

# Sustainable Development, China's Emerging Role via One Belt, One Road

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**Abstract**—The rapid economic and technological development of any country depends on access to cheap sources of energy. Competition for access to petroleum resources is always accompanied by numerous environmental risks. These factors have caused more attention to environmental issues and sustainable development in petroleum contracts and activities. Nowadays, a sign of developed countries is adhering to the principles and rules of international environmental law and sustainable development of commercial contracts. China has entered into play through the massive project plan, One Belt, One Road. China is becoming a new emerging power in the world. China's bilateral investment treaties have an impact on environmental rights and sustainable development through regional and international foreign direct investment. The aim of this research is to examine China's key position to promote and improve environmental principles and international law and sustainable development in the energy sector in the world through the initiative, One Belt, One Road. Based on this hypothesis, it seems that in the near future, China's investment bilateral investment treaties will become popular investment model used in global trade, especially in the field of energy and sustainable development. They will replace the European and American models. The research method is including literature review, analytical and descriptive methods.

**Keywords**—Principles of sustainable development, oil and gas law, Chinas BITs, one belt one road, environmental rights.

## I. INTRODUCTION

CHINA has been able experienced unprecedented economic development in the past three decades by international trade and investment. China's economic relationship with the world is undergoing a rapid transformation. China's open-door policy finally led to the country's membership in the World Trade Organization in 2001. Since 2004, China's Going Global Strategy (often referred to as Going Out) and a range of related initiatives have also helped spur outward investment [1]. Roots in political and economic developments in China originated from the massive One Belt, One Road (一带一路) or (Silk Road Economic Belt), plans and the Silk Road. The Silk Road was an economic exchanges road. This economic exchanges road was between the empires of China and the great empires of Iran and Rome thousands of years ago.

In the 5<sup>th</sup> century, the economic power of the Sassanid

government was dependent on factors such as international trade and internal and external transportation.

The Sassanid Dynasty was strengthened through trade with China. Iran had the unique role in the Silk Road trade. The Sassanid Empire played the role as the hub of trade and economic activity connecting Asia to Europe. Two points were important to the Sassanid Empire: First - Maintain a monopoly on this road and economic centres, second - Securing the commercial route for trade. As well as throughout most of the 5<sup>th</sup> century, kings were trying to maintain their monopoly in the market and foreign trade for the domestic business of Iran. These factors were the cause of war at the eastern and western borders of Iran [2].

The One Belt, One Road regions include a range of more than 100 countries and international organizations. China's Silk Road in the direction of the development plan has signed cooperation agreements with more than 40 countries and international organizations. The trade volume between China and other OBOR countries from 2014 to 2016 exceeded \$3 trillion, and China's investment in these countries has surpassed \$50 billion. Total trade between China and other OBOR countries from 2014-16 has exceeded \$3 trillion, and China's investment in these countries has surpassed \$50 billion. Chinese companies have set up 56 economic cooperation zones in over 20 countries, generating some 180,000 jobs [3].

According to the Vision and Actions on Jointly Building Belt and Road, issued by the National Development and Reform Commission, Ministry of Foreign Affairs, and Ministry of Commerce of the People's Republic of China in 2016, "The Belt and Road run through the continents of Asia, Europe and Africa, connecting the vibrant East Asia economic circle at one end and developed European economic circle at the other, and encompassing countries with huge potential for economic development. The Silk Road Economic Belt focuses on bringing together China, Central Asia, Russia and Europe (the Baltic); linking China with the Persian Gulf and the Mediterranean Sea through Central Asia and West Asia; and connecting China with Southeast Asia, South Asia, and the Indian Ocean. The 21<sup>st</sup> century Maritime Silk Road is designed to go from China's coast to Europe through the South China Sea and the Indian Ocean in one route, and from China's coast through the South China Sea to the South Pacific in the other" [4]. Nowadays, the Silk Road is also a strategic framework for activities with Chinese involvement along the China-Europe sea lanes.

"Vision and Actions on Jointly Building the Silk Road Economic Belt and 21<sup>st</sup> Century Maritime Silk Road" states:

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President Xi Jinping said that “In pursuing the Belt and Road Initiative, we should focus on the fundamental issue of development, release the growth potential of various countries and achieve economic integration and interconnected development and deliver benefits to all”. Also, “Spanning thousands of miles and years, the ancient silk routes embody the spirit of peace and cooperation, openness and inclusiveness, mutual learning and mutual benefit. THE SILK ROAD SPIRIT has become a great heritage of human civilization” [5].

OBOR initiative will not only aims to economic development and regional integration but also as instruments of political and security is special importance.

Another goal of China for the proposed Modern OBOR is to create a new Silk Road and the construction of a new pattern of trade by sea and overland rail lines. Also, China is looking to create lines to transport oil and natural gas, as well as ICT networks linking regional, and to reduce trade barriers. China’s project scope will cover Asia, East Africa to Europe. If this plan is successfully implemented in the future, China will be able to create trade and economic integration by investing in countries and different regions [6].

China’s new plans are accelerating the growth of its influence on maritime trade patterns in Asia, as well as in Africa and Europe more broadly. It seems that China’s development initiative is causing new developments in the international and regional, including:

1. Creating an enormous commercial market in Asia, making China a serious competitor to trade in Europe and America.
2. The creation of special international trade and investment standards which emanate from China’s economic initiatives. Expand an indigenous model of economic development of China (China’s BITs) as a global model. In this way, China offers its own concept of economic development — a viable alternative to the West’s model — to a number of Asian nations. They need to create a common framework for the economic and, perhaps, political future of the region.
3. The promotion of economic, political and technology in Asia and especially China. Implementation and cooperation in this project with the Eurasian Economic Union (EEU).
4. China’s increasing demand to provide energy from fossil fuel resources for the continuation of the rapid development of the country.

This increased demand for fossil fuels has been created some challenges to China in advance:

- Ensuring energy security;
- Access, sovereignty, and ownership of strategic petroleum resources in the world;
- Sustainable development (prevent and reduce air pollution ‘greenhouse gasses’, and sustainable development and environment right’s cases).

## II. ENSURING ENERGY SECURITY

According to the need for the supply of raw materials, oil

from the Middle East, Central Asia, and Africa are of major importance, as are other raw materials from Africa and South East Asia. As a result, China needs international transport routes relating to both exports and imports that are stable and secure. The lack of energy security will be detrimental to China’s economic growth. If China is successful in strengthening its diplomatic and commercial influence in these areas, it would strengthen the growth of China as a superpower (and potential benefits need to further increase the influence).

One advantage to China is the infrastructure projects in South and South-East Asia, as they may be to aid in the faster and safer transport of petroleum from the Middle East to China via shorter routes, avoiding the Strait of Malacca and the South China Sea. China’s strategic goal is to acquire naval facilities. Because China will be able to carry out the project abroad and provide protection for petroleum shipments. China’s OBOR has had three significant implications:

1. Maximize the value of the long-term strategic interests of China’s foreign policy via Chinese infrastructure projects in Central Asia, South East Asia, South Asia, Middle East, East Africa and Europe; that is including:
2. Developing and securing market access for Chinese exports and access to raw materials; developing new markets for Chinese trade and investment; and strengthening China’s diplomatic and commercial (and finally, geostrategic) influence. An important part of this development is done by China’s BITs.
3. China has intensified diplomatic pressure on target countries in order to promote cooperation in marine and rail infrastructure development in areas related to the OBOR initiative.

Enhancing Chinese energy security is certainly one the important elements of the One Belt, One Road project. It’s most important overriding objective is to promote greater trade and investment in Eurasia, leading to closer economic integration within the region [7].

## III. “ACCESS, SOVEREIGNTY, AND OWNERSHIP OF STRATEGIC PETROLEUM RESOURCES IN THE WORLD”

The OBOR strategy is part of China’s involvement in global governance. It has become a step toward the revitalization of China’s foreign policy and also it is meant to solidify and expand the country’s strategic position in Asia.

As the world’s largest trading nation, China is responsible for approximately 10% of the global trade in goods [8].

According to this global government strategy on energy resources, China may be able to gain more control over petroleum resources in the world. Achieving this goal is possible through the implementation of the global energy strategy with the help of the implementation of the OBOR initiative.

The Five-Year Plan for National Economic and Social Development in China, set out a strategy for China to proactively make use of overseas natural resources, establish overseas supply bases of petroleum resources, diversify petroleum imports, build up a strategic petroleum reserve and

maintain national energy security (2001-2005) [9].

Since 2004, China's Going Global Strategy (Going Out) and a range of related initiatives have also helped spur outward investment. China faces growing demand for natural resources.

Related plans and initiatives include:

- Countries and sectors can preparation of guidelines on outward FDI;
- Provide and classify information about foreign investment environments and opportunities and challenges;
- Granting Power and authority by the central government some provinces and municipalities.
- Further relaxation of foreign exchange controls for outward investment and financial subsidies to companies investing in overseas natural resources acquisition [10].

Chinese government has started to develop policies for regulating outward investment, in order to promote the growth of FDI:

- 1989 Pass Environmental Protection Law, in line with the government's policies on environmental protection, the State Environmental Protection Agency (SEPA) is responsible for its implementation.
- SEPA has been working closely with the Global Environment Institute (GEI) and other relevant government agencies to develop guidelines for Chinese companies operating overseas.
- A voluntary set of guidelines based on International Finance Corporation (IFC) policies for incorporating social and environmental considerations in project financing.

China's International financial institutions (IFIs) have developed international standards for the further development of investment performance in a project that has such immense social and environmental impact, such as hydropower, mining and industrial agriculture [11].

In the energy sector, Chinese companies are very active in oil and gas production in the South China Sea. The China National Offshore Oil Company (CNOOC) has recently expressed interest in investing in the Mediterranean, with a focus on newly discovered gas field, Aphrodite, in the exclusive economic zone of Cyprus [12].

As new opportunities for offshore oil and natural gas are becoming available on the coast of East Africa, Chinese energy companies may also become more active in the Indian Ocean [13].

China has invested funds to launch several infrastructure projects, in order to accelerate the One Belt, One Road project, these include:

- US\$40 billion Silk Road Fund;
- US\$20 billion Energy Development Fund [14];
- US\$100 billion Asian Infrastructure Investment Bank (AIIB) [15];
- China-ASEAN Investment Cooperation Fund (for South-East Asia);
- China-CEE Investment Cooperation Fund (for Central and Eastern Europe) [16];

China's big three national oil firms Include (CNPC, Sinopec and CNOOC). These three firms alone spent over \$36 billion on upstream investments in places like Kazakhstan, Peru, Egypt, US shale and Angola.

The revamped and reformed Chinese state investors that are emerging from the downturn are focused on value, not volume — a mantra familiar to the majors.

There is a clear preference for assets in the Mideast and Russia, which offer access to low-cost oil and present an opportunity to forge a stronger bond with producing nations increasing dependence on China's economy to soak up incremental demand. They see the benefit of strengthening that relationship by investing in Mideast producers, which are included in Beijing's "OBOR" strategy to link China to economies in Asia and beyond. China sees these producers as "high-end" markets — offering abundant resources, transparent policies and low risk [17].

Overall China Petroleum Investment new policy in Asia and Africa is coordinated and consistent with the Silk Road Strategy. That involving both its extraction and flow to China, the initiative will provide significant opportunities for Chinese energy firms to expand their outbound investment activity. CNPC and Sinopec will step up their efforts to explore and extract oil and gas from Central Asia, whereas the significant offshore oil and gas deposits in Bangladesh are a natural target for CNOOC [7, p. 178].

#### IV. SUSTAINABLE DEVELOPMENT (PREVENT AND REDUCE AIR POLLUTION, GREENHOUSE GASSES, SUSTAINABLE DEVELOPMENT AND ENVIRONMENT RIGHT CASES): DETERMINATION OF CONTRACT NATIONALITY BY GOVERNED RULE (PETROLEUM CONTRACTS AND SOVEREIGNTY OF STATE'S PRINCIPLE)

The United Nations also emphasizes the development of sustainable development principles, although these principles have been used primarily for environmental activities. "These efforts will also promote the integration of the three components of sustainable development – economic development, social development and environmental protection – as interdependent and mutually reinforcing pillars" [18]. This is affirmed by the United Nations Development Program (UNDP) and the World Energy Council in its energy assessment, who define sustainable development as 'energy produced and used in ways that support human development over the long term, in all its social, economic and environmental dimensions' [19].

Sustainable development is a principle first defined by the World Commission on Environment and Development (Brundtland Commission) in its report to the United Nations General Assembly. The Brundtland Commission definition of sustainable development is "development which meets the needs of the present without compromising the ability of future generations to meet their own needs". Emphasizing the notions of fairness and intergenerational equity, the Commission stated that sustainable development provides "successive generations [with] not only man-made wealth but also natural wealth...in adequate amounts to ensure continuing

improvements in the quality of life.” “The concept of sustainable development was recommended as a guiding principle to governments and private enterprises, encouraging all countries to pursue policies aimed at sustainable and environmentally sound development” [20]. In other words, the Brundtland Commission definition is the “triple bottom line” or “TBL” of including, which meshes business strategy with economic, environmental and social progress [21].

Firstly, corporate economic growth is measured in terms of revenue, earnings, and shareholder return, analogous to a State’s economic growth based on taxes, royalties, profit-sharing, revenue and access to domestic petroleum reserves to reduce import of petroleum.

Secondly, the triple bottom line comprises environmental stewardship, measured in terms of increased energy efficiency, pollution reductions and mitigation projects. This is analogous to a State’s environmental goals for clean air water and land, and the preservations of valued ecological areas.

Thirdly, it comprises social progress. For the corporation, this is measured in terms of community outreach, human rights and labour standards, and diversity in the workplace. This is paralleled in a number of United Nations Resolutions, and the social goals of many nations [22].

While the scientific concept of development is very much a made-in-China concept, built on the experience of decades of efforts at development and responding in particular to the Chinese context, it is conceptually very similar to sustainable development, and the fundamental desire for balance among economic, social and environmental objectives is a central part of its character [23]. This understanding implies that development must meet the triple test of economic, social and environmental viability over time.

The Introduction to the Marrakesh Agreement Establishing the World Trade Organization repeated the GATT statement. It mentions “developing the full use of the resources of the world” and instead calls for expansion of trade and economic relations “while allowing for the optimal use of the world’s resources in accordance with the objective of sustainable development.” Also, the founders of World Trade Organization recognized that trade must expand the humanitarian goal of sustainability (1992 Earth Summit in Rio) [10, p. 3].

For the first half of the 20<sup>th</sup> century, “sustainable development” of oil and gas meant adopting the laws and regulations necessary to prevent the underground waste of oil and gas through well spacing and permitting requirements, prorationing controls, noflare orders, and pooling and unitization statutes that prevented competitive drilling and production. In the United States where oil and gas can be owned by private landowners, these regulations are largely the jurisdiction of conservation commissions in each of the producing states (and of the Department of Interior for federal offshore leasing). In most of the rest of the world, oil and gas are owned by the sovereign government which can either grant concessions to private investors to develop the resource or develop itself through a national oil company [24].

In recent years, presented optimal patterns with the goals of

sustainable development to protect the depletion of petroleum resources include:

1. Involves integrating the depletion of natural resources into national income accounting by deducting the value of the resources produced and used from measures of a nation’s Gross Domestic Product (GDP). Without such an accounting, a nation which is rapidly depleting its finite source of a mineral may experience high rates of economic growth, but this growth is not sustainable (Correspondingly, as technology advances and new reserves are proved up, the stock of natural resources capital increases).
2. Advances in “green” accounting further deducts damage to the environment from the measure of Gross Domestic Product [25].

Also Petroleum production has different externalities;

1. The local and regional impacts are primarily related to the physical facilities involved in the production and development of oil and gas fields in the host country.
2. The national and international impacts are related primarily to the long distance transportation of oil and gas and its products and to the air emissions generated from their use in the consuming countries [26].

The first step to implement the principles of sustainable development must pay the adverse environmental impacts arising from petroleum production:

1. Effects on the natural environment:

- 1.1. Impacts on air:

- From flaring, venting, or purging gasses;
- From combustion processes;
- Emissions from oil and gas operations include (carbon dioxide, carbon monoxide, methane, sulphur dioxide, toxic hydrogen sulphide).

- 1.2. Impact on Hydrological impacts on groundwater and surface waters:

- Contamination from produced water (briny water brought up with the oil and gas);
- Drilling and well treatment fluids;
- Excavation and infill for roads and infrastructure sites;
- Accidental oil spills and leaks;
- Soil compaction and erosion;
- Altered and lost vegetation because construction activity for access roads, drilling and production sites, and pipelines.

2. Effects on the human environment:

The socio-economic and environmental effects of oil and gas activity on communities.

- 2.1. Effects on Urban communities:

- Migration of persons along newly built access routes to the area due to persons seeking jobs or access to land for their own use;
- Create severe environmental pollution due to HC industries and polluters.

- 2.2. Effects on Local communities (indigenous peoples):

Consequences of the impaired environment and habitat, and the impact on wildlife that causes:

- Altered feeding, nesting, breeding, migration routes, and

- predator protection patterns;
- Changes in the distribution of certain species (it has direct significantly impact the livelihoods of indigenous peoples);
- The loss of biodiversity;
- Effect of customary land use patterns, fishing, hunting, trapping, and the cultural heritage of the tribe due to petroleum activity;
- Exposure to western diseases can result in many deaths;
- Creating of the cultural shock due to rapid changes in social structures, practices, and beliefs;
- Negative impacts on recreation and tourism areas of visual effects created from petroleum activities [22, pp.17-18].

China as one of the biggest economic powers in the world and the need to use fossil fuels is increasing. This has caused, Demand for energy has risen steeply in China. China has become one of the largest producers of greenhouse gases in the world. The competition is growing increasingly to dominate energy resources, minerals and renewable resources in the world. This has caused tensions between China and trading partners in enhancement the price of the product. The need to ensure easy access to a reliable fixation source of raw materials and energy. The need to ensure easy access to a reliable fixation source of raw materials and energy [27].

China's energy intensity of production is 20% higher than the Organization for Economic Co-operation and Development (OECD) average. The environmental perspective of this increase means increased pollution associated with energy production process. On the other hand, the increase in greenhouse gases (GHG) and Sox (responsible for acid rain); so causing concern for the security of energy supplies and other inputs of natural resources (oil, water and minerals). Since 1980, the demand for energy in the country has trebled and energy security has become a major concern. China has been self-sufficient in past energy production, but today it has become the second largest energy consumer in the world. This increase in China's energy demand from 2002-2005 is equivalent to the annual energy consumption of Japan [28].

Nowadays, China has the opportunity to become a global leader in environmental and sustainable social investment by focusing on: 1) Chinese overseas investments (Foreign investment); 2) Improved and Strengthened investment regulations, and 3) Adopting global best practices and principles [11, p. 58].

There have long been concerns about the impacts of FDI on the achievement of sustainable development in host countries. On the one hand, FDI brings much needed investment and can accelerate the diffusion of technologies, management know-how and best practices; and on the other hand, there are fears that the pressure to compete to attract FDI may lead to a competitive lowering of environmental and social standards—or a “race to the bottom” [29].

In particular, there are concerns that many of the destinations of Chinese outward investments, especially those natural resource economies in Africa with weak governance

systems such as Angola, Congo-Brazzaville, Equatorial Guinea and the Democratic Republic of the Congo [DRC], which have consistently appeared at the bottom of Transparency International's Corruption Perception, are particularly vulnerable to negative impacts from FDI [30].

#### V. SUSTAINABLE TRADE STRATEGY CHINA

Mechanisms to Bring Sustainable Development to the petroleum Sector two mechanisms can be used to control the externalities of petroleum development and either encourage or force principles of sustainable development:

- 1- National laws
- 2- China strategy to encourage outward investment (Going Abroad)
- 3- Suggesting an emerging paradigm international rules and standards sustainable development

##### A. National Laws

One of the main priorities of China's policy is development and implementation of the sustainable business strategy. “The Party has called for a “scientific concept of development” to guide future growth with the principles of people first, innovation, balanced and sustainable development and social harmony, among others.”

The main shift is deformation to achieve a centralized model of development, and a trade policy to achieve a sustainable strategy that must pay more attention to economic, social and environmental issues. According to the same policy direction, China's 11<sup>th</sup> Five-Year plan highlights the need to follow a mutually beneficial opening-up strategy that focuses on attention to quantity to harnessing globalization to improve the quality of China's growth. Also, China is seeking to build a resource-efficient society that is the environmentally friendly, with special attention to the relationship between the environment and a sustainable national economic system [25, p. 7].

Chinese exporters are trying to improve the standards of their products in the global market. These include a wide range of environmental, social, health, and safety and quality standards, as well as sanitary or phytosanitary standards, mandatory technical regulations, and standard of private buyer. This challenge becomes more important that Chinese exporters move “closer” to the final consumer through the value chain. Adoption of environmental and social standards has certain advantages for China, including:

- Reducing environmental pollution,
- Improve public health and welfare,
- Sustainable Development of Natural Resources,
- Increasing manufacturing efficiency in exports [31].

Successful implementation of the above strategy will help to stabilize China's status as a leader in the 21<sup>st</sup> century. The comprehensive strategy for sustainable trade, which will cover economic aspects of Chinese society, must include the following:

- 1- Sustainable trade in goods and services (exports and imports);
- 2- A stable flow of investment both inwards and outwards.

This dimension requires a large-scale study of commercial policy that includes:

- Update of the manufacturing sector.
- China's exports must be based on mandatory and voluntary standards.
- Examination of the effects of China's services trade.

Review strategy for international trade and trade-related cooperation agreements. All of these require working in close cooperation with Chinese companies that will provide the right conditions for outward investment where they exceed the level of international expectations.

Finally, it will lead to a clear understanding of the relationship between trade and related international developments such as climate change and global challenges [29, p. 7].

The Chinese government can implement investment strategies to improve domestic legislation and standards including:

1. Improve China's domestic laws and standards: Narrow the gap between China's domestic standards and international standards. In this case, special attention should be paid to the areas of health, safety, and environmental protection.
2. Enhance the ability of exporters to match and compete with high-level foreign standards: The notification to Chinese investment companies about foreign standards and a variety of technology and systems by the government.
3. Promote and implement sustainability practices for Chinese companies to maintain and improve the speed of rapid growth: Increasing resource efficiency and coordinated development requires the support of international competitive strategies. Implementing valid and verifiable sustainable development practices will be the necessary condition for China's MNCs, if the country wants to have a global economic and political role [29, pp. 12-14].
4. Adapt with the phenomenon of the increasing influence of international standards.

#### *B. China Strategy to Encourage Outward Investment (Going Abroad)*

Since 2000, China carried out the "Going Abroad" strategy to encourage outward investment. Then in 2001, China adopted its 10<sup>th</sup> Five-Year Plan for National Economic and Social Development. Now it is one of the world's major capital-export countries and continues to conclude BITs [32]. China concluded its first BIT in 1982, and by 2012 had concluded over 150 BITs [40], (including updated BITs) with about 130 countries [33]. Asia receives the largest amount of China's investment, accounting for over 60% of China's overall outward foreign direct investment (OFDI); second is Latin America. China has concluded BITs with all 10 ASEAN countries (individually), as well as with Japan, South Korea, and India. China also signed the China-ASEAN (as a bloc) Investment Agreement in 2009 as part of China-ASEAN FTA agreements, and the China-Japan-Korean Trilateral Investment Agreement in 2012.

BITs were originally concluded between developed countries and developing countries, the so-called "North-South" BITs. There are generally two approaches of North-South BITs: the European approach, represented mainly by the German BITs, and the Western Hemisphere approach, reflected by the Canada and United States model BITs. Overall, the European approach tends to cover a narrower scope and focus more on the protection of FDI flows, while the western hemisphere approach covers a broader scope and emphasizes more likely both the protection and liberalization of investment [34]. Understandably, the much later developed BITs between developing countries (South-South BITs) follow the more general and less stringent European model, to a large extent [33, p. 31]. In the 1980s, China concluded over 20 BITs with many developed countries and some developing countries. In the following decade, China continued to sign BITs. During this period, China's BITs followed the European approach. By 1998, China entered a new phase when it expanded the scope of investor-state disputes eligible for international arbitration in its BIT with Barbados. This signals a significant turn for and the second phase of China's BIT practice. By 2008, China entered the third phase by borrowing some "Americanized" provisions when signing BITs with Mexico and generating its 2010 Model BIT [30, p. 2].

After three decades of the "Opening Up" policy, China has become the second-largest capital-import country in the world.

In an overview, we can classify the Chinese BITs in three stages:

- BITs (1989 -1997) – Attract foreign investment base while protecting national sovereignty.
- BITs (1998-2008) - The approach of Fork-in-the-Road.
- BITs (2008-present).

#### 1. First Generation Chinese BITs (1989-1997)

Most of the BITs between China and other countries were negotiated primarily with defensive concerns in mind. This is reflected primarily in the limited national treatment of foreign investors, which is closely related to market access and international investment liberalization, and the restrictive investor-state dispute resolution mechanism.

Four points are notable and distinctive in this early treaty practice:

1. National treatment: It means that foreign investors of the other contracting party shall be accorded treatment "no less favourable" than that accorded to nationals of the contracting party. These two provisions are important elements for the European approach and the Western hemisphere approach. This national treatment is generally understood as post-establishment national treatment. Moreover, for those small numbers of BITs with a national treatment provision, the national treatment is accorded (in accordance with the laws and regulations of the host state) [35].
2. Investor-state dispute settlement mechanisms: The North-South BITs allows foreign investors to submit their disputes with the host state to the ICSID for international arbitration or conciliation (the US 1984 Model BIT

Article VI) (binding arbitration such as US-Egypt BIT, Art. 7.3(a)). According to Sino-African BITs, amicable settlement through negotiations is the preferred means of dispute resolution, a provision contained in all the Sino-African BITs [36]. In addition, Sino-African BITs provide that the governing law of the dispute for international arbitration is the law of the host state, the applicable BIT and the generally recognized principles of international law [35, p. 5].

### 3. Provisions very friendly to host states:

- A. Foreign investment is required to be (in line with the general economic policy of the host state) [36]. This ensures that foreign investment will promote the economic development of the host state and closely align with domestic policy.
- B. The BITs provide that the host state shall encourage foreign investors to make the investment and admit foreign investment (in accordance with its laws and regulations) [35, p. 6].
- C. BITs were agreed not to apply to the host state regarding measures related to the protection of its essential security and interests, public health, its environment, or the prevention of diseases and pests in animals or plants [37] (China-Mauritius BIT, Art. 11.1).

This exception is most favourable to the host state and raises restrictions for foreign investors.

- D. All of the Sino-African BITs developed a distinctive institutional framework called “consultation” between the contracting parties to implement the BITs. According to the consultation mechanism, the representatives of the two contracting parties shall hold meetings from time to time.

### 2. Second Generation Chinese BITs (1998-2008)

In 1998, China concluded a BIT with Barbados, a small island country in Central America. This marked a significant development in Sino BIT practice. The scope of the investor-state disputes eligible for international arbitration was expanded to include “Any dispute concerning an investment between an investor of one Contracting Party and the other Contracting party” [38]. This is first time that China consented to submit any dispute to ICSID or UNCITRAL for international arbitration and thus marks a significant turn in China’s BIT practice [39]. This broad investor-state dispute settlement approach is new for China at that time but always was included in the BITs of developed countries. Since 1998, China has adopted a similar approach in almost all BITs with no differentiation between China’s positions as capital-import or capital-export country. This shows China’s even-handed approach to international investment.

China takes an approach that is a bit different from before, it is the application of the so-called “fork-in-the-road” approach. This is a balanced approach for both the foreign investor and host state in that it enables investors a spectrum of options and offers the host state opportunities to settle disputes in domestic courts [30, p. 7].

### 3. Third generation Chinese BITs (2008-present)

These improved provisions in the US 2004 Model BIT are helpful in the protection of national interests and state sovereignty, and thus are host state friendly. China has borrowed, in part, from these provisions.

The China-Mexico BIT approved in 2008, consists of amendments from the “Minimum Standard of Treatment” article concerning fair and equitable treatment and full protection and security from the US 2004 Model BIT. In China’s past BITs, the provision of fair and equitable treatment is rather concise.

Article 6.3 “provides that Non-discriminatory regulatory actions by a Party that are designed and applied to protect legitimate public welfare objectives, such as public health, safety, and the environment, do not constitute indirect expropriations. This could be accepted in rare circumstances, for example when the action seriously exceeds what is necessary for the maintaining of legitimate public welfare”. This provision is very similar to the US 2004 BIT Model, Annex B Expropriation, 4(b), which provides that:” Except in rare circumstances, non-discriminatory regulatory actions by a Party that are designed and applied to protect legitimate public welfare objectives, such as public health, safety, and the environment, do not constitute indirect expropriations” [40].

In 2012, China entered into two important investment agreements, i.e., the China-Japan-Korea Trilateral Investment Agreement and the China-Canada BIT. In these two agreements, China gave concessions to cover prohibitions of performance requirements, for the first time. China agrees that the Trade-related Investment Measures (TRIMs) that prohibits four categories performance requirements in the WTO framework will be incorporated into the agreements and being part of it [41] (China-Canada BIT, Article 9). An environmental standard is incorporated into the China-Japan-Korean Agreement, for the first time, too [42] (China-Canada BIT Article 18.3). Also, the guidelines for developing International Investment Agreements (IIAs), particularly those related to the model BITs of some developed countries, has shown ‘sympathy’ for certain non-investment issues, including environmental protection [43].

The UN Conference on Trade and Development (UNCTAD) also introduced an Investment Policy Framework for Sustainable Development to provide updated guidance for national law-, policy- and treaty-making [44]. As well, the OECD has suggested to improve the sustainable development provisions in IIAs [45]. Moreover, researchers have suggested modifying and restructuring the framework of rules and regulations in IIAs. The aim is to balance the goals of different policies to accommodate sustainable development [46].

Only a limited number of Chinese BITs incorporate environmental provisions (EPs). These EPs can be roughly categorized into four types:

- EPs in preambles (non-operational EPs),
- EPs in substantive clauses (substantive EPs),
- EPs in clauses of exceptions (exception EPs),
- EPs in procedural clauses (procedural EPs) [46, p. 517].

Many BITs incorporate statements relating to

environmental protection in their preambles. In total, six Chinese BITs incorporate non-operational EPs. Depending on their exact wordings, these BITs can be divided into three groups.

1. The use of the term 'environmental' in their introduction (protection or measure);
2. The use of the term 'sustainable development';
3. The use of the term in introduction with two purposes environmental protection and environmental concerns from the perspective of investors' corporate responsibility:

TABLE I  
CHINA BIT WITH ENVIRONMENTAL CONTENT

Term	China-Guyana BIT	China-Trinidad & Tobago BIT	China-Tanzania BIT
Term 'environmental' in their introduction	The China-Guyana BIT	The China-Trinidad & Tobago BIT	The China-Tanzania BIT
Term 'sustainable development'	The China-Canada BIT	The China-Uzbekistan BIT	The China-Tanzania BIT
Term in introduction with two purposes	China-Japan-Korea TIT.		

Also, there are two major types of substantive environmental provisions in Chinese BITs:

- a. Environmental provisions in the (indirect) expropriation clause;
- b. Environmental provisions in the fair and equitable treatment (FET) clause.

Some BITs include a general expropriation clause covering both direct and indirect expropriation; others include a standalone indirect expropriation clause as an annex or protocol, in addition to an expropriation clause. In total, six Chinese BITs incorporate EP into their expropriation clauses. As suggested by ISA practices, when a host state takes regulatory measures for environmental protection purposes, such measures might be challenged by foreign investors as an act of indirect expropriation [47].

TABLE II  
CHINA BITs HAVE THE GENERAL EXPROPRIATION CAUSE COVERING BOTH DIRECT & INDIRECT EXPROPRIATION

BITs expressly address environmental concerns in their expropriation clause	Environmental provisions is in annex of indirect expropriation	Environmental provisions into their annex of expropriation in an implied manner
The China-Canada BIT [47]	The China-Uzbekistan BIT [48] The China-Colombia BIT [49] The China-Tanzania BIT[50]	The China-India BIT[51] The China-Japan-Korea TIT[52]

Only one Chinese BIT incorporates environmental provisions into Fair and Equitable Treatment (FET) clause, the China-Madagascar BIT [53]. This FET clause provides that 'these measures (i.e. measures of safety, health and environmental protection) shall not be regarded as obstacles' [54]. In a glimpse, examples of environmental in Chinese BITs have been shown.

TABLE III  
PRINCIPLES OF ENVIRONMENTAL IN CHINESE BITs BY VARIOUS GENERATIONS

Generation	BIT	Generation	BIT
1	China-Mauritius BIT (1996)	6	China-Colombia BIT (2008)
2	China-Trinidad & Tobago BIT (2002)	7	China-Uzbekistan BIT (2011)
3	China-Guyana BIT (2003)	8	China-Japan-Korea TIT (2012)
4	China-Madagascar BIT (2005)	9	China-Canada BIT (2012)
5	China-India BIT (2006)	10	China-Tanzania BIT (2013)

#### 4. Emergence of Fourth Generation BITs, Green BITs (On Base International Rules and Standards Sustainable Development)

Nowadays, developed countries have incorporated the principles of sustainable development their BITs.

Some of these principles include:

- The conventions on the Law of the Sea (1972);
- The principles of sustainable development enunciated in the Rio Declaration (1972);
- The Convention on Biological Diversity (CBD) adopted at Rio (1993);
- The Ramsar Convention on Wetlands of International Importance (1992);
- Energy Charter Treaty (between Europe, Russia, Japan and Australia) (1994);
- Law of the Sea Convention (1982);
- The United Nations Environment Program (UNEP) (1972);
- Directives issued by the World Bank requiring EIAs for offshore oil and gas projects and measures to reduce environmental harm;
- The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) (1975);
- The Forest Stewardship Council's forestry standards (FSC) (1993);
- Corporate social responsibility (CSR);
- ISO 26000 standard on corporate social responsibility;
- ISO 14000 standard and sustainable development;
- Social Accountability 8000 (SA8000) standards on labour practices;
- The Extractive Industries Transparency Initiative (EITI) (2003);
- International Chamber of Commerce's Business Charter for Sustainable Development (16 principles);
- The GATT rules in the field of environment, Article XX (b): "measures necessary to protect human, animal or plant life or health", and Article XX (g): "measures relating to the conservation of exhaustible natural resources";
- The Investment Policy Framework for Sustainable Development (IPFSD);
- The United Nations Conference on Trade and Development (UNCTAD).

The following results were obtained from reviews of various generations of China's BIA in the last few decades with Sustainable Development and Environmental Law:

From the review of the incremental steps of Chinese BITs during the past decades, and the inclusion of influential



elements of new principles of sustainable development and environmental law, the following results were obtained:

During the past few decades, China has experienced three types of BITs. The initiative One Belt, One Road will be a window for China to promote the fourth generation of BITs, the Green BITs.

China's fourth generation BITs (Green BITs) must include principles of sustainable development and environmental rights. One of the best ways is to progress the One Belt, One Road initiative as quickly as possible, and create the Silk Road economic belt of fourth generation BITs to achieve the China's objectives. China has excellent potential to become a unique business model in the world, which are:

- First - China's high economic growth in Asia and the world.
- Second - China has contract BITs with many different countries.
- Third – The One Belt, One Road project.

China will be able to influence directly and indirectly the promotion of sustainable development in the oil and gas industry globally, if the country adds to its BITs the principles of sustainable development.

One of the China's first steps in the implementation of environmental law and sustainable principles can be mentioned here, the China and Canada BIT.

The China–Canada BIT includes a GATT-style clause of general exceptions. Its Article 33(b) and 33(c) are almost identical to GATT Article XX(b) and XX(g), providing environmental measures that are “necessary to protect human, animal or plant life or health” [55] and “relating to the conservation of living or non-living exhaustible natural resources” can be exempt from being held as violation of the BIT [46, p. 517].

UNCTAD, embracing the notion of sustainable development, advocates an approach that balances between pursuing purely economic growth objectives through investment liberalization and promotion, and the need to protect people and the environment. The SADC Model BIT Template introduces some new ideas: it balances the rights and obligations of both investors and state parties, by granting post-establishment national treatment to foreign investors, on the one hand, and imposing obligations against corruption and on environment and labour standards, on the other. While an investor-state dispute settlement mechanism is included, it is optional for SADC countries. Also, China can Implement from these proposals in their future BITs [30, p. 24]. China can use this method to improve its BITs and promote the status of environmental rights and sustainable development.

## VI. CONCLUSION

China has ambitious goals that include access to global markets, creating energy security for the oil and gas resources, and developing their markets from Asia to Europe and Africa. These goals will be achieved through the country's open door policy and also use fourth generation of Chinese BITs, including the principles of sustainable development and

environmental rights, all of which are included in the One Belt, One Road project. China will inevitably enforce the principles of sustainable development and environment law in BITs, due to the need to continue their rapid economic growth, as the implementation of these principles will enable the country to access business tax breaks, as well as other legal and business advantages. Also, China can save on its cost of environmental protection and environmental improvements, which have a huge impact on China's economic growth. In this way, China will benefit from the advantages that some organizations to provide developers principles of sustainable development. The use of the new generation BITs will create a new economic model in investment contracts, which will be able to compete with European and American models. Also, if the new Silk Road Project is implemented successfully, it will result in the emergence of China as a new global power and sovereignty. As well, successful implementation of the Silk Road Project through promoting new international principles inspired by the Chinese economic model will have a positive impact on economic, political, social and legal development in China and in those countries in the path of the project.

China has shown a clear determination to apply the principles of environmental law and sustainable development for the establishment of the Green trans-regional investment model in all industries, especially oil and gas industry. Green BITs will encourage the development of green oil contracts. The Green Silk Road revival will lead to stabilizing China's status as an emerging global power. As the influence of Europe in terms of political and economic union, and in particular some of the more powerful countries in the Union, weakens, the planned One Belt, One Road initiative (the unity and consensus, Asia, Europe and Africa) can offer a good alternative. Finally, the successful implementation of this plan could lead to the development of China and other countries.

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