variety of international organizations, there is no generally accepted specific definition. Authors engaged in the topic try to approach the question from 3-5 main characteristics of international organizations, and to determine the essence of the concept on that basis, but having attention to the requirement that the definition must be flexible enough and comprehensive. According to the definition of the Yearbook of International Organizations (that collects and keeps track on the international organizations and their activities), an international organization is established primarily by sovereign states and/or other intergovernmental international organizations by a treaty or other agreement which can be also regarded as a charter document. According to an other generally worded definition, an international organization is established by an international agreement of at least two sovereign state, and has a formal and permanent structure that has independent legal status, and the aim of which is to enforce the mutual interests of the members.⁸ These formulations reflect the main features that generally characterize international organizations, and that are the sine qua non thereof. In this study, striving to give a general interpretation, I schematically summarize the characteristics of the international organizations, that will be applied in the course of analysis of BRI.

1. *Membership*: International organizations are founded by at least two sovereign states, but others set the minimum number in 3, so that the international nature of the organization be unquestionable. There are many ways in which the member state (and its public bodies) can represent itself in the activity of the organization. Furthermore, besides the states, nowadays international organizations can also have membership.⁹ And what is more, even international organizations themselves can establish

8 Cf. J.E. Alvarez, *International Organizations as Law-makers*, 13th Edition, Oxford University Press, 2006; C. Archer, *International Organizations*, Fourth Edition, Routledge, 2015, pp. 1-58; Diez de Velasco 2009, pp. 229-243; Klabbers 2015, pp. 6-13; B. Koremenos, C. Lipson & D. Snidal, 'The Rational Design of International Institutions', *International Organization*, Vol. 55, No. 4, 2001, pp. 761-799; L. Knapp, 'A nemzetközi szervezetek jogalanyiség-konceptiójának fejlődése' (The development of the concept of legal personality of international organizations), in: G. Kecskés (ed.), *Doktori Műhelytanulmányok 2013* (Doctoral Studies 2013), Széchenyi István Egyetem Állam- és Jogtudományi Doktori Iskola, 2013, pp. 169-184.

9 The European Union, for example, gained full membership in the World Trade Organization (WTO) by means of an agreement after the conclusion of the Uruguay round in 1995, and is represented by the European Commission, or likewise, the EU has a membership in the Food and Agriculture Organization of the UN. This was possible on the basis of Opinion of the Court of 26 April 1977: Opinion given pursuant to Art. 228(1) of the EEC Treaty. – 'Draft Agreement establishing a European laying-up fund for inland waterway vessels': Opinion 1/76., and the reaffirming EC opinion (Opinion of the Court of 15 November 1994: Competence of the Community to conclude international agreements concerning services and the protection of intellectual property – Art. 228(6) of the EC Treaty: Opinion 1/94.), according to which the EU may gain membership in international organizations that are destined for dealing with issues in accordance with the competences of the EU. Or, as a further example, in the oldest specialized agency of the UN that is the International Labour Organization (ILO), besides the representatives of the member states' governments, the representatives of the trade union and the employees are also present.

other international organizations. Based on membership, we can categorize the organizations as limited-unlimited or universal-regional etc.

2. *Objectives*: The objective of the international organization is the cause of its establishment that is to enforce the common interests of the founding members in an issue concerning more than one state, and to function for the realization of its objectives, that gives a separate identity to the organization. Although the states often regard international organizations as an instrument of enforcement of their own interests on the international stage, still the organization's own objective must be separate from the interest of the states, and must benefit all the member states, unless there is a joint agreement on the contrary.
3. *Founding*: An international organization is established by a constitutive agreement between the states¹⁰ that may contain the statement of establishment, the extent of its legal personality, its objective, its function and procedural issues as well. Regarding the process of formation, an international organization can be established by a declaration at an international conference, or the details are elaborated in the course of sequence of conferences, and finally incorporated in an agreement.¹¹ It may also be the case that there is no founding treaty.¹² In general, however, it is indispensable for the establishment of an organization that the states decide on their intention to found an international organization, and vest it with legal personality by their agreement, by which the international legal personality will be derivative and limited.
4. *Organization*: International organizations have a formally established and permanent structure that centralizes the functioning of the organization; there are, of course, exceptions in this case as well.¹³ The types of the structure can be very diverse, and they are generally regulated by the founding agreement or the subsequently adopted charter document (whatever its name is), and, in practice, the structure is shaped organically and parallelly with the functioning. It is a minimal structural requirement that the organization have a general assembly and a secretariat that administers the functioning and other specific tasks separately from the member states. Although the

10 The names of the agreements can be quite various, for example: treaty (the EU treaties), charter (UN Charter), statute (the Statute of the Council of Europe), constitution (ILO Constitution) and covenant (Covenant of the League of Nations).

11 The Declaration of Shanghai Cooperation Organisation was ratified by the heads of states of the member states (Kazakhstan, China, Kyrgyzstan, Russia, Tajikistan and Uzbekistan) on the establishment of the Shanghai Cooperation Organization in 2001 in the Shanghai Summit, that legal act was the result of the development of the loose cooperation established by agreements concluded from year to year as of 1996.

12 The Organization for Security and Co-operation in Europe (OSCE) has no formally founding treaty, it is a result of a protracted process of institutionalization. Furthermore, the international organization of the Commonwealth was established by the common declaration of the participant countries.

13 In the case of the General Agreement on Tariffs and Trade (GATT), the contracting parties did not establish an organization, yet the participating member states, without any contractual entitlement, formed certain organizational frameworks needed for the realization of the functions defined by the agreement during the practical operation.

organizations are autonomous, member states can enforce their interests in several forums.

By the 21st century, the role and importance of international organizations was recognized by the People's Republic of China (hereinafter 'China') as well, and it is gaining membership in more and more international organizations and institutions and is taking a leading role in their activities. China's stance to international relations was not always this positive, in fact, it the very opposite was the case earlier. It was a development comprising more than one stage as a result of which China has come to its current standpoint. Since its 1949 establishment until 1971, China's foreign policy was characterised by total resistance and non-involvement ; it had active relations with very few countries, moreover, back then, the Taiwan based Republic of China had a seat in the UN. The changes of the second stage between 1971 and 1978 was the result of the appearance of China in the UN, that is Session 26 of the United Nations General Assembly adopted Resolution 2758 that recognized the representatives of the government of the People' Republic of China as the only legitimate representative of China and therefore China as a permanent member of the Security Council.¹⁴ Irrespective of this decisive change, the international role of China still remained passive right until the year of 1978. The reforms and policy of opening launched by Deng Xiaoping 40 years ago meant a brand-new approach towards international organizations. In the '80s, China became a member of the major economic and financial international organizations beginning with the International Monetary Fund (IMF) and the World Bank (WB) to the Asian Development Bank (ADB). Deng's objectives and strategy were to create a stable and peaceful international environment for the Chinese economic development, for which he invoked the support of the international organizations. The next stage of the process has been in progress since the '90s until today and is characterized by an intensifying activity.¹⁵ China perceived that, on the one hand, internal economic development can be effectively supported through the international organizations, on the other hand, the interest in peaceful and interdependent coexistence and the harmony of global order can also be ensured. China is striving to join as many international organization as possible and to play as great role as it can in the life of those organizations from considerable financing to holding main offices; furthermore, China establishes new regional and global forums of cooperation¹⁶ and, finally, they set up

14 UN GA Res. 2758 (XXVI) 25 October 1971. Restoration of the lawful rights of the People' Republic of China in the United Nations.

15 Cf. Z. Xie, 'The Rise of China and Its Growing Role in International Organizations', *ICCS Journal of Modern Chinese Studies*, Vol. 4, No. 1, 2011, pp. 87-88; Y. Qin: 'Development of International Relations theory in China: progress through debates', *International Relations of the Asia-Pacific*, Vol. 11, 2011, pp. 231-257; A. Kent: 'China's participation in international organizations', in: Y. Zhang & G. Austi (eds.), *Power and Responsibility in Chinese Foreign Policy*, Anu Press, 2013, pp. 132-166.

16 Let us consider the Shanghai Cooperation Organization (SCO) which is a regional intergovernmental organization of security policy with the involvement of China, Kazakhstan, Kyrgyzstan, India, Pakistan, Russia, Tajikistan and Uzbekistan.

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parallel international structure with Chinese coordination besides the existing international organizations if needed.¹⁷ In 2012 at the 18th Congress of the Communist Party of China, Hu Jintao, the General Secretary and head of state, set out the course of international relations of the upcoming period. He pointed out that, in accordance with the five principles of peaceful coexistence, China would actively take part in multilateral issues supporting the UN, the G20s, the Shanghai Cooperation Organization, the BRICS countries and all other multilateral organizations that have active role in international affairs and, at the same time, China would work on the development of a more equitable and fairer world order and international regime.¹⁸

In the shaping of this process, two factors played part: on the one hand, China's becoming a global economic and political power and accordingly the change of the foreign policy of the government and, on the other hand, the specific Chinese way of thinking shaped by several factors. The current Chinese international involvement has developed as a result of an interplay of partly historical philosophical and cultural traditions and partly the all-time Chinese ambitions to be a major power and partly on the differing "Western" traditions. One of the fundamental principles thereof is that China's objective is the peaceful rise in which the harmonious interdependent coexistence is ensured, and they examine and shape affairs as a process and as a whole. Their relation to international organizations and to international affairs is target-oriented, in respect of which they assess the connection between a given situation and the target as a part of a process. Further, they act according to a view that the situation is changeable, and they shape the world of international organizations and international relations accordingly.

The 2013-launched One Belt One Road Initiative (BRI) or New Silk Road is one of the such continuously changing and multilateral cooperation-shaping projects, the universal objective of which is to create a harmonious and sustainable global development. Today, we have reached the point that the BRI has become one of the greatest economic development cooperation that, in addition to the Eurasian region, extends to Africa and Latin America as well, and that the project can renew the world order and the system of international organizations.

The question is what the New Silk Road can be regarded from the point of view of international law. Is it a "traditional" international organization, or is it a renewal of a regional cooperation using legal innovations based on the peculiar Chinese sense, or is it an instrument of global governance? In this study, I endeavour to examine with an interdisciplinary approach, whether the initiative can be identified as an international organization as presented schematically, or if not, why not, and what can we regard it.

17 The Asian Infrastructure Investment Bank was obviously intended for the rival of the Asian Development Bank lead by Japan and the USA.

18 Hu Jintao's Report at 18th Party Congress. Firmly March On The Path Of Socialism with Chinese Characteristics and Strive To Complete the Building of A Moderately Prosperous Society In All Respects. 8 November 2012. http://www.china.org.cn/china/18th_cpc_congress/2012-11/16/content_27137540.htm.

15.2 IMPORTANCE OF BRI ON THE GLOBAL LEVEL

The One Belt One Road Initiative is China's biggest economic development plan affecting the international community, that aims the joint economic development of the Eurasian, African and Latin American regions. The BRI is the biggest infrastructural investment project of all times. Regarding its total financial amount, it is twelve times bigger than that of the Marshall Plan of the USA was, and it has a much wider range of participants.¹⁹

The historical tradition of the BRI is rooted in the ancient Silk Road that linked Eurasia through a network of trade-routes. The name of the Silk Road (or more precisely: Silk Roads) was first used by baron Ferdinand Freiherr von Richthofen, a German geographer, in 1877, and, the expression spread via his work of international renown, by which he was the first to give a name to an almost 2000 years old geographic, economic, cultural and historical phenomenon.²⁰ The ancient Silk Road trade route linked Western and Eastern since the time of antiquity, by means of the global trade system as it stood at the time, it had acquainted the economic achievements, the treasures, technological innovations of the different worlds, it had connected cultures and philosophies, and the information of those era had also streamed through that network. Its direct, modern geopolitical antecedent was the 'Pivot to Asia' announced by the USA in 2011. With this programme the government in Washington strengthened its military presence in Asia and, parallelly therewith, it worked on the enhancement of trade relations by the means of Trans-Pacific Partnership (TPP) as a trade programme, with the aim of creating a free-trade zone covering most of the Asian countries other than China. These two American ambitions can be understood as a strategy for the complex encirclement of China. The New Silk Road project can be construed not only as an economic cooperation aiming the sustainable development based on the historical traditions, but also as a geopolitical plan that, due to the intensified American presence and American expansion ambitions, tends to maintain a harmonious and peaceful balance and, besides the regional cooperation, its objective is to repel American influence too.

The starting point of the initiative was the two great announcement in 2013 by Xi Jinping, the then newly appointed president of China. One of his first international appearances was when he visited Kazakhstan in September 2013. During his official journey on 7 September, in his presentation held at the Nazarbayev University of Astana, he announced for the first time the establishment of the "New Silk Road Economic Belt" as a new form of multilateral cooperation. In the course of the presentation of the general

19 Cf. W. Li & D. Jin, 'On the design of financial products along OBOR', *The Journal of Finance and Data Science*, Vol. 4, 2018, pp. 55-70.

20 J.B. Kocsis, D. Komjáthy & P. Péti, 'Kína Új Selyemút kezdeményezésének bemutatása és nemzetközi értelmezései', (Presentation and International Interpretation of China's New Silk Road Initiative), in: M. Péte (ed.), *Az Új Selyemút Gazdasági Övezet geostratégiai és földrajzi dimenziói*, (Geostrategic and Geographic Dimensions of the New Silk Road Belt), BCE Gazdaságföldrajz, Geoökonómia és Fenntartható Fejlődés Intézet, 2017, pp. 13-15.

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principles of cooperation, he outlined the direction of the process, according to which the main task of the political coordination and consultations is to elaborate the plans and measures related to the development of the regional cooperation and to give green light to the economic integration in the field of politics and law as well.²¹ Then one month later, at the beginning of the summit of the Asia-Pacific Economic Cooperation (APEC), he made a proposal for the establishment of the “21st Century Maritime Silk Road” and the Asian Infrastructure investment Bank (AIIB).

The word “belt” refers to the connection between China, Europe, Central Asia, Russia, South Eastern Asia and South Asia, while the word “road” refers to the fact that China reaches Europe and Africa from its coastline cities. The New Silk Road connects more than 73 countries and, thereby, more than half of the World’s population through a new Eurasian land bridge. The economies of the member states altogether make up nearly the 30% of the world’s GDP.²² More than 100 countries and international organization joined the BRI so far, on the track of which 6 economic corridors have been created, as follows:

1. New Eurasia Land Bridge Economic Corridor;
2. China–Mongolia–Russia Economic Corridor;
3. China–Central Asia–West Asia Economic Corridor;
4. China–Indochina Peninsula Economic Corridor;
5. China–Pakistan Economic Corridor;
6. Bangladesh–China–India–Myanmar Economic Corridor.

Furthermore, more than 40 cooperation agreements have been signed. Most of the countries of the BRI can be classified as low-income countries, that carry a lot of economic potentials and, if received adequate directives, their economies could grow fast. All these circumstances mean new markets and new investment opportunities for China.²³ In the framework of the international economic development, the proposal includes plans to develop railways, motorways, oil-pipes and gas-mains, electrical and internet networks as well as maritime and other infrastructures from Western and South Asia to Europe and Africa. BRI can be regarded as a project of economic policy that recovers the Chinese and global economy through the proposed infrastructure investments in the joined states, and thereby it creates jobs; and due to which an improvement is expected in the information and communication technology, material infrastructure and the investment climate of the member states. Overall, the New Silk Road can improve the competitiveness of the whole economic zone, giving a new boost to the economy.

21 J. Xi, ‘Promote People-to-People Friendship and Create a Better Future’.

22 Cf. Y. Huang, ‘Understanding China’s Belt & Road Initiative: Motivation, framework and assessment,’ *China Economic Review*, Vol. 40, 2016, pp. 314-321.

23 Cf. R. Aoyama, ‘One Belt, One Road: China’s New Global Strategy’, *Journal of Contemporary East Asia Studies*, Vol. 5, No. 2, pp. 3-22.

It is beyond dispute, that in line with the improvement of international economic development, the BRI project is the key of the Chinese economic growth. Since 2013, the growth rate of the GDP has been continuously decreased, it dropped back from the 7.7% rate of 2012-2013 to 7.4% in 2014 and to 6.9% in 2015. The Chinese economy is passing through a new era that was called by Xi Jinping “new norm” in 2014, referring to the fact that the previous two-digit economic growth changed to one-digit. The implementation of the planned infrastructure investments of the initiative can serve as new markets for the excess capacity of the Chinese heavy and other industry. In addition, the infrastructure developments can reduce the delivery time and costs of the imported raw materials and, by the establishment of the proposed free-trade zone, the costs of market entry can also decrease. The geographic directions of the initiative and the economic corridors can efficiently involve the underdeveloped Western regions of China to the international economic system and, thereby, it can implement some concept of regional development as well. Thus, the competitive edges arising from the complex infrastructure constructions and the improvement of market entry can provide further economic growth for China.²⁴

The financial infrastructure supporting the BRI is continuously being shaped. In the framework of the megaproject, the People’s Republic of China has already invested USD 87 billion into various infrastructure investments. China has initiated to establish several investment funds in order to promote the development and the infrastructure improvement of the countries located along the trans-Eurasian New Silk Road. The Silk Road Fund was set up in 2014 with a capital stock of USD 40 billion; its objective is to carry into effect the business investments in the form of lending along the BRI. The credit financing of the actual project is supported by the Asian Infrastructure Investment Bank (that was proposed by Xi Jinping in his speech of October 2013 and was later founded with a capital of almost USD 100 billion) and by the New Development Bank (NDB) of the BRICS (that was founded with a capital of USD 50 billion). The Chinese public corporations and state owned banks also play an important role in the implementation of the initiative; beside the Export-Import Bank of China, the China Development Bank has allocated an amount of USD 890 billion for the BRI project, furthermore, major commercial banks also grant credit for the starting projects.²⁵

The New Silk Road differs from China’s past foreign policy strategies in respect of two things: on the one hand, it covers a much larger area, on the other hand, it envisages development not only on the mainland, but also along a maritime route. The project is not limited to Eurasia; it reaches Africa and Latin America as well. The primary objective

24 Cf. I. Engelberth & J. Sági, ‘Az Új Selyemút kezdeményezés szerepe, céljai.’ (The Function and Objectives of the New Silk Road Initiative), *Külgügyi Szemle*, Vol. 16, No. 3, 2017, pp. 92-94.

25 Cf. G.J. Sanders, ‘The Asian Infrastructure Investment Bank and the Belt and Road Initiative: Complementarities and Contrasts’, *Chinese Journal of International Law*, Vol. 16, 2017, pp. 367-371.

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is to realize the economic diversification and to achieve political stability and a multipolar global order, thus, BRI is a global strategy for China.

15.3 WHERE CAN BRI BE POSITIONED IN THE WORLD OF INTERNATIONAL ORGANIZATIONS?

BRI can be defined with great difficulties from an international law perspective, because, just like international organizations in general, it is characterized by continuous changes and transformations. Hereinafter, I try to examine whether it can meet the main criteria of international organizations.

15.3.1 *A Wide Range of Membership*

In regard of membership, it is a general requirement that an international organization is established by at least three sovereign states.

The proposal to establish the New Silk Road was made in two steps by the Chinese head of state in September and October of 2013. Since the announcement, more than 80 countries joined the initiative and made an agreement with China with regard to the participation in BRI. Hungary, by the way, was the first of the European countries to join the initiative concluding a cooperation agreement with China on 6 June 2015.²⁶ At Session 73 of the General Assembly of the UN, the Chinese foreign minister stated that more than 130 states and international organizations have joined the BRI so far (September 2018), which, thereby, became the biggest cooperation forum of the World, and, in terms of multilateralism, they hope for the accession of every state. At the same time, he announced that the second BRI international forum is to be held in 2019 (Belt and Road Forum for International Cooperation).²⁷

Upon the initiative of the Chinese state, several countries of the world have joined and may join this international cooperation without restrictions, which can be regarded as universal in respect of the membership, that is to say, it covers almost every region of the world, and due to the fact that any state can join, the platform is an open cooperation. As to the first condition, we can find that the initiative meets the first general requirement of being an international organization.

26 China and Hungary Sign Cooperation Document on Belt and Road. https://www.fmprc.gov.cn/mfa_eng/zxxx_662805/t1272109.shtml.

27 Multilateralism, Shared Peace and Development. Statement by H.E. Wang Yi. https://www.fmprc.gov.cn/mfa_eng/wjzb_663304/wjzbz_663308/2461_663310/t1600861.shtml.

15.3.2 *New Silk Road Economic Belt for the Benefit of the World*

As to the objectives of international organizations, it is a criterion that there should be an international issue concerning more than one state, for which the cooperation is established.

In his speech in Kazakhstan, President Xi Jinping emphasized that the states of the Eurasian region have common strategic objectives: ensuring stable economic growth and creating strong and prosperous countries. To this end, the Chinese president proposed to establish an innovative, comprehensive, practical cooperation in order to advance sustainable growth and to build a community along mutual interests and advantages and to create the New Silk Road Economic Belt.²⁸

In March 2015, the Chinese National Development and Reform Commission, the Chinese Ministry of Foreign Affairs and the Chinese Ministry of Trade jointly issued a white paper, in which, as a directive, they laid down the fundamental principles, the objectives and main priorities of BRI. According to the white paper, the BRI follows the five principles of peaceful coexistence in accordance with the Charter of the UN.²⁹ As defined by these principles, the main objective of the BRI is to form a win-win cooperation for the sake of peaceful development and common economy that overarches Eurasia and Africa and, for today, Latin America as well. More precisely, the objective of BRI is to create a complex connection between the member states that can ensure the ambitious economic growth and common security.

In order to achieve the global objectives, main directions of the cooperation have determined in 5 fields, in which the member states of the BRI should strengthen their ties. These five fields of cooperation are the following:

1. *Political coordination*: the objective is to form a multilevel intergovernmental cooperation through which the various economic and development interests and plans can be coordinated, and through which solutions can be found for problems.
2. *Infrastructural connectedness*: the objective of the BRI is to create complex connectedness between the member states, for which the connection between the infrastructure development of each state and the infrastructures themselves is indispensable. The term “infrastructure” refers to the infrastructure of mainland and maritime traffic and transportation and energetics and telecommunication.
3. *Free trade*: it is an objective to create a close cooperation between the member states in the fields of trade and investments, in the framework of which, the barriers can be broken down, trade and investment opportunities and relations can be broaden, and the security of supply chains can be ensured.

²⁸ J. Xi, ‘Promote People-to-People Friendship and Create a Better Future’.

²⁹ The Five Principles of Peaceful Coexistence: mutual respect for each other’s sovereignty and territorial integrity, mutual non-aggression, mutual non-interference in each other’s internal affairs, equality and mutual benefit, and peaceful coexistence.

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4. *Financial integration*: besides the trade and investment cooperation, BRI set the objectives of financial cooperation as well, by which a close system of financial stability, investment and financing can be built up. In this context, new international credit-institutions are established, and a close cooperation is to be created between the existing international financial institutions and Chinese banks.
5. *Connection between the people*: strengthening the connection between the people can be an important moving element of the cooperation between the member states; it can extend to cooperation in the fields of culture, tourism, health, education, academic sphere, technology and communication.³⁰

The first Belt and Road Forum for International Cooperation as the first multilateral meeting of the member states was organized on 15 May 2017. The concluding document of the meeting reaffirmed and specified the objectives of the BRI. Economic interests and aims were primarily defined as the objectives of the initiative based on peace, cooperation, openness, transparency, equality and common benefit. Following the principles of the Charter of the UN and international law, the objective of the cooperation of common benefit is to ensure sustainable growth and the improvement of quality of life in order to create a peaceful and fruitful community for the benefit of the world.³¹

Both the document issued by the Chinese state and the common concluding declaration of the Belt and Road Forum for International Cooperation define the initiative as an economic cooperation setting a general global economic aim as its field of activity as a common goal characteristic of international organizations, which intends to bring the common well-being of the member states in a harmonious and peaceful way. To this end, general measures of cooperation are also defined.

15.3.3 *Process of Foundation*

International organization can be established by an international legal act, whereby the states declare their concurrence of wills, or as a result of a process.

The establishment of the BRI is to be regarded as a process. The Chinese head of state made the first proposal for the establishment of the cooperation in his presentation quoted hereinbefore. The proposal was elaborated in several stages by the Chinese state, in autumn 2013, at the meeting of the Central Committee of the Communist Party of China called for further conciliations and they issued the white paper on the BRI in March 2015. In addition, the principles and concept of the New Silk Road appears in

³⁰ Vision and Actions on Jointly Building Silk Road Economic Belt and 21st-Century Maritime Silk Road 2015/03/28. http://en.ndrc.gov.cn/newsrelease/201503/t20150330_669367.html.

³¹ Joint Communiqué of Leaders Roundtable of Belt and Road Forum.

the 13th 5-year plan among the economic development priorities of the years 2016-2020.³² These official documents determine the principles, objectives and mechanisms of the cooperation, but these all were unilateral directives issued by the Chinese state. However, several dozens of sovereign states joined these unilateral directives by means of a network of bilateral agreements concluded with China, in which they expressed their accord with the principles and the directions of cooperation laid down by China. In the chronology of the milestones of the cooperation, an important date is March 2014 when the Chinese and the Russian heads of states concluded an agreement of understanding with respect to BRI,³³ which was followed by dozens of bilateral agreements with China on one side in each cases.

As a next step, in spring 2017, the first Belt and Road Forum for International Cooperation as multilateral international conference was held expressly dedicated to the BRI; it recalled the traditions of the international legal conferences. In the concluding document of the conference, the member states jointly adopted the principles of the BRI as well as main mechanisms and fields of the cooperation. Furthermore, several international implementation and multilateral international agreement was concluded in respect of certain fields of the BRI, and the parties emphasized their commitment to the cooperation in several jointly signed concluding documents of other regional multilateral conferences.³⁴

According to a flexible interpretation of the conceptual characteristics of international contracts, in the case of BRI, several agreements on the principles and nature of the cooperation came into existence as a result of a process. In these agreements, however, there are no indications that the signatories specifically intended to establish an international organization and that they wished to vest it with legal personality for achieving the objectives. Therefore, an important precondition of the international organizations is

32 The 13th Five-year Plan for Economic and Social Development of the People's Republic of China (2016-2020) Chapter 51.

33 Cf. http://english.gov.cn/news/top_news/2015/04/20/content_281475092566326.htm.

34 See *inter alia*: Joint Communiqué on the 14th Meeting of the Council of Heads of Governments of the Shanghai Cooperation Organisation Member States (15 Dec 2015); Co-operation between China and the CEE Countries: The Medium-Term Agenda and The Suzhou Guidelines (24 Nov 2015); Sino-Kazakhstan Joint Declaration on a New Stage of Comprehensive Strategic Partnership (31 Aug 2015); Mid-term Roadmap for Development of Trilateral Co-operation between China, Russia and Mongolia (9 July 2015); Joint Statement on Cooperation on the Construction of Joint Eurasian Economic Union and the Silk Road Projects (8 May, 2015); The Bucharest Guidelines for Co-operation between China and the CEE Countries (26 Nov 2013); The Belgrade Guidelines for Co-operation between China and the CEE Countries (16 Dec 2014); The Suzhou Guidelines for Cooperation between China and Central and Eastern European Countries (24 Nov 2015); The Riga Guidelines for Cooperation between China and Central and Eastern European Countries (5 Nov 2016); The Budapest Guidelines for Cooperation between China and Central and Eastern European Countries (27 Nov 2017) The Sofia Guidelines for Cooperation between China and Central and Eastern European Countries (7 Jul 2018); Declaration of Santiago II Ministerial Meeting of The CELAC-CHINA Forum (22 Jan 2018).

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missing, that is their declaration of intent on the organization itself, there is only a co-operation reaffirmed in several rounds, the system of which is continuously changing.

15.3.4 *Supportive Organizational Structure*

The fourth characteristic of the international organizations is that they have a permanent structure separate from their founders, which ensures the achievement of the objectives and functions.

The unilateral directive of the Chinese state on the BRI, and the bilateral and multi-lateral agreements do not determine a separate structure to be built up. In respect of every issues in connection with BRI and the related international cooperation, the Chinese National Development and Reform Commission and the Chinese ministry of foreign affairs are in charge. Although these Chinese governmental bodies perform secretarial tasks, still they cannot be regarded as a separate organization.

We must also note that the Chinese president made a proposal on the establishment of the Asian Infrastructure Investment Bank (AIIB) together with the announcement on the New Silk Road. Then in the following stage of the process of foundation in 2014, 22 Asian states, led by China, signed an agreement of understanding on the establishment of the institution. Until March 2015, altogether 57 countries joined the founding members, so, after the 15 months of the preparatory process, on 16 January 2016, the AIIB officially began its activity with an initial capital of USD 100 billion. After the enlargement process of more stages, by March 2018, the number of the member states has gone up to 86;³⁵ the membership application of Hungary was approved by the board of directors of the AIIB on 23 March 2017. The objective of the multilateral financial institution established in June 2015 is to give assistance to the development of the infrastructure and other production sector of the rapidly growing Asian countries, and to advance the economic growth and welfare and to develop the infrastructure connections and the access to basic services in the region. Along therewith, its long-term objective is to create regional co-operation and partnership that can give an appropriate response to the economic challenges.³⁶ The system takes as a basis its private sector experiences and the examples of the existing multilateral development banks such as the World Bank, the Asian Development Bank or the European Bank for Reconstruction and Development. Its principles are openness, transparency, independence and accountability. On the model of the existing multilateral development banks, beside the president, the AIIB has a Board of Directors, a Board of Governors and an international advisory board. The Board of Directors holds a meeting annually.

³⁵ Members and candidates together.

³⁶ Asian Infrastructure Investment Bank Articles of Agreement, Art. 1-1.

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As it is evident from the official information of the Beijing based AIIB, the bank is dominated by China not only as an initiator and a founder but also due to its financial contribution (USD 29.78 billion contribution to the initial capital of USD 95,911 billion), accordingly, the Asian giant has the most votes as well.³⁷ Today, the China-dominated AIIB is regarded as the international financial pillar of the BRI, a structure that provides financing assistance to the infrastructure projects of the BRI, even though none of its articles of association has any reference to the BRI or the fact that there is any kind of connection between them.

On this basis, it can be concluded that the BRI does not meet another criterion of the international organizations that it does not have a permanent structure separate from its members. On the other hand, we can see that, in order to supplement and support the possible structure of the BRI, several structures have been established for the financing of the development projects to be realized on the fields of the cooperation.

15.3.5 *The Basis of the Concept of BRI*

We can see that, for the present, BRI is not an international organization; but to understand why it was not formed to be an institutionalized organization under international law, as a brief digression, I schematically present a Chinese approach to international relations and geopolitical thinking.

As mentioned in the introduction, China's stance to the international organizations has changed so much that it is now striving for becoming a leader in the existing structures and, at the same time, it is building up parallel systems such as the AIIB as an international financial institution, or the Shanghai Cooperation Organization, which as launched as a form of security cooperation, becoming a framework of economic integration. Still, in respect of BRI, China has not yet embarked to do so and, for the present, it has established a system of cooperation providing lighter and more flexible frameworks.³⁸ In order to achieve its objectives, the BRI does not intend to acquire certain part of the member states' sovereignty or to act as an organization with international legal personality in the international scene, but its spirit is characterized by peaceful cooperation, voluntariness, openness and reciprocity. At the same time, China wants to exploit all the advantages of bi- and multilateral cooperation with great emphasis on international forums, summits as the foundations of the new mechanism of cooperation, and it is

37 The number of China's votes is 300, that is the 26.58% of the total number of votes. <https://www.aiib.org/en/about-aiib/governance/members-of-bank/index.html>.

38 P. Ferdinand, 'Westward ho—the China dream and 'one belt, one road': Chinese foreign policy under Xi Jinping', *International Affairs*, Vol. 92, No. 4, 2016, pp. 941-957.

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continuously building and forming this Asian, Chinese type of integration for the sake of global governance.³⁹

The theory and practice of the modern Chinese geopolitics and international relations, as the theoretical basis of BRI, can be seen as a renewed fusion science. It unifies the Chinese historical, philosophical and cultural traditions with the modern ideological traditions of China and, at the same time, tries to combine it with the outcomes of the Western theories, thereby striving to apply new, innovative solutions.

In the field of the theory of international relations, three major schools or think tanks are regarded as relevant (besides numerous independent experts) that aim to methodize their theories in a coherent system.⁴⁰

The leader of the first school is Zhao Tingyang a Chinese philosopher who is concerned with the Tianxia System or 'all under heaven' theory. This theory takes the ancient vassal system as basis, where the states were economically and militarily independent, but they depended on the central institution of the Emperor. He described the foreign relations of China with concentric circles, where the Emperor was located in the middle, he ruled the world peacefully and benignly and strove for righteous, harmonious and value-based governance; different peoples and states were placed in the circles extending from the centre depending on the extent to what they accepted and surrendered to the Emperor's rule. Reciprocity was of great importance in this system, for the concept based on mutual respect was dominated by reciprocity and the voluntary commitment of the idea of "heart for a heart." Transplanting this concept into current thinking it is clear that in international relations not symmetry but reciprocity is needed. Harmonious and peaceful control of the world can therefore be ensured by placing China into the centre of this hierarchical and stable system of Confucian values. Wars can become avoidable through mutual respect and voluntary cooperation based on mutual benefits. China needs a foreign policy that simultaneously serves the welfare of the people and ameliorates the political position of China in the international scene, creating a good and peaceful order and community.⁴¹

The other major school is the so-called Tsinghua Approach of Yan Xuetong the Dean of the Institute of International Relations, Tsinghua University and editor in chief of the Chinese Journal of International Politics. Yan's main goal is to enrich Western theories by using the Chinese historical and philosophical traditions and to create a new universal

39 Cf. L. Zeng, 'Conceptual Analysis of China's Belt and Road Initiative: A Road towards a Regional Community of Common Destiny', *Chinese Journal of International Law*, Vol. 15, 2016, pp. 517-541.

40 Cf. Hun Joon Kim, 'Will IR Theory with Chinese Characteristics be a Powerful Alternative?', *The Chinese Journal of International Politics*, Vol. 9, No. 1, 2016, pp. 59-79.

41 Cf. M. Bartha-Rigó, 'A nemzetközi intézmények szerepe a kínai külpolitikában. A kínai külpolitika egy lehetséges magyarázata' (The Role of International Organizations in the Chinese foreign policy. A Possible Explanation of Chinese Foreign Policy), *Külgügyi Szemle*, Vol. 16, No. 2, 2017, pp. 29-50; E. Kavalski, 'Guanxi or What is the Chinese for Relational Theory of World Politics', *International Relations of the Asia-Pacific*, Vol. 18, 2018, pp. 397-420.

doctrine with a separate methodology. Yan goes back to the value-based approach of the ancient philosophers and elaborated a realist-moralist theory. According to the moral concept considered to be important by him, a value-based and talent-oriented strategy is required. Experts of outstanding talents are needed not only in the development of the sectors of technology and economy, but the talents should be engaged in the fields of politics and governance also, where they can create an adequate foundation for the strong state with institutional innovations through internal policies and programmes. Namely, the peaceful international rise of a major power can only take place in the context of a stable domestic policy and a solid internal system. Beyond internal stability, in the field of international relations, as opposed to the Westphalian sovereign equality of states, a differentiated and hierarchic order can help to avoid conflicts. For the states, regarding their economic strength and political power, are not equal, but they are all too different, therefore a hierarchic order can help to maintain the balance of power and responsibility and, thereby, wars can be avoided, and ever closer cooperation can be built. Following the thoughts of Xunzi, an ancient Chinese philosopher, Yan holds the statement that, if China leans on its political power and keeps supporting institutional innovations, it will become the world's leading power; if China balances between the development of its economic and military power, it will become a strong global power; if it focuses on political struggle, it will fall.⁴²

The third theoretical school is linked to Qin Yaqing who introduced the name 'Chinese School' in the field of international relations. In his theory, he connects the solutions of Western theories with Chinese cultural thinking and focuses on connectivity and continuity. China strives for harmony and a peaceful rise; this continuity is realized through changes. In his opinion, while in Western philosophy, the 'thesis-antithesis' and "or-or" approach is accepted; in the Chinese way of thinking, 'thesis-co-thesis', 'inter-thesis', the 'so-so' approach is the standard. The Chinese thinking is characterized by a conflict-free striving for harmony, which is determined by a target- and context-oriented method. By way of an example from the field of international relations in the Western approach, in the case of conflict, the state takes all possible diplomatic, economic and military steps against the "bad" state for the settlement of the conflict and in order to regulate the activity of the given state. While the Chinese way of thinking sees the "bad state" in the process of the variable international relations and regards the given situation as alterable. Whether good or bad, the point is that an adequate and expedient involvement can ensure the possibility of a positive change and processes should be formed accordingly. So, by way of appropriate steps, the participants of the international relations can be transformed, and they are continuously transforming. In this continuity, according to Qin, three important factors emerge that should be applied by the states in order to form the

42 Cf. X. Yan, 'Xun Zi's Thoughts on International Politics and Their Implications', *Chinese Journal of International Politics*, Vol. 2, 2008, pp. 135-165; F. Zhang, 'The Tsinghua Approach and the Inception of Chinese Theories of International Relations', *The Chinese Journal of International Politics*, Vol. 5, 2012, pp. 73-102.

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processes. At first, the conflict-free nature of the two powers or poles must be understood in the process of changes; secondly, the direction of the process of changes must be defined; finally, that direction must be followed.⁴³

Alike international relations, geopolitics is an important science, that followed a path similar to that of the international relations and the impacts of the historical and philosophical traditions are also very important. Until the end of the 20th century, the Chinese geopolitical interpretations concerned for the regional relations with the neighbouring countries; as of the beginning of the 21st century, they elevated geopolitical thinking to a global level.

The geopolitics of benignity and righteousness already appeared in the works of the ancient philosophers, according to which, one must act righteously and benignly in the foreign policy and must strive for a win-win situation. Furthermore, even geo-economical ideas appeared in antiquity. In his work written in the 600s BC, Guan Zhong formulated the fundamentals of trade war, according to which the Emperor must examine the economic system and export products of the neighbouring states, then, by economic calculations, he could bring the given countries under his control. Furthermore, “The Art of War” by Sun Tzu can be considered as one of the standard works of geopolitics. In his teachings, he wrote that if war is inevitable, all details of the relations between the two countries must be examined, as well as the outcome of a potential military conflict.⁴⁴ It is worth to mention two famous philosophers as well, that is Laozi (or Lao-Tze) and Confucius’ disciple Mozi (or Mo-Tzu). Laozi was a master of peaceful geopolitical thinking, who emphasized trust, credibility and mutual respect. States must live in peace, thus, they can develop by helping each other. Mozi also formulated his teachings on peaceful and harmonious cooperation between the states. The modern practice of Chinese geopolitics took interstate relations strategy to a global level and combined Western thoughts with the traditions of Chinese thinking. In the views of the paramount leaders who determined China’s modern geopolitics, the teachings of ancient thinkers can be observed; for example, through his policy of reform and opening, Deng Xiaoping followed a philosophy of peace and development similar to that of Laozi.⁴⁵ Chinese traditions appear in the administration of the current Chinese president, which he endeavours to enforce for the common economic development and in order to create a peaceful coexistence and harmony.

43 Cf. Y. Qin, ‘International Society as a Process: Institutions, Identities, and China’s Peaceful Rise’, *The Chinese Journal of International Politics*, Vol. 3, 2010, pp. 129-153; J. Wang & B. Buzan, ‘The English and Chinese Schools of International Relations: Comparisons and Lessons’, *The Chinese Journal of International Politics*, Vol. 7, No. 2014, pp. 1-46.

44 Cf. Sun Tzu, *The Art of War*, Carthaphilus kiadó, 2006, pp. 133-140.

45 Cf. L. Horváth, ‘A kínai geopolitika fejlődése’ (Development of Chinese Geopolitics), in: *Kína, Indonézia és Vietnám – Geopolitikai összefüggések a 21. században. Konferenciakötet* (China, Indonesia and Viet Nam – Geopolitical relations in the 21st century), Budapesti Gazdasági Egyetem, 2018, pp. 13-30.

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One of the main geopolitical objectives of President Xi Jinping is BRI that is a carefully constructed geostrategic and geo-economical initiative in which ancient Chinese traditions, modern way of thinking and a regard for Western approach can also be found. Thus, by the spirit of the New Silk Road and through the creation of peace and security, China offers a win-win cooperation based on mutual benefits. The process of the cooperation and the integrations is formed by due flexibility and institutional innovations, in respect of control, however, China preserves its potency over the cooperation. The objective of this new type, Chinese-controlled form of integration is to ensure the peaceful rise of China through mutual benefits and a sustainable global development, and to provide a harmonious leading role in the global governance for the Middle Kingdom in the new world order.

15.4 SUMMARY

In this study, we tried to find answer for the question how the One Belt One Road Initiative can be positioned in the world of international organizations, can this form of global cooperation at all be qualified as an international organization or not. On the basis of the general characteristics of the various international organisations, we can find that BRI cannot be qualified as an international organization.

Schematically examining the Chinese approach to international relations and geopolitics, we attempted to give a possible explanation to the motives and nature of BRI-concept. BRI is China's geostrategic economic development plan related to global governance that can be considered as the greatest international cooperation project of all times. BRI is a system of bilateral networks controlled and financed by China,⁴⁶ that exploits all the advantages of bi- and multilateral cooperation with great emphasis on coordinated connectivity with the purpose of reforming the geo-economic system of Eurasia, but also to maintain Chinese leadership and sovereignty in a less formalized, flexible framework from an international law perspective.

Namely, China's strategy regarding international organizations and international relations in general differs from the "Western" approach. As the Chinese leaders, the representatives of the science of international relations and geopolitics endeavour to elaborate the theoretical fundamentals of China's 21st century international role. In this peculiar Chinese approach, the Chinese historical and philosophical traditions and, with a high pragmatism, the living legacy of modern ages is strongly present, the impacts of the Western theories can also be discovered. Listing the characteristics of this innovative Chinese way of thinking in headings only, we can mention the following: peaceful rise and coexistence, harmony and stability, a good and righteous hierarchic order based

46 See: Z. Chen, 'China, the European Union and the Fragile World Order', *Journal of Common Market Studies JCMS*, Vol. 54, No. 4, 2016, pp. 781-782.

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on Confucian values, cooperation and interdependence, reciprocity and voluntariness. Target- and context-oriented way of thinking and connectedness also appear in geopolitics; and it tries to properly shape the situation in the course of its process. Furthermore, the Chinese thought of transforming the enemy into a friend during the process of changes can also be important; transforming a bad into a good – in fact, this can be used and explained by game theory as well. So, in the field of international relations, the Chinese thinking differs from the Western theories. While the main topics of the Western schools deal with sovereignty, territoriality, international anarchy, war and international community, the Chinese school pays attention to the issues of unity, hierarchy, Chinese philosophical traditions such as ‘all under the heaven’, and soft power also has an important role.⁴⁷

BRI embodies these philosophical visions and concepts with the objective of creating a sinocentric world order. BRI is a sign of the fact that the Chinese head of state is following Deng Xiaoping’s advice: the time has come for China to reveal its actual power and to take over the leadership of the world on a global level.⁴⁸ By institutional innovations, China has established a new form of cooperation and integration. Without establishing a formal international organization with legal status, it built up a network of multilateral and bilateral cooperation. Existing financial institutions were paired with several development banking structures, whereby it took a great step towards the internationalization of renminbi, as a form of global financial interconnection. Through this complex and interconnected system of soft institutionalism, China has created the appropriate flexibility of control that provides the possibility of giving responses to the changes of processes. Thus, it can ensure the autonomous control over the system without limiting its sovereignty in the form of an international organization. BRI therefore establishes global governance through a complex network of connectivity.

The direction of the cooperation, however, can lead to an institutionalized form of an international organization, forasmuch as the framework becomes more and more extensive and complex. Particularly, if the free trade area becomes more pronounced, and its regulatory issues and mechanisms require a formalized structure and, if geopolitical processes – primarily, the rivalry with the USA – force it to turn this direction. Based on the visible institutional innovation and the experiences and models gained from the regional and global international organizations initiated and established by China, and after a circumspect assessment of geopolitical developments, the BRI may become an international organization, as a next step towards the new world order.

47 B. Buzan, ‘How and How Not to Develop IR Theory: Lessons from Core and Periphery’, *The Chinese Journal of International Politics*, 2018, Vol. 11, pp. 1-24.

48 A.H.M. Nordin & M. Weismann, ‘Will Trump make China great again? The belt and road initiative and international order’, *International Affairs*, Vol. 94, No. 2, 2018, pp. 231-249.