

THE ONE BELT AND ONE ROAD INITIATIVE: BEYOND THE WORLD TRADING SYSTEM

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SUMMARY: I. *Abstract*. II. *Introduction*. III. *The OBOR implementation objectives*. IV. *The OBOR implementation mechanisms*. V. *The OBOR implementation principles*. VI. *Concluding remarks*. VII. *References*.

I. ABSTRACT

Under the context of the profound changes in the international relations and global economy, China proposes the One Belt and One Road Initiative from a perspective of building a new pattern of opening up in an all-round way to the outside world. Looking from its implementation objectives, the first and foremost is to promote world economy development and prosperity; meanwhile they involve promotion for a more fair and reasonable global governance system and building a community of shared future for mankind. Its implementation mechanisms include both international rule of law and use of soft law rules. For its implementation principles, they not only uphold the purposes and principles of the Charter of the United Nations as the core of the international order and system, but also highlight the principles of “openness and inclusiveness” and of “consultation, co-construction and sharing”. Compared with the world trading system, the One Belt and One Road Initiative surpasses it in terms of implementation objectives, implementation mechanisms and implementation principles.

II. INTRODUCTION

In September 2013, the One Belt and One Road Initiative (OBOR) was firstly announced by Chinese President Xi Jinping. Since then, it has been further

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articulated in the official document “Vision and Actions on Jointly Building Silk Road Economic Belt and 21st-Century Maritime Silk Road” (hereinafter referred to as the “Vision and Actions”) issued on 28 March 2015 (NDRC, 2015) and in a series of speeches delivered by Chinese Governmental leaders on international occasions. Through these, the Chinese Government systematically elaborated the OBOR to the international community and its relationship with the world development, which showed China’s new concept for participating in the global governance and China’s efforts to promote for a more fair and reasonable global governance system (Chen, 2016; He, 2016, p. 49). Up to the present day, the OBOR has received warm response in the international community and has obtained some construction achievements. However, due to the complicated international political, economic and social reasons, and due to the OBOR not being as an international agreement or an international organization, there have appeared different understandings or interpretations of even doubts about the OBOR, such as whether it challenges the current international rules, and what geopolitical influence it may have, and so on (Lin, 2015; Liu and Ma, 2017; Liu, 2017). For this, close attention should be attached to and explanations and clarifications should be made through international exchanges and cooperation. To this end, this paper explores the relationship between the OBOR and the world trading system in that the former surpasses the world trading system in three aspects. In making my argument based on the current literature, I especially take references from policy documents connected to the OBOR and the latest construction progress for analyzing the OBOR. This paper unfolds as follows: the first part gives a brief introduction; in the next three parts, it analyzes the OBOR by separately focusing on its implementation objectives, implementation mechanisms and implementation principles. Finally, this paper concludes with tentative thoughts on the relationship between the OBOR and the world trading system, suggesting that the OBOR goes beyond of the world trading system in terms of implementation objectives, implementation mechanisms and implementation principles, it is an active exploration of new model for international cooperation and global governance.

Before the discussion, it is necessary to define scope of countries along the OBOR. Some Chinese scholars make their studies on different topics related to the OBOR based on 65 countries along the OBOR identified by academics (People, 2016; Cui, 2017). However, according to the official document the “Vision and Actions” of 2015, the OBOR is open to all countries. For this reason, this study is based on the official identification of the OBOR scope, including but not limited to the 65 countries.

III. THE OBOR IMPLEMENTATION OBJECTIVES

Based on current literature especially policy documents and the latest construction progress of the OBOR, the OBOR objectives not only aim to promote the development and prosperity of the world economy, but also involve promoting for a more fair and reasonable global governance system and building a community of shared future for mankind, these objectives clearly go beyond the economic objective of the world trading system.

1. *The First and foremost objective is to promote the development and prosperity of the world economy*

The OBOR, proposed from a perspective of building a new pattern of opening up in an all-round way to the outside world, sets the promotion of the development and prosperity of the world economy as its first and foremost objective. The “Vision and Actions” of 2015 clearly states that the OBOR “aims to promote orderly and free flow of economic factors, highly efficient allocation of resources, and deep integration of markets; to encourage the countries along the Belt and Road to achieve economic policy coordination and to develop broader and more in-depth regional cooperation of higher standards; to jointly create an open, inclusive, balanced regional economic cooperation architecture that benefits all” (NDRC, 2015). This objective was set against the profound changes in international and domestic economic situations. On the one hand, after heavy blows of the Asian financial crisis in 1998 and of the subprime mortgage financial crisis in 2008, the global economic recovery continues to be weak with rising anti-globalization and as a result the development of the global economy faces many uncertain factors. Under this international background, China, by giving a full play to the advantages of the socialist system, has created a miracle in the history of world economic development. In 2010, China has developed into as the second largest economy in the world; in 2016, China’s contribution to the world economic growth reached 33.2% (Guo, 2017). The world expects China to play a greater role on the world stage and to take more responsibility (Sun, 2016a). On the other hand, China’s economy has entered into a “new normal” phase. The economy is moving from the previous high-speed to medium-to-high speed growth; the economic structure is constantly improved and upgraded; and the economy is shifting from an investment-driven to an innovation driven approach (Xi, 2014). The “new

normal” of China’s economy requires full use of international markets and resources in order to create conditions for its domestic economy restructuring and upgrading (Li and Li, 2015, p. 48). Thus, the implementation of the “Going Out Strategy” and the OBOR will help China better satisfy the new situations and requirements for being integrated into economic globalization or regionalization, to upgrade the level of openness of the inland economy, and to promote the building a new pattern of opening up in an all-round way to the outside world. Up to date, the OBOR construction has obtained some achievements. In specific, from 2014 to 2016, the volume of trade between China and the countries along the OBOR reached more than USD 3 trillion; China’s investment into the countries along the OBOR totaled more than USD 50 billion; Chinese enterprises established 56 economic and trade cooperation zones in over 20 countries, creating tax revenue nearly USD 1.1 billion and 180 thousand jobs (Xi, 2017a). These implementation achievements indicate that the OBOR gives great impetus to the development of the world economy.

2. *The Long-term objective is to promote for a more fair and reasonable global governance system*

In the contemporary world, the global governance system mainly includes the international political and economic system with the United Nations (UN) and the world trading system with the World Trade Organization (WTO), which has played a huge role in world peace and development after the World War II. However, the international community generally believes that the global governance system is at a historical turning point for a reform (Xi, 2015a). Firstly, the emerging market countries and a large number of developing countries as a whole have been growing rapidly and their international influence has been on the rise, which imply that international forces have experienced profound changes (Xi, 2015a). In such case, their representativeness in the global governance should be respected and reflected accordingly. For example, the International Monetary Fund was recommended to be more representative in terms of voting rights, membership qualifications and staff positions (Qin, 2010, p. 14; Wang, 2017).¹ Secondly,

¹ Furthermore, although the International Monetary Fund announced the IMF 2010 share and governance reform came into force on 27 January 2016, the share formula does not reflect the growth of the economic strength of the emerging countries and developing countries; instead it overvalues the relative economic status of the developed countries and as a result has aroused a lot of discontent and criticism from its member states.

against the backdrop of increasing global challenges, it is a general trend to strengthen the global governance and to further promotes the global governance reform (Xi, 2015a). For instance, facing global security threats and transnational issues newly added to the global agenda such as terrorism, climate change, and major infectious diseases, the current international governance system is inadequate in addressing these global challenges and security issues. These have aroused reflection on the international order and international system under the framework of the UN Charter (Huang, 2017, p. 15). To address these issues, the OBOR proposes to explore a new model of international cooperation and global governance (NDRC, 2015), involving the global governance system reform. In this sense, to promote for a more fair and reasonable global governance system is also one of important objectives the OBOR is designed to achieve (Wang, 2016, p. 40; He, 2016, p. 50).

For promoting for a more fair and reasonable global governance system, first of all, China proposes to develop a new type of international relations of win-win cooperation (Wang, 2015a). This is embodied in the OBOR, which advocates for developing a new concept of international relations oriented to harmony and win-win cooperation and for rejecting zero-sum game thinking in international economic relations dominated by great powers (He, 2017a, and p. 8). The OBOR is a way for win-win cooperation that promotes common development and prosperity (NDRC, 2015). Secondly, the OBOR emphasizes interests of developing countries and considers it an important part of the global governance, this is a conceptual contribution that helps to better achieve the win-win cooperation. Thirdly, the international cooperation under the OBOR does not require any additional conditions, showing full respect for each other's sovereignty and internal affairs. Under the current international cooperation mechanisms, the establishment and operation of some of them are still premised upon additional conditions, such as commitment to human rights, the rule of law, and democracy required by some international organizations; specific additional conditions required for recipient countries under some international assistance programs, etc. However, the OBOR does not require any additional conditions in international cooperation. This indicates that it adheres to the principles of respect for sovereignty and of non-interference in internal affairs in international law; meanwhile it is conducive to the effective implementation of international cooperation and independent development of the countries concerned (He, 2016, p. 52). Although the above OBOR related proposals for reforming the global governance system respond to calls from the international society, but they cannot be achieved in a short time;

instead they can only be achieved by the gradual implementation over a long period of time.

3. The supreme objective is to build a community of shared future for mankind

In today's world, the movement toward a multi-polar world and the rise of emerging markets and developing countries as a whole has become an irresistible historical trend. The world is going through a historical process of accelerated evolution (Xi, 2015b). At the same time, the tendency of globalization is intensifying; transnational and non-traditional challenges and threats are increasing, with their nature being changed into as common threats faced by all countries from threats faced by individual countries. As a result, either in theory or in practice, the current international governance systems designed for regulating relations between sovereign states become inadequate in addressing global and transnational challenges and security issues newly added to the global agenda, such as terrorism, climate change and major infectious diseases (Qin, 2010, pp. 13-15). In order to deal with these urgent problems faced by the global society, China advocates for building a community of shared future for mankind so as to promote world peace and development. It can be said that it is China's proposition for improving the global governance.

In November 2012, the 18th National Congress of the Communist Party of China (CPC) in its report advocates the idea of building a community of shared future for mankind, what provides important guiding ideology for China's diplomatic relations with other countries. Thereafter, the Chinese President Xi Jinping has actively advocated for building a community of shared future for mankind on various occasions such as important international organizations and multilateral summits, and constantly developed and enriched the concept of a community of shared future for mankind. In September 2015 at the UN General Assembly (Xi, 2015b) and in January 2017 at the United Nations Office at Geneva (Xi, 2017b), Chinese President Xi Jinping systematically elaborated the concept of a community of shared future for mankind and proposed the roadmap thereof, calling for the international community to make unremitting efforts for building a community of shared future for mankind. To achieve this goal, efforts needed should include but not limited to the following main aspects. First of all, we should adhere to the principles of sovereign equality enshrined in the UN Charter. This principle of sovereignty is not just limited to that the national sovereignty and territorial integrity of all countries is inviolable and that their

internal affairs should not be intervened, but also means that all countries have a right to make their own choice of social systems and development paths, that this right should be upheld, and that all countries' endeavors to promote economic and social development and to improve people's lives should be respected. Secondly, we should be committed to multilateralism and reject unilateralism; we should adopt a new vision of seeking positive outcomes for all, and reject the outdated mindset that one side's gain means the other side's loss, or that the winner takes all. Thirdly, we should create a security environment featuring fairness, justice, and joint participation and shared benefits. These main efforts toward the direction of building a community of shared future for mankind contain a new concept of the international order, which transcends the international order either established on the balance of power theory or the hegemony theory (Xu and Li, 2016, p. 112).²

The OBOR incorporates the concept of building a community of shared future for mankind. The "Vision and Actions" of 2015 proposed to build a community of shared interests, destiny and responsibility featuring mutual political trust, economic integration and cultural inclusiveness. In 2017, Chinese President Xi Jinping pointed out that, "China will enhance friendship and cooperation with all countries involved in the OBOR on the basis of the Five Principles of Peaceful Coexistence. We are ready to share practices of development with other countries, but we have no intention to interfere in other countries' internal affairs, export our own social system and development mode, or impose our own will on others. In pursuing the OBOR, we will not resort to outdated geopolitical maneuvering. What we hope to achieve is a new model of win-win cooperation. We have no intention to form a small group detrimental to stability, what we hope to create is a big family of harmonious coexistence" (Xi, 2017c). The OBOR construction aims to build a community of shared future for mankind (Zhao, 2016). To date, although the concept of building a community of shared future for mankind is in its early stage of construction, it has been gradually recognized and accepted by the international community. At the international level, on 10 February 2017, the Chinese concept of building a community

² This research argues that in contemporary international relations there have appeared two kinds of international order, "the balance of power" or "the hegemony". Specifically, from the "Westphalia order" (system of "balance of power" among European countries) of 1648 and the "Vienna system" at the beginning of the nineteenth Century (new system of the "balance of power" among European countries), to "Yalta System" (pattern of hegemony) after the Second World War and the "dominant pole pattern" of the world (the United States intended to dominate the world) after the end of the cold war.

of shared future for mankind was incorporated into a United Nations resolution for the first time (Xinhua, 2017a); on 17th March 2017, the concept was incorporated into a UN Security Council resolution for the first time (Xinhua, 2017b); on 23rd March 2017, the concept was incorporated into a resolution of the Human Rights Council (Xinhua, 2017c). At national level, the report of the 19th NPC National Congress in October 2017 put forward to promote the construction of new international relations and to build a community of shared future for mankind. Put it in other words, as China's proposition for the future of global governance, the concept of building a community of shared future for mankind has been gradually gaining a wide recognition both at international and domestic levels.

Through the above analysis, we can see that the OBOR contains three main objectives, they not only aim to promote international cooperation in economic field, but also involve promoting for a more fair and reasonable global governance system and building a community of shared future for mankind. To achieve these three objectives, the OBOR implementation mechanisms are very important, which will be discussed in the next part.

IV. THE OBOR IMPLEMENTATION MECHANISMS

As regards the OBOR implementation mechanisms, there have been many arguments and discussions on this issue by Chinese academics. Some scholars hold that the OBOR should be implemented through the international hard law (Bao, 2015; Liu, 2015; Peng and Mao, 2015; Li, 2017), while others believe that international soft law may also be adopted (Han, 2016; He, 2017b). This paper considers that China's foreign policy that "China will firmly uphold the international system with the UN as its core, and the basic norms governing international relations embodied in the purposes and principles of the UN Charter" (Xi, 2017b) should be certainly put into practices related to the OBOR construction. The existing bilateral, multilateral, regional and sub-regional cooperation mechanisms suggested by the "Vision and Actions" (NDRC, 2015) should be understood as including both binding international laws (such as WTO rules) and the international soft law without binding force (such as the "16+1 cooperation" platform between the 16 Central and Eastern European countries and China). This shares similar ideas with some scholars who insist that the OBOR implementation mechanisms inevitably include both hard law and soft law mechanisms given that the OBOR is open, pluralistic and inclusive (Han, 2016; He, 2017b). However, there should be a comprehensive and dialectical understanding of the hard law and soft law

mechanisms. On the one hand, in the perspective of global governance, the rule of law is the fundamental way (Zhao, 2014, p. 79). Thus, in advancing the OBOR construction, China respects and observes international law, which mainly embodies the following three aspects. For the first, in the contemporary international community there has established a relatively stable international order (including international law system), to which China is a firm defender. For the second, the OBOR is designed to maintain a global free trade regime and an open world economy (NDRC, 2015), indicating that China as a WTO member complies with the WTO rules. This is also reflected in one of China's official documents (i.e., "Opinion on Several Issues concerning Accelerating the Implementation of the Free Trade Areas Strategy" issued on 17 December 2015) thereafter which requires to actively accelerate the construction of free trade areas along the OBOR (Xinhua, 2015a), again revealing China's compliance with the WTO rules. For the third, there still exist problems and challenges in the current international systems which need further reform, for this China joins with the international community for further reform and calls for more fair and reasonable international rules. On the other hand, due to the rising trend of anti-globalization and protectionism as well as the OBOR's openness and inclusiveness, China is fully aware of boundary and limitation of international law as a rule, which makes it possible and necessary for implementing the OBOR through soft law rules (Han, 2016; He, 2017b). In view of this, China advocates and encourages the use of soft law rules in the OBOR construction. These show that the OBOR implementation mechanisms surpass the rule-of-law based world trading system.

1. *By International Rule of Law*

As mentioned above, the rule of law is the fundamental way for the global governance (Zhao, 2014, p. 79). China respects and observes international law in the process of advancing the OBOR construction, which specifically embodies the following three aspects.

A. *There has established a relatively stable international order in the contemporary international community, to which the OBOR construction should be subject*

In the contemporary international community, there has established a relatively stable international order, which mainly includes the international

political and economic system with the United Nations and the world trading system with the World Trade Organization. For the former, the main organs of the United Nations such as the General Assembly, the Security Council, the Economic and Social Council and the specialized agencies of the United Nations such as the International Labour Organization, the International Monetary Fund, the World Health Organization have competence to take decisions or make conventions for certain substantive issues. For the latter, the World Trade Organization, as an international trade organization being independent of the United Nations, has competence to develop international trade rules and to manage global trade. These international political and economic systems and the world trading system have been built into a complex network of regulation. As of 2015, China was a party to almost all inter-governmental organizations and had acceded to over 400 international multilateral treaties. A growing number of Chinese nationals were working on important posts in international agencies. China has become a major player and supporter of the current international order and system (Wang, 2015b; Gu, 2015, p. 155). This is the current international order and the international regulation environment, to which the OBOR construction is subject. It requires the OBOR being implemented by international rule of law. In other words, the OBOR construction aims to promote economic and political exchanges within the established international order instead of challenge free, open, stable and democratic world order (Li and Li, 2015, p. 54). Of course, with China's rapid development, in the process of the OBOR construction, China would definitely encounter different obstructions from those who had a vested interest in this international order. However, it is believed that the continuous growth of China's international influence and improvement of its international status can be realized by observing and making full use of the existing principles in the current international order. China has no intention of challenging the current international order. China is a firm defender of the existing international order (Xi, 2016). China respects the purposes and principles of the UN Charter and international law (Fmprc, 2017).

B. The OBOR is designed to maintain a global free trade regime, showing China's compliance with the WTO law

The OBOR is designed to maintain a global free trade regime, showing China's compliance with the WTO law. As an important part of international law, the WTO law includes trade policy review mechanism and dispute

settlement mechanism. It deals with the rules of trade between nations and covers international trade in goods and in services, trade-related aspects of intellectual property, etc. As of 29 July 2016, there were 164 countries that were WTO members (WTO, 2018), all of which should abide by the WTO rules. As a WTO member, China carries out international cooperation with other WTO members along the OBOR in accordance with the WTO rules shows that China observes the WTO law. For the issue in question, the OBOR free trade agreements are of a particular concern.

First of all, under the WTO law, the free trade agreement (FTA) is regarded as a permitted exception to the “Most Favored Nation” (MFN) rule (Zhao, 2000, pp. 84-88),³ it allows China and other WTO members involved in the OBOR to sign free trade agreements for different degrees of economic integration and for providing more favorable treatments by revoking the MFN standard. Its legal basis includes: Article XXIV of the General Agreement on Tariffs and Trade, and Understanding on the Interpretation of Article XXIV of the General Agreement on Tariffs and Trade 1994; Article V of the General Agreement on Trade in Services (GATS); the 1979 Decision on Differential and More Favorable Treatment, Reciprocity and Fuller Participation of Developing Countries (Zeng, 2004). In nature, free trade agreement that has entered into force is legally binding international agreement between the WTO members, its fundamental role is to fix preferential trade arrangements between specific WTO members through trade rules, and to establish dispute settlement mechanisms to resolve trade and investment disputes that are likely to occur.

Secondly, China and other WTO members involved the OBOR should apply the MFN rule. On this basis, “to promote orderly and free flow of economic factors, highly efficient allocation of resources, and deep integration of markets” and “to maintain a global free trade regime” such as proposed by the OBOR (NDRC, 2015) objectively require China and these WTO members to improve market access and to increase the level of trade liberalization. To achieve this, free trade agreement mechanism is an effective way under the framework of current international law. In 2015, China proposed in its policy document (Xinhua, 2015a) to actively accelerate the construction of free trade areas along the OBOR and up to now has obtained positive achievements: 15 FTAs signed and implemented and 1 FTA signed but not yet entered into force (i.e., FTA with Maldives signed on 7 December 2017), these involving 24 countries and regions in Asia, Latin

³ According to the relevant provisions of the World Trade Organization, regional trade agreements include customs union, free trade agreement, and “interim agreement”.

America, Oceania, and Europe; 11 FTAs under negotiation; 11 FTAs under consideration (MOFCOM, 2017). These FTAs, either signed and implemented or under negotiation or consideration, show that China has made efforts or is making efforts to abide by the WTO rules, and to promote the OBOR international cooperation by using legally binding international agreements.

C. To Create new International Trade Rules under the OBOR

China upholds the purposes and principles of the UN Charter as the core of the international order and system, puts them into practices related to its foreign policy and international relations, and promotes the OBOR construction according to the international rule of law. However, this does not mean that China does not attach importance to the existing shortcomings and problems in the current international order and system. On the contrary, China joins in the argument in the international community for making relevant reform on the current international order and system, proposes the OBOR with an aim to promote for a more fair and reasonable global governance system, and provides a platform for creating new international economic and trade rules. As regards creating new international trade rules under the OBOR, the establishment of the Asian Infrastructure Investment Bank (AIIB) has a symbolic significance, while the FTA mechanism also deserves special attention.

a. Establishment of the Asian Infrastructure Investment Bank

An institutional arrangement established in the process of the OBOR construction up to now is the establishment of the AIIB.⁴ It is an international organization established by the AIIB Articles of Agreement, the Parties to which comprise the Membership of the Bank. Accordingly, the AIIB is both constituted, and governed, by public international law (AIIB, 2015). It includes new economic systems designed to promote the OBOR construction, and has inclusiveness and legitimacy, which gives more say to developing countries (Wang, 2015d, p. 86). For China, AIIB has the symbolic significance. It not only shows that China is willing to assume more international

⁴ On 29 June 2015, fifty Prospective Founding Members signed the Asian Infrastructure Investment Bank Articles of Agreement; on 25 December 2015, the Articles of Agreement entered into force and the Asian Infrastructure Investment Bank was formally established.

responsibility, but also indicates that China started to play a role of international rule-making (such as governance innovation, developing new financing mode, and providing a new way forward for internationalization of the Renminbi) instead of only participating international rule-making (Chen, 2015, p. 23). However, because the United States has always dominated the provision of international public goods in the field of global economy and finance governance, the establishment and operation of the World Bank, the International Monetary Fund, the Asian Development Bank and the World Trade Organization all embody the dominant idea of the United States. For the establishment and operation of the AIIB launched by China, the United States perceived differently and expressed concern, holding that the AIIB will have an impact on the US led international financial system (Huanqiu, 2015). As regards this, the then-Chinese Finance Minister Lou Jiwei in March 2015 pointed out that the AIIB and the existing multilateral development banks are different in their positioning and business focus. The relationship between them is complementary rather than competitive: the AIIB focuses on infrastructure construction; the multilateral development banks such as the World Bank, the Asian Development Bank consider poverty reduction as their main purpose (GOV, 2015). Jin Liqun, the President of the AIIB also clearly explained that the AIIB is a supplement to rather than a replacement of the World Bank and the Asian Development Bank, it is for improving and promoting the existing international financial order, rather than for subverting it (Jin, 2015). As a study shows that due to the rise of emerging markets, changes in the international pattern, the impact of 2008 global financial crisis, and the inadequate supply of international finance public goods, the growing contradictions between increasing demands for the finance public goods by the whole world especially by developing countries and the inadequate supply have become increasingly prominent. To address this issue, China launched the establishment of the AIIB to provide financing support for infrastructure. This is a beneficial supplement to the current international finance public goods as well as a strong support for the OBOR construction, which is the reality that China actively assumes its international responsibility (Ma, 2015, pp. 117-118). In this sense, the AIIB is a beneficial complement to the existing international economic system (Chen, 2015, p. 17; Gabusi, 2017, pp. 23-45).

b. To Create New International Trade Rules through FTAs

As far as the making of international trade rules is concerned, the FTA has a practical significance. Under the global governance demanding for

multiple and good governance, the FTA as a legal exception mechanism of the WTO law is both an important tool and an important place where to build a discourse system and to participate in international rule-making in international economic life. Many new international rules have been created through FTAs, such as the Maastricht Treaty and the North American Free Trade Agreement (Liu, 2004, pp. 5-7). Other examples include the Trans-Pacific Partnership Agreement (TPP) and the Transatlantic Trade and Investment Partnership (TTIP), which to certain extent represent re-writing international economic and trade rules for the next generation and which imply that they take into account for consolidating or redistributing international political relations and international discourse. This is of great practical significance in making international trade rules in the process of the FTA construction along the OBOR. For instance, China's legal practices in the fields of electronic commerce and Internet finance may provide references for the legal development of other countries (Lu, 2017, pp. 23-36), which can be included into future FTAs after careful consideration. Thus, in international fields where rules need to be developed or in some emerging fields, WTO members involved in the OBOR in their process of international cooperation should make full use of the FTA mechanism in rewriting international trade rules so as to promote for a more fair and reasonable global governance system.

To sum up, either the establishment of the AIIB or the implementation of the FTAs under the OBOR framework includes the reasonable international systems (Wang, 2015d), which offers explanations and clarifications from an empirical perspective regarding the arguments or concerns by some foreign scholars (Kennedy and Parker, 2015).⁵In the process of the OBOR construction, China observes the current international rules and makes efforts for promoting for a more fair and reasonable global governance system. "China has a sense of belonging to the current international order, because China is not only one of its founders, but also a beneficiary and contributor, as well as a participant in reform" (Fu, 2016). However, it must be emphasized that new measures such as the establishment of AIIB are not trying to overturn the existing international economic mechanisms, instead they are new mechanisms that pay more attention to demands of develop-

⁵ For example, Scott Kennedy and David A. Parker at the Center for Strategic International Studies consider that the OBOR does not relate to free trade area nor binding agreement among countries, and that China tries to avoid formal treaty by improving flexibility through deducing formal arrangements; at the same time, the OBOR does not involve establishment of international institutions.

ing countries and infrastructure and that are more in line with the principle of multilateralism, where the current international economic mechanisms fail to operate or where have been neglected for a long time. Compared with the existing mechanisms, this type of new mechanism is also rule-based, open and multilateral mechanism, but pays more attention to the fields where have been neglected for a long time or where the current international economic mechanisms fail to operate; it tries to pursue the common interests through mutual beneficial cooperation rather than to divide the interests. It is in this sense that instead of challenging or even threatening the existing mechanisms, they fill in the gap not covered by the existing global economic governance mechanisms or not be intended to cover (Sun, 2016b, pp. 16 and 17).

2. *By Soft Law Rules*

In global governance, soft law is defined relative to international hard law and it has no binding force. Any written document that does not belong to the category of convention, treaty or protocol that has entered into force should be regarded as soft law, including but not limited to resolutions, practice guidelines, joint statements and declarations of the General Assembly of the United Nations (Armstrong *et al.* 2012, p. 27). Although soft law has no binding force and does not constitute a component of the current international law, it is an important means for exerting influence over state's behavior and for global governance, and it is crucial to the changing shape of the international order (Hillgenberg, 1999, pp. 499-515). The inner reason of soft law meets the needs of actors of the global society demanding for stable social order, normal transnational communication, transaction security, and behavior conforming to the public ethics, meanwhile it offers "best practice" model (Goldmann, 2012, p. 373) for them. These make international organizations, countries, and even multinational corporations willing to abide by these soft law rules that are regarded as the basis for justifying their behavior. Especially, the international soft law in the domain of economy not only tries to establish basic principles for states' behavior, but also strives to set up concrete behavior patterns and guidelines (Klabbers, 2013, p. 280). Under soft law rules, cost of transfer of sovereignty is low, sensitive political risk among countries is small, cooperation mechanism usually starts from function integration of industries or of enterprises, all these make it more easier to push forward international cooperation (Liu, 2017,

p. 103). Considering these factors, as well as the OBOR's openness and inclusiveness and limitations of international law, it is possible and necessary to carry out the OBOR international cooperation through soft law rules, such as the "16+1 cooperation" platform between China and the Central and Eastern European countries (CEE).⁶

In April 2012, Chinese leader met for the first time with his 16 counterparts from the CEE countries in Warsaw and formally launched the "16+1 cooperation" platform, which has played an important role in promoting relations between China and the CEE countries. First of all, China and the CEE countries jointly launched the "16+1 cooperation" platform. Under this platform, the cooperation projects follow internationally accepted rules, which help all parties to reap win-win outcomes (GOV, 2017). The platform is different from previous projects launched by external entities in the area (such as the enlargement of the European Union or the North Atlantic Treaty Organization) in that it is not based on the principles of political and economic reform based on Western norms and principles. Instead the "16+1 cooperation" platform is based on the concept of policy coordination and provides a basis for new ideas to promote cooperation and development (Vangeli, 2017, p. 110). As of 2017, the following institutions have been established between China and the 16 CEE countries (see Table 1). Secondly, the "16+1 cooperation" platform belongs to the category of soft law rules. Meanwhile, China and the 16 CEE countries in light of their respective laws and regulations and those CEE countries as the EU member states in light of EU laws may carry out specific cooperation. That is to say, China has already built two levels connectivity with the CEE countries (Zhang and Chen, 2015), which reflects a combination of soft law rules and international law under the "16+1 cooperation" platform. Thirdly, it should be especially noted that although these revelations concerning the "16+1 cooperation" platform is based on China and the CEE countries, it is an exploration of regional cooperation and can be referential to regional cooperation between China and other countries involved in the OBOR.

⁶ The 16 CEE countries include Poland, Czech, Slovakia, Hungary, Slovenia, Croatia, Bosnia and Herzegovina, Serbia, Montenegro, Romania, Bulgaria, Albania, Macedonia, Estonia, Lithuania and Latvia.

TABLE 1. INSTITUTIONS UNDER THE “16+1 COOPERATION”
PLATFORM AS OF EARLY 2017⁷

<i>Name of institutions</i>	<i>Headquarters/management</i>	<i>Status</i>
16+1 Agency for Tourism Promotion	Hungary	Active
16+1 Union of Colleges and Universities	Managed jointly	Active
16+1 Contact Mechanism for Investment Promotion	Poland	Active
16+1 Commercial Union	Poland and China	Active
16+1 Mayors Association	Czech Republic	Active
16+1 Association for the Promotion of Agriculture	Bulgaria	Active
16+1 Technology Transfer Center	Slovakia	Active
16+1 Think Tanks Network	Chinese Academy of Social Sciences	Active
16+1 Logistics Cooperation Union	Latvia	Active

In summary, in the process of the OBOR construction, international law and soft law rules can be applied differently with different OBOR countries, targeting different cooperation issues, as well as in different stages; they respectively play their own functions and jointly push forward the realization of the objectives of the OBOR construction. However, either by international rule of law or soft law rules, the OBOR will be built with no intention of replacing existing mechanisms or initiatives for regional cooperation, instead it is on current basis to help promote connectivity of the development strategies of the countries involved in the OBOR by leveraging their comparative strengths (Xinhua, 2015b).

V. THE OBOR IMPLEMENTATION PRINCIPLES

Either by way of international law or by soft law rules, the OBOR implementation follows three main principles. In this regard, it should be noted that the principles of “openness and inclusiveness” and of “consultation, co-construction and sharing” are beyond the implementation principle of the world trading system.

⁷ (Vangeli, 2017, p. 110).

1. *To uphold the purposes and principles of the charter of the United Nations as the core of the international order and system*

As a founding member of the United Nations, China consistently has adhered to and upheld the purposes and principles of the Charter of the United Nations and put them into China's foreign policy and international relations. The OBOR as an international cooperation initiative, either through international rule of law or by soft law rules, its implementation should be subject to these purposes and principles. Of course, the operation of the United Nations on the basis of the UN Charter often shows lack of capability and lack of power. For example, the cold war and confrontation between the two camps of the United States and the Soviet Union after the Second World War, the international financial crisis in 2008 and the intensifying trade protectionism thereafter, the United States withdrawal from the Paris Climate Agreement, all these have gained worldwide attention and raised questions regarding the role of the United Nations. In addition, the growing roles of emerging markets and changes in the world pattern have also aroused reflection on the international order and system under the framework of the UN Charter (Huang, 2017, p. 15). In this respect, Chinese President Xi Jinping pointed out that a variety of confrontations and injustice in today's world are not because that the purposes and principles of the UN Charter is out of date, instead it is precisely because that these purposes and principles have not been effectively carried out, as a result, the purposes and principles of the UN Charter as the core of the international order and system should be upheld (Xi, 2015a).

It should be emphasized that although China upholds the purposes and principles of the UN Charter as the core of the international order and system, China joins in the argument in international community for making relevant reforms on the current international order and system and is willing to promote for a more fair and reasonable global governance system (Wang, 2015b; Gu, 2015, p. 155). Both the OBOR implementation and the establishment of the AIIB are designed to improve the current international order rather to replace it.

2. *To adhere to the openness and inclusiveness of the OBOR*

An obvious distinction between the OBOR and the world trading system is its openness and inclusiveness, which mainly includes the following

aspects. First of all, the OBOR is open and inclusive; it abandons the cold war mentality and welcomes all countries around the world regardless of their systems, religions and civilizations (Jia, 2015). The “Vision and Actions” of 2015 does not define its coverage scope (NDRC, 2015), clearly showing that the OBOR is open to all countries, those countries and regions that are willing to participate in the OBOR can become participants, builders and beneficiaries. In May 2017, President Xi Jinping stressed again at the Belt and Road Forum for International Cooperation that “the OBOR is deeply rooted in the original Silk Road; it focuses on the Asian, European and African continents, but is also open to all other countries. All countries, either from Asia, Europe, Africa or the Americas, can be international cooperation partners of the OBOR” (Xi, 2017c). Secondly, the OBOR cooperation mechanisms are open. On the one hand, it refers to that the OBOR is open to existing bilateral and multilateral, regional and sub-regional cooperation mechanisms (NDRC, 2015), which implies that the OBOR will not set up institutional arrangement and mechanism that has exclusive feature. On the other hand, the OBOR implementation mechanisms include both international rule of law and soft law rules. Thirdly, the new mechanism established under the OBOR is open and inclusive; for example, the AIIB is open to all countries. As a result, this feature of openness and inclusiveness determines that the OBOR will not challenge the existing international order; rather it will take the initiative to build connectivity or integration with the existing international order (Cheng, 2015, p. 9; Andornino, 2017, pp. 4-22). As shown in the process of “16+1 cooperation” platform, the OBOR has already built two levels connectivity with the EU countries under the legal framework that the EU formulates a common policy and its member states carry out country-specific policy (Zhang and Chen, 2015), which is a typical example. As Chinese Foreign Minister Wang Yi said, “the OBOR is a public good China has provided to the world, it welcomes all countries, international organizations, transnational corporations, financial institutions and non-governmental organizations to participate in the specific cooperation (Wang, 2015c).

3. *To Adhere to the Principle of “Consultation, Co-construction and Sharing”*

The principle of “consultation, co-construction and sharing” is an important principle of the OBOR, it allows the cooperation parties to participate in the consultation, co-construction and sharing concerning the cooperation contents, implementation mechanisms, institutional arrangements

(Cheng, 2015, p. 9). In other words, although the OBOR was proposed and actively promoted by China, it essentially is an initiative for all countries. Its implementation is based on the principle of “consultation”, co-construction and sharing; it is not an aid program, nor as a so-called “China version of Marshall plan”. In March 2015, Chinese President Xi Jinping stressed at the Boao Forum for Asia Annual Conference that the OBOR will be carried out on a basis of “consultation, co-construction and sharing; it is not closed, but open and inclusive; it is not a only for China, but a chorus of all countries along the routes” (Xinhua, 2015b). The “Action and Plans” of 2015 reaffirmed the principle of “consultation, co-construction and sharing” and actively promoted the connectivity of development strategies of countries along the routes. In May 2017, President Xi Jinping again restated at the Belt and Road Forum for International Cooperation that the OBOR is based on extensive consultation and we all will share its benefits (Xi, 2017c).

First of all, this principle of “consultation, co-construction and sharing” respects the sovereign equality. In the process of the OBOR implementation, China does not require additional conditions in international cooperation, which shows it not only adheres to the principles of respect for sovereignty and of non-interference in internal affairs in international law, but also is conducive to the effective implementation of international cooperation and independent development of the countries concerned. Secondly, at the early period of the founding of the People’s Republic of China, China put forward the Five Principles of “mutual respect for sovereignty and territorial integrity, mutual non-aggression, non-interference in each other’s internal affairs, equality and mutual benefit, and peaceful coexistence”. For the OBOR, Chinese President Xi Jinping pointed out “China will enhance friendship and cooperation with all countries involved in the OBOR on the basis of the Five Principles of Peaceful Coexistence. We are ready to share practices of development with other countries, but we have no intention to interfere in other countries’ internal affairs, nor to export our own social system and mode of development or impose our own will on others. In pursuing the OBOR, we will not resort to outdated geopolitical maneuvering. What we hope to achieve is a new model of win-win cooperation. We have no intention to form a small group detrimental to stability, what we hope to create is a big family of harmonious coexistence (Xi, 2017c)”. Thirdly, the OBOR advocates to develop a new concept of international relations oriented to harmony and win-win cooperation and to reject zero-sum game thinking in international economic relations dominated by great powers (He, 2017a). The OBOR emphasizes interests of developing coun-

tries and considers it an important part of the global governance, this is a conceptual contribution to achieving the win-win cooperation. Nowadays the win-win cooperation has become a generally accepted concept or principle in international community, which establishes its legitimacy. China adheres to the win-win cooperation principle in the process of the OBOR construction, winning for its own development opportunities as well as making reform to the existing international order.

VI. CONCLUDING REMARKS

In summary, the main argument offered in this essay is that the OBOR surpasses the world trading system in three aspects. The OBOR implementation objectives not only aim to promote world economy development and prosperity, but also involve promotion for a more fair and reasonable global governance system and building a community of shared future for mankind. Its implementation mechanisms include both international rule of law and soft law rules. For its implementation principles, they not only uphold the purposes and principles of the UN Charter as the core of the international order and system, but also highlight the principles of “openness and inclusiveness” and of “consultation, co-construction and sharing”. Put it differently, compared with the world trading system in terms of its economic objective, international rule of law-based mechanism and zero-sum game thinking, the OBOR surpasses it and is China’s proposition for the global governance.

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