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**THE ONE BELT, ONE ROAD INITIATIVE: IMPACT ON
HEGEMONY AND LEGAL ISSUES ARISING THEREOF**

Bachelor's thesis

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I hereby declare that I have compiled the thesis independently and all works, important standpoints and data by other authors have been properly referenced and the same paper has not been previously presented for grading. The document length is 9640 words from the introduction to the end of conclusion.

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ABSTRACT

China has grown to be one of the major powers in a relatively short time, impacting global politics. China's growth has a positive impact on its economy and allows invest capital and resources to states in Europe, Africa and Asia that lack these options. China's the One Belt One Road initiative is known as their new foreign policy. Initiative's main purpose is to build a modern version of the Silk Road, which optimizes the allocation of resources and markets and promotes the coordination of international business and national economies. The purpose of this thesis is to examine the OBOR initiative's impact on world economic hegemony and the way China is financing it. Thesis answers to questions on what does China want to achieve with this multi-billion project expanding different continents. Also, since the OBOR is a complex system including private and governmental actors, it cannot avoid legal disputes. Therefore, this thesis compares the WTO's dispute settlement mechanism to CICC's dispute settlement system. Can these both systems be seen as fair and legal or are they biased? Examples show on what kind of disputes are settled in the CICC and the WTO dispute settlement system, in other words how does the WTO dispute settlement handle the OBOR. This thesis examines how the OBOR initiative brings hope for smaller nations - as they lack capital - but at the same time brings fear to the international scene as it influences the role of economic hegemon and rule of law considering dispute settlement.

Keywords: China, 'One Belt, One Road' initiative, economic hegemony, dispute settlement

LIST OF ABBREVIATIONS

AIIB	The Asian Infrastructure Investment Bank
ASEAN	The Association of Southeast Asian Nations
CICC	China International Commercial Court
OBOR	One Belt, One Road
UN	United Nations
WTO	World Trade Organisation

INTRODUCTION

It is being said that the former French military leader and emperor Napoleon Bonaparte (1769-1821) said that “China is a sleeping giant. Let her sleep, for when she wakes she will move the world”¹. Even though this has been more than two centuries ago, it is as accurate as it was back then. The President of China Xi Jinping announced in October 2017 his speech aim to make China one of the most powerful states in half a century - by the world by 2049. This date has a significant meaning for China, because it marks the 100th anniversary of the instauration China². Despite being a very influential aim, China does not try to achieve to be like the United States and to be unquestionable superpower. Instead they want to change the current international system³, where there none of states have place as global hegemon. China has their own strategies to achieve this goal, one of them being China’s new foreign policy initiative – the OBOR initiative, which covers both the Silk Road Economic Belt and the 21st Century Maritime Silk Road. This strategy aims to enhance China’s economic and capital influence in the areas, where there is lack of globalisation as well as build stronger relationships with its neighbouring states. The other strategy is to be part of international financial organisations and institutions, which are ruled by mostly development developed countries. Although, China’s position in those institutions is relatively weak⁴. The OBOR initiative will span more than 50 years, has enormous effect on international economic, international law and politics. This thesis aims to discover China’s desire and ability to grow its own position as world financial hegemon and China’s ambitions increasing regionally and globally. Because of this China’s grand strategy has an enormous impact on developing multidimensional transport corridors as well as enhance logistics and communications networks in Persian Gulf, Africa and Europe⁵, it is almost certain that you cannot avoid legal issues arising from this new foreign policy. Contracts are between states and private actors or between companies; for example legal issues can violate contract, delays, or payment issues. These issues need to be settled in a correct way.

¹ Moore, T.G, (2008). China as an Economic Power in the Contemporary Era of Globalization, *Journal of Asian and African Studies*. 497-521.

² Clemente, A. (2015). The “One Belt, One Road” Initiative and its Effects on the Relations Between China and European Union. *Luiss University: Department of Political Science*.

³ Ibid

⁴ Ibid

⁵ Leverett, F.; Bingbing, W. (2017). The New Silk Road and China’s Evolving Grand Strategy, *The University of Chicago Press*.

There are several reasons why I chose this topic for my thesis. First, this topic has not been researched enough to the extent that it could be, even though that the OBOR initiative is reported widely in various news outlets and medias. From this news we can tell about China's growing interest on regions outside of its borders. Second, it is crucial to notice the growing economic advantage what China is having at the moment – simply, it is too major to ignore. The other reason involves the legal issues. Since the OBOR initiative involves private and public players in multibillion international trade deals, I believe it is important to have a functioning legal environment for this to run smoothly. Legal environment needs to be researched carefully to understand China International Commercial Courts and its procedures, CICC was established to resolve international disputes arising from the OBOR initiative projects.

This thesis aims to identify the outstanding legal issues, subsequently, this thesis consists of four main chapters, which answers the following research questions:

- Does China want to become a global power or be a regional hegemon in international trade?
- How does the OBOR initiative effect on world and China's economy?
- How does China solve arbitration issues involving international partners?
- What is the difference between the WTO's dispute settlement mechanism and China International Commercial Court in relation of the OBOR initiative?

The first chapter of this thesis is about China's economic historical background and its reasons for becoming one of the largest economies in today's world. First this chapter includes knowledge about the economic hegemony and China's motives behind the economic hegemon. It also gives a deeper analysis of Chinese-led new financial institutionalism – giving more details about the Asia Infrastructure Bank, which China established. In addition, literature review will define what China wants to achieve in the future considering financial institutionalism.

The second chapter tells you more about the core of this thesis - China's new foreign policy: the 'One Belt, One Road' initiative, which in fact, is an ambitious economic diplomacy. This chapter will mainly focus on defining the OBOR initiative, how it was established and then going to its details. It will answer questions when and where this initiative was first announced, its action plan, and the name 'One Belt, One Road' means. How is this initiative going to affect China's economic position, consequently answering this will reach the research's aim. Moreover, this initiative

demands a lot of knowledge and capital, therefore the OBOR is supported by Chinese economic institution – the Asian Infrastructure Investment Bank, which is now valued at US \$450 billion ⁶. The Asian Infrastructure Investment Bank is one of the ways how China aims to grow its economic power. This chapter will also focus on other ways this initiative is financed.

The third chapter is focusing on the legal aspects of the OBOR initiative. Because the OBOR has a substantial effect on world trade, it should follow the rules and customs of international trade law, and customs set by the World Trade Organisation as well as other international treaties. Due to the fact that the OBOR involves many private and public parties, cannot avoid the need for international arbitration and the dispute settlement. This chapter compares the dispute settlement mechanism by the World Trade Organisation and China International Commercial Court. The chapter ends in example case analysis, which examines the core elements of international arbitration, dispute settlement and the OBOR initiative.

The qualitative text analysis methodology is used in this thesis, including academic sources, such as journals, books, etc., and legislative literature, i.e. treaties and case law. The legal case study includes the CICC case: Siemens International Trade (Shanghai) Co., Ltd. v. Shanghai Golden Landmark Co., Ltd., to compare the dispute settlement process in CICC and the WTO dispute settlement system and what could be implemented in the OBOR initiative's legal issues.

⁶ Lim, T.W., Chan, H.H.L., Tseng, K.H-Y., Lim, W.X. (2016). *China's One Belt One Road Initiative*. New Jersey: Imperial College Press

1. HISTORY OF CHINESE ECONOMY

1.1. Development of China's economic growth

From very early on, China's economic history has allowed China to grow to be one of the world's biggest economies⁷. The Ming Dynasty allowed the Portuguese to set up a trading base in Macao in 1557, which was the start of international trade in China. Although this did not last very long, the Qing government restricted trade with foreign nations and wanted to trade to be more in China's favour. This changed in 1778 when Great Britain started to sell opium to China to balance international trade, which eventually led to four 'Opium Wars'. These wars were important in international trade's perspective since they all ended with a treaty, which extended international trade opportunities and opened Chinese ports for foreign ships⁸. In the 19th century, the Chinese economy faced the 'Daoguang Depression', from 1820-1850, due to deflation in silver prices⁹. In the 1960s, after 'Opium Wars', The Sino-Japanese war and The World Wars, China had minimal contact with the Western countries and was very isolated economically from the rest of the world. This changed in 1980s when Chinese political leader Deng Xiaoping supported the general policy of China's modernising¹⁰.

During the last three decades, Chinese foreign policy has been following the economic concept 'Open door'. It has led to market-oriented reforms and most importantly liberalisation, which moved barriers away from the movement of goods, labour, and capital. This made China a significant player in international trade¹¹. China's economic development and growth do not only benefit China, but also it will provide economic benefits to the neighbouring states, especially those who are affected by the One Belt, One Road initiative. There is no sign that China would go back to 'closed-door' international trade and economy, since it would harm China's position and weaken the economy¹².

⁷ Von Glahn, R. (2016). *The Economic History of China: From Antiquity to the Nineteenth Century*. (1st ed.) Cambridge, United Kingdom: Cambridge University Press

⁸ Tisdell, C. (1993). *Economic Development in the Context of China: Policy Issues and Analysis*. (1st ed.) Great Britain: The MacMillan Press Ltd.

⁹ Ibid.

¹⁰ Tisdell, C. (1993). *Economic Development in the Context of China: Policy Issues and Analysis*. (1st ed.) Great Britain: The MacMillan Press Ltd.

¹¹ Dimitrijevic, D. (2017). Chinese Investments in Serbia – A Joint Pledge for the Future of the New Silk Road. *Baltic Journal of European Studies*. 7 (22), 64-83

¹² Ibid

1.2. Chinese-led new financial institutionalism

There are other aspects which support China's economic growth and function of the markets. Financial institutions have an important role in international trade and economic, where every one of them serves for a different purpose. Most well-known institutions are the International Monetary Fund, World Trade Organisation, World Bank and the International Bank for Reconstruction and Development. Over the years China's position in international financial institutions has become much greater, but this has not always been like that¹³. As mentioned in the previous chapter, between the 1940s and 1980s China had no connections with the international community and financial institutions; however, this changed in 1980 when Beijing became a representative of China and the Republic of China for both the World Bank and the IMF.¹⁴ In fact, since then, China even became a shareholder in the African Development Bank to gain more power in international institutions as well as motivation for granting access for Chinese capital, labour, goods and equipment in this area. This shows China's interest as well as motivation in international markets and motivations grow bigger player in this field.

Over the years, China joined to Asian Development Bank in 1986, the Inter-American Development Bank in 2009 and latest the European Bank for Reconstruction and Development in 2016. This all suggest that China wants to reform its position in the international community and institutions¹⁵. As Galán states in his article, the Chinese new financial institutionalism supports the OBOR initiative in various ways and aims at becoming global¹⁶. Galan also found out that there are four different types of Chinese led financial institutionalism, which are the following: “the creation of quasi-global financial organizations; the engagement of financial conglomerates of national organizations (the domestic development banks); and the financial component of China's partnership strategy”¹⁷. All of these four different factors are designed to support Chinese led financial institutionalism, international trade and the OBOR initiative on a global scale, to empower China's international economic position. Financial institutions create proper and function legal environment for international economics¹⁸.

¹³ Ibid

¹⁴ Galán, E.M., Leandro, F.J., (2019). The Belt and Road Initiative: The Cornerstone of the New-Fangled Financial Institutionalism Led by China. *Baltic Journal of European Studies*. 9 (2), 154-182

¹⁵ Galán, E.M., Leandro, F.J., (2019). The Belt and Road Initiative: The Cornerstone of the New-Fangled Financial Institutionalism Led by China. *Baltic Journal of European Studies*. 9 (2), 154-182

¹⁶ Ibid.

¹⁷ Galán, E.M., Leandro, F.J., (2019). The Belt and Road Initiative: The Cornerstone of the New-Fangled Financial Institutionalism Led by China. *Baltic Journal of European Studies*. 9 (2), 154-182

¹⁸ Ibid.

1.3. China's relationship with other major powers

In order to succeed in international trade and the economy, China needs to have good relations with major powers. The Western powers have been using soft power in order to achieve their goals. Joseph Nye defines the concept of soft power that it is achieved with attraction and persuasion¹⁹. It requires cooperation with other governments, and needs to be able to organize networks, create institutions and persuade other players in the international arena to join in common endeavors. Soft power has the ability to get the desired outcome you wish without coercion or "payment"²⁰. Soft power can be harder to achieve compared to military power. Joseph developed idea of soft power by thinking that the United States' influence was more than just great military and economic power²¹. In the matter of fact, China is also using soft power in order to strengthen its position among other great powers²².

Other major powers in the world, such as the United States and other western countries have very delicate relations with China. Also, David C. Kang explain in his 'China Rising – Peace, Power, and Order in East Asia' book that China as a rising power poses both opportunities and threats to its neighbouring countries²³. For example, the ongoing trade war between the US and China shows that China does not fear to challenge the biggest economy in the world to achieve their own goals. This trade war effects to different global actors and international stock, trade market and politics²⁴.

1.4. What is hegemony?

Great powers can be hegemonies. Cambridge dictionary defines that a hegemonic state is "strong and powerful and therefore able to control others."²⁵ In the field of international relations, different scholars have their own definition for the term 'hegemony'. Realists define it as a stage where one single state has significantly much more power compared to other states. In other words, this state has control and dominate smaller states in the international system. However, this definition does

¹⁹ Nye, J.S. (1990). Soft Power. *Foreign Policy*. 80, 153-171

²⁰ Ibid.

²¹ Nye, J.S. (1990). Soft Power. *Foreign Policy*. 80, 153-171.

²² Ibid.

²³ Kang, D.C. (2007). *China Rising: Peace, Power, and Order in East Asia*. (1st ed.) USA: Columbia University Press.

²⁴ Kauppinen, L., Väliäho, T. (2019), Yhdysvaltojen ja Kiinan kauppasota käy kierroksilla: mitä syytökset valuuttamanipulaatiosta merkitsevät?, *Helsingin Sanomat*. Retrieved from <https://www.hs.fi/talous/art-2000006195855.html> 13 September 2020.

²⁵ Cambridge Advanced Learner's Dictionary & Thesaurus. Cambridge University Press. Retrieved from <https://dictionary.cambridge.org/dictionary/english/hegemonic>, 24 October 2020.

not tell how much power does the state need to have to be a hegemon²⁶. Hegemony can be on different kind of aspects, such as political, military, economic or cultural and realist claim one state can be hegemon in one area while another state is hegemon in other area²⁷. Hegemonic states have different strategies and motives. First, hegemonic states seek to achieve general and personal benefits. Second, hegemonic states seek to disbalance the power in the world and effect in different disputes outside its borders.

According to the hegemonic stability theory, international economic stability is for the public good and therefore, hegemonic power is needed to maintain an open trading system. Since the early 1900s the US can be seen as the absolute economic power and military wise in the world²⁸. This has changed in the 1970s and 1980s when the US leadership declined for various reasons, i.e. the Cold War. By the end of the century, the US started to experience increased competition from emerging economies, especially China. This can lead to that situation where China's GDP is predicted to exceed the US GDP²⁹. From this, we can claim that China's economic hegemon power is strengthening. In other words, China displays same attributes as other hegemons with global influence, not just economically³⁰.

1.5. China as an economic hegemon

Historically speaking, China can be seen as a regional hegemon in Southeast Asia due to fact of enormous geographical area and being one of the most populous states in the world³¹, as mentioned in the previous chapter, China's GDP is expected to grow bigger than the US GDP. China is an excellent example of how a growing level of economic interconnection between two different states, in other words, economic globalisation, has made it one of the economic major powers and a regional economic hegemony in Asia³². This interdependence through external trade and foreign investments is one of the core pillars for China³³.

²⁶ Cohn, T. (2012). *Global political economy: theory and practice*. (6th ed.) Pearson Education, Inc.

²⁷ Ibid.

²⁸ Yetiv, S.A. (2018). *Challenged Hegemony: The United States, China, and Russia in the Persian Gulf*. (1st ed.) Stanford, USA: Stanford University Press.

²⁹ Ibid.

³⁰ Colonel, K.V. (2011). *China, The Regional Hegemon with Global Reach*. *U.S. Army War College*.

³¹ Naarajärvi, T. (2017). *Constructing the role of a great power. China's peripheral relations, territorial disputes and role change, 2002-2012*. Academic Dissertation, Department of World Cultures, Helsinki: University of Helsinki.

³² Ibid.

³³ Jackson, R., Sørensen, G. (2010). *Introduction to International Relations: Theories and Approaches*. (4th ed.) Oxford, United Kingdom: Oxford University Press.

China's rapid economic growth raised questions about hegemonic economic stability despite the fact that China has a prerequisite to becoming the world's leading economy. But, we still need to examine the United States position as the biggest economy in the world. The question is how successful is China counter-hegemonic challenge, and does China want to change the United States economic position? Transition of hegemon can happen on military-economic grounds, but for a bigger transition there also needs to be ideological within the nation ³⁴. Allan B. states that it is unlikely to China to become next hegemon in the near future because China's identity is very different compared to other great powers ³⁵, lacking the Western mindset and culture. Chinese identity includes "socialism with Chinese characteristics" which is economic doctrine about China's development. This a reason why China is unlikely to shape grounds for next international vision and other great powers don't find this doctrine appealing ³⁶.

For the time being China is balancing in the status quo – free trade agreements and the American domination³⁷. Ho-fung Hung's *The China Boom* book examines China's rapid economic growth, and he stated that despite being one of the most advanced economies in the 18th century, liberal capitalism failed to succeed in China, which left China's development behind the West ³⁸. The other reason why he states that even though China is undisputable economic power, it still prefers the current global capitalist economic structure, as it is a receiving end of this system. Add to this, China's development is interdependent of mass consumption of wealthy countries³⁹. Because China relies on the free international market, the flow of investment capital, which is mostly instituted by the US' ⁴⁰ treasury bonds, which all of these elements ensure the stability of the current economic system. In other words, Beijing is relying on the US' support for the export economy. China is 'addicted' for the United States' overconsumption and underinvestment, whereas the United States depends on China's cheap labour, affordable production and overinvestments. On the social aspect, China's development is lacking behind, in example about 40 percent ⁴¹ of the Chinese population still lives in rural areas, and investments for these rural areas' infrastructure is costly. Considering

³⁴ Allan, B.B., Vucetic, S., Hopf, T. (2018). The Distribution of Identity and the Future of International Order: China's Hegemonic Prospects. *International Organization*, 74 (4), 839-869. Cambridge: Cambridge University Press.

³⁵ Ibid.

³⁶ Ibid.

³⁷ Hung, H. (2017). *The China Boom: Why China Will Not Rule the World*. New York: Columbia University Press.

³⁸ Ibid.

³⁹ Maçães, B. (2019). *Belt and Road: A Chinese World Order*. London: Hurst & Company.

⁴⁰ Hanlon, R. (2018). *The China Boom: Why China Will Not Rule the World*. *Book reviews, China and Inner Asia*. Retrieved from <https://pacificaffairs.ubc.ca/book-reviews/the-china-boom-why-china-will-not-rule-the-world-by-ho-fung-hung/> , 18 November 2020.

⁴¹ The World Bank. (2020). *Rural population (% of total population) – China*. Retrieved from <https://data.worldbank.org/indicator/SP.RUR.TOTL.ZS?locations=CN> , 2 December 2020.

all of these political and economic as well as social reasons, China will not have the ability nor the will to change the current economic hegemon ⁴².

2. THE ONE BELT, ONE ROAD INITIATIVE

This chapter will tell about the ‘One Belt, One Road’ initiative, how it was established, its characteristics, drawbacks, how it is financed as well as impact on China’s internal and external position and China’s economy. As mentioned before, the OBOR initiative is China’s new foreign policy, which was introduced by President Xi Jinping in Astana Kazakhstan in 2013. A month later, he announced that maritime roads from mainland China to Africa and Europe are also part of this new maritime ‘Silk Road’⁴³. To illustrate, this is an infrastructure network in the Eurasian area, which brings countries economically closer together and bring the next level of global prosperity.

The core idea of this initiative is to connect over sixty different states to one economic area, where China and different financial institutions are at the centre of this new economic cooperation as well as integration⁴⁴. This has a major effect on the world economy and international trade since over half of the world’s population live on this geographical area, which is covered by the OBOR



⁴² Ibid.

⁴³ Evron, Y. (2019). The Challenge of Implementing the Belt and Road Initiative in the Middle East: Connectivity Projects under Conditions of Limited Political Engagement. *The China Quarterly*, 237, 196-216.

⁴⁴ Ibid.

initiative. Most importantly, the OBOR initiative will empower China's position among other hegemonic states.

Figure 1 Map of 'One Belt, One Road' Initiative, source: <http://ecoculus.com/wp-content/uploads/2019/03/Website-graphics-1v2.png>

As seen in figure 1, the OBOR initiative mimics the old Silk Road from thousands of years ago, which was used for international trade as well as passing knowledge between different nations between China and Europe⁴⁵. The new silk road will consist of roads as well as railways from China to Central Asia, Iran and Turkey, from travels through Eastern Europe to Russia's capital Moscow. From there, the main way goes from Belarus to Lithuania. In the future, the idea is to expand infrastructure all the way from Lithuania to Northern parts of Africa. On the other hand, the maritime silk road initiative travels from China's mainland to various destinations in Asia in sea – one of the most important being sea passage to Colombo, Sri Lanka.

2.1. The first publication of the OBOR initiative and Maritime Silk Road

To better understand China's new foreign policy, it is crucial to understand that what is the OBOR initiative. For the first time it was announced in September 2013, when the president of the China Xi Jinping held a speech at the Nazarbayev University of Astana in Kazakhstan ⁴⁶. This speech was titled as "Promote Friendship between Our Peoples and Work Together to Create a Bright Future". To illustrate this speech, he said that "to forge closer economic ties, deepen cooperation and expand space for development in the Eurasian region, we should take an innovative approach and join hands in building an 'economic belt along the Silk Road'. We may start with work in individual areas and link them up over time to cover the whole region"⁴⁷.

One month later in October 2013, President Xi Jinping announced the second part of this initiative - a maritime silk road. What is important, this was announced in Asia Pacific Economic Co-operation's Economic Leaders Meeting, because Xi Jinping wanted to emphasise that China is willing to strengthen cooperation with the Association of Southeast Asian Nations⁴⁸. China's government had set up China-ASEAN Maritime Cooperation Fund for the purpose of jointly

⁴⁵ Ibid.

⁴⁶ Clemente, A. (2015). The "One Belt, One Road" Initiative and its Effects on the Relations Between China and European Union. Luiss University: Department of Political Science.

⁴⁷ China's "New Silk Road": A Case Study in EU-China Relations, *Xi's Policy Gambles: The Bumpy Road Ahead*, 2015, 1st Edition.

⁴⁸ Ibid.

building the 21st century 'Maritime Silk Road' together with other states in the region ⁴⁹. Publication of the OBOR shows motives behind this grand initiative, it aims for impact people around the globe and strengthen China position⁵⁰.

2.2. Features of the OBOR initiative

The idea behind these new initiatives changes China's strategy and opens its tight borders to the outside world. Wang⁵¹ emphasis three features of the OBOR initiative in his paper. First content wise, where changing from bringing in an idea to opposite to going out. To clarify this, China wants to participate and, also lead to international economic cooperation. This, as a matter of fact, is the Chinese government's opinion to improve the economic situation in Asia. Second, spread wise, China's borders in the western and southeast area are in very crucial geographical locations politically. With this initiative, China aims to develop its influence in these areas. Third, depth-wise, is important and vital for free flow of goods, capital and labour⁵². With this China wants to mimic EU's freedom of movement idea in order to gain more economic power, as well as following the global trend of regional economic integration⁵³.

2.3. Financing the OBOR initiative

The OBOR initiative is very costly, so it needs to have different sources of incoming capital to be financed. It is definitely not easy to predict what China will invest in this initiative. According to economic news channel Bloomberg, China plans to have a US\$16.3 billion fund for the OBOR initiative. This fund is regulated by Chinese policy banks, which finance building and expanding railways, roads and pipelines⁵⁴. Other financing sources the OBOR initiative are loans, which other banks grant for countries involved in the OBOR initiative.

China established the Asian Infrastructure Investment Bank in July 2015 in order to partly finance the OBOR initiative, because it wants to control the financing the OBOR⁵⁵. In the first meeting there were 57 states represented from Asia, Middle East and West Europe, who discuss the core

⁴⁹ Yiwei, W. (2018). China's "New Silk Road": A Case Study in EU-China Relations. *Xi's Policy Gambbles: The Bumpy Road Ahead*. 93-118.

⁵⁰ Ibid.

⁵¹ Ibid.

⁵² Ibid

⁵³ Ibid.

⁵⁴ Bloomberg News. (2014, November 4). China Said to Plan \$16.3 Billion Fund for 'New Silk Road'. *Bloomberg*.

⁵⁵ Ibid.

element of the AIIB – multilateral development financing, which is institutionalized⁵⁶. The main reason why the AIIB was established was due to China's disappointment to not being heard loud enough in other international organisations lead by the US⁵⁷. As an example of these organisation, the World Bank and the International Monetary Fund⁵⁸. This tells about Chinese multilateralism, which focuses on the development of global governance and is in favour of those underrepresented⁵⁹. The two aims of the AIIB are, first to promote economic development and regional integration in Asia and second to provide to rest of the world that China is capable of governing of the AIIB in matters of governance, safeguard policies and debt sustainability⁶⁰. This defines some of China's motives behind the OBOR initiative.

Before the establishment of the AIIB, China lent money from Japan and the WTO, so it could build infrastructure⁶¹. This impacted on the Chinese citizens' living standards and the economic growth as the Chinese had to lean on someone else. It gave guidelines for the AIIB. It finances the OBOR initiative's projects, which are conducive for Asian citizens' living standards. The bank is also expected to meet other Asian infrastructure investments needs with the help of international cooperation. But there are also conditions, the investments from the AIIB are only for projects with very high standards, which is only in China's own interests⁶². This tells about China's motives to think about their own best interest and answers to one of the research questions about China's desire becoming economic hegemon.

2.4. How did the OBOR change Chinese foreign policy?

As mentioned in the previous chapter, this OBOR initiative and Maritime Silk Road changed China's perspective and view on the international economy. Before China wanted to keep its borders relatively closed from the outside world, as a part of this initiative China aims to lead international economic cooperation. This initiative brings up concerns on how China will establish multilateral trade deals and collaborations, and China's ability to gather needed resources. In order

⁵⁶ Bin, G. (2017). Chinese Multilateralism in the AIIB, *Journal of International Economic Law*. 20 (1), 137–158

⁵⁷ Kulmanen, J. (2017). Kiinan uusi silkkitie ja tuleva maailmanjärjestys. Retrieved from <https://yle.fi/aihe/artikkeli/2017/03/20/kiinan-uusi-silkkitie-ja-tuleva-maailmanjarjestys> 18 April, 2020.

⁵⁸ Ibid.

⁵⁹ Ibid.

⁶⁰ Galán, E.M., Leandro, F.J., (2019). The Belt and Road Initiative: The Cornerstone of the New-Fangled Financial Institutionalism Led by China. *Baltic Journal of European Studies*. 9 (2), 154-182

⁶¹ Ibid.

⁶² Ibid.

to the OBOR initiative run smoothly, such collaborations are vital ⁶³. One of the challenging tasks is the realization of these projects as they need capital, intellectual capital, resources, workforce and proper political and legal environment. Most often realization of these project depends on agreements and arrangement between international participants ⁶⁴ but as a drawback political-legal-bureaucratic complication make them progress haltingly. Also, the OBOR challenges China's ability in international cooperation, meaning that their way of behaving and policies can be very different to the Western states' policies⁶⁵. One the other hand, this initiative brings nations closer together, as a lot of cooperation is needed to run smoothly. In other words, this initiative forces China for deeper integration between participant states and making China more open for the outside world. This answers to one of the research questions about China's motives behind this initiative.

3. EFFECTS OF THE OBOR INITIATIVE ON CHINA'S ECONOMY

3.1. China's economic growth along the OBOR

President Xi Jinping is known for making many new policies in China. After two years in being power, the Chinese noticed that the economy had grown only 7.4 percent, which is the lowest rate since 1990. Therefore, Chinese announced to focus more on the quality of the growth instead of speed of the growth⁶⁶. In short, with the OBOR initiative, China aims for strengthening its position as an economic hegemony, and it has a massive economic impact on international trade and investments.

According to The Organisation for Economic Co-operation and Development Business and Financial Outlook, this initiative's projects are estimated to add over USD 1 trillion funding to foreign infrastructure over the next 7 to 10 years' time ⁶⁷. Most importantly, this is very influences to those economies, which are participating in the OBOR initiative. The figure below shows how Chinese exports have changed since the OBOR was first announced. From this, we can tell that in early 2000, exports to the OECD countries were about 61% and at the same time exports to the OBOR participating economies was only as low as 19%. After the OBOR was announced, exports

⁶³ Evron, Y. (2019). The Challenge of Implementing the Belt and Road Initiative in the Middle East: Connectivity Projects under Conditions of Limited Political Engagement. *The China Quarterly*, 237, 196-216.

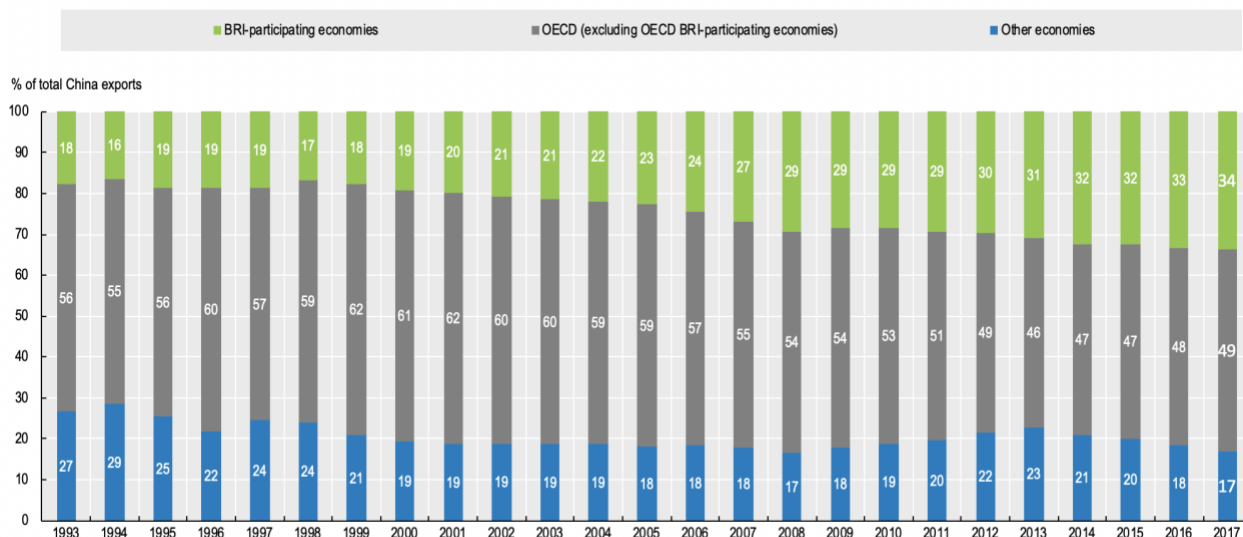
⁶⁴ Ibid.

⁶⁵ Ibid.

⁶⁶ Amighini, A. (2015). "China's Economic Growth. Heading to a "New Normal"." *The Italian Institute for International Political Studies*. 49-65.

⁶⁷ OECD, (2018), "The Belt and Road Initiative in the global trade, investment and finance landscape", in OECD Business and Finance Outlook 2018, OECD Publishing, Paris, https://doi.org/10.1787/bus_fin_out-2018-6-en

to the OBOR participation economies, neighbouring countries of China⁶⁸, has grown up to 34% and at the same time exports to the OECD countries declined to 49%. This tells about China's interest in the neighbouring states.



Source: IMF Direction of Trade Statistic Database, OECD calculations.

The OBOR participating economies make up more than one-third of global GDP and about half of the world's population. The OBOR's impact ASEAN area's investments have risen also benefited a lot, investments have grown from US\$ 3.5bn in 2010 to US\$ 11.3bn in 2017⁶⁹. The OBOR not only contributes to investments but also for trade in goods to and from China. These good can be anything from tools, vehicles, trains, nickel, copper and products, and they together form another multi-billion industry⁷⁰.

From this chart, we can tell that the OBOR initiative contributes to both short- and long-term economic growth. The OBOR projects help to finance much needed update for infrastructure in Asia, a well-functioning infrastructure will boost the economy. The OBOR initiative's projects will boost China's economy⁷¹.

3.2. Economic drawbacks of the OBOR initiative

Despite of having multiple social, political and economic benefits, still the OBOR initiative does not benefit every participant. First, once these the OBOR projects are finally fully completed the

⁶⁸ Ibid.

⁶⁹ Jusoh, S. (2018), The Impact of the BRI on Trade and Investment in ASEAN. *China's Belt and Road Initiative (BRI) and Southeast Asia*, LSE. 8

⁷⁰ Ibid.

⁷¹ Ibid.

need for construction labour force and importation of some of the products will decrease.

Furthermore, while these projects are still going on, they are being accused to be too favourable for China⁷². This makes the international community to question this initiative but because it benefits China's economic growth, it also boosts China as a great power.

Second drawback is very harmful and can be long-lasting, especially for the developing countries. Chinese investments, exclusively in Sri Lanka, have made the country suffer from “debt-trap diplomacy”. Sri Lanka is very desired destination for Chinese investors, who have been enjoying of the China's government's favour⁷³. These investments, primarily large-scale infrastructure projects, are funded by loans from the Chinese government or investments made by Chinese enterprises⁷⁴. Especially the OBOR initiative's investments have caused very unfortunate situation in Sri Lanka at domestic, regional as well as international level. At a domestic level, Chinese investments have received critique over Sri Lanka's economic viability and sustainability⁷⁵. In example, Chinese have financed the Hambantota Deep Seaport and Mattala International Airport, which expensive repayments have caused economic insecurity and political uncertainty for Sri Lanka⁷⁶. Most critical situation come from the Colombo Port City – also financed and governed by Chinese authorities – a geopolitically strategic port in the Indian Ocean. This project posed a serious threat for Sri Lanka's sovereignty, identity and national security, because of an agreement, which allowed investors from China to acquired and possess a plot of land on a freehold basis⁷⁷. Fundamentally, this tells about China's desire to only seek for their own best interest and answer to research question about China's motives behind the OBOR initiative.

4. LEGAL PROBLEM ARISING FROM THE OBOR INITIATIVE

As mentioned in the previous chapters, the OBOR initiative has a colossal effect on international trade and China's position as economic hegemon. But yet, still this initiative does not belong to any categories of international pacts and treaties, therefore there might be multiple legal issues concerning multilateral trade agreements and other dispute settlements to be solved. Legal problems

⁷² Ibid.

⁷³ Pathirana, D. (2020). The Paradox of Chinese Investments in Sri Lanka: Between Investment Treaty Protection and Commercial Diplomacy. *Asian Journal of International Law*, 10(2), 375-408.

⁷⁴ Ibid.

⁷⁵ Ibid.

⁷⁶ Ibid.

⁷⁷ Ibid.

arising from this initiative are mainly between states and states, states and private actors and between private actors.

International trade relations are being monitored by different institutions, such as the IMF, the World Bank, the WTO and the EU, where especially the WTO expands authority over international trade. The WTO is a formal legally constituted organisation, which oversees new treaties and international trade related to the OBOR initiative. China joined the WTO in December 2001⁷⁸. This had a major impact on international trade, because of the enormous size and growth of the Chinese economy. China's membership in the WTO changed the balance of power in the organisation due to various reasons, example of China's close trade relations with the Association of Southeast Asian Nations became more distant after the joining the WTO⁷⁹. Because the OBOR initiative increases international commercial trade, the need for well-functioning effective commercial dispute settlement is inevitable for business environment and global governance under the rule of law⁸⁰.

International trade disputes related to the OBOR initiative can be classified into three different categories: international trade disputed between states, international investment disputes between state and investor and international trade disputes between private parties such as companies and organisations⁸¹. Due to the OBOR complexity it is unavoidable to commercial disputes happening⁸². To function properly the OBOR requires cooperation between governments and enterprises and this needs to be according to political, legal and administrative needs.

4.1. Four ways avoiding legal issues in the OBOR initiative

To avoid any legal issues arising from the OBOR initiative, China has set different goals to achieve this. First, "Abiding by and improving relevant international rules-based systems"⁸³. With this this China wants to be fully commitment to obeying standards in international trade set by international organisations, such as the WTO. Second way is to "Actively Preventing and Properly Settling

⁷⁸ Cohn, T.H. (2012). *Global Political Economy*. (6th ed.) Boston, United States: Longman

⁷⁹ Ibid

⁸⁰ Xiangzhuang, S. (2020). A Chinese Approach to International Commercial Dispute Resolution: The China International Commercial Court. *The Chinese Journal of Comparative Law*, 8 (1), 45-54.

⁸¹ Ren, H. (2019). Treaties on the International Trade Dispute Settlement and the China "Belt and Road" Initiative. *Beijing Law Review*, 10, 441-454.

⁸² Wang, G. (2017). The Belt and Road Initiative in quest for dispute resolution mechanism. *Asia Pacific Law Review*, 25 (1), 1-16.

⁸³ Quan, J., Yin, W. (2018). China's "Belt and Road" Blueprint: Promoting Unilateral Ambitions or Multilateral Gains?. *China Law Connect, Stanford Law School*, 2.

Disputes”⁸⁴. To achieve this China has established the CICC, a comprehensive dispute settlement system, where the goal is to settle trade and investment disputes fairly by protecting the legal rights and interest of all parties as well as protect business environment under the rule of law. This has four important principles - “the principle of planning together, building together, and benefiting together”, “the principle of justice, efficiency, and convenience”, “the principle of party autonomy”, and “the principle of diversified dispute resolution”⁸⁵. Although these four principles have been set out, it is still a bit uncertain how new institutions and mechanisms will work together with the already existing international dispute resolution formed by the WTO to resolve cross border disputes in the field of international trade of the OBOR initiative.

Third and fourth points include “Promoting International Rule of Law by Enhancing Cooperation under the BRI” and “Advancing Legal Exchange under the BRI”⁸⁶. With this China aims for have more support for the OBOR initiative and as well as promote international rule of law. In detail the third point aims to have cooperation between fundamental principles of international law and comprehensive legal cooperation which includes attendance of international as well as regional organisations⁸⁷. The final, fourth point of this scheme includes better cooperation among legal services industries. In other words this means to have greater knowledge of foreign legal systems and treaties from those states which are part of the OBOR initiative. The third and the fourth points are relatively similar, where both aim to have greater amount and quality of legal exchange from possible legal issues which may arise from the OBOR initiative.

Add to this, to avoid any legal issues, forum on the Belt and Road Legal Cooperation was held in Beijing on 2nd of July, 2018⁸⁸. This was co-organised with the Ministry of Foreign Affairs and China Law Society and the opening speech was delivered by Foreign Minister Wang Yi. In his speech he expressed that the OBOR initiative’s fruitful cooperation has been beyond expectations and has had a warm welcome from the international community. He also stated that “We believe that regulations and the rule of law not only provide a pass for the Belt and Road to go global, but also serve as the safety valve to cope with risks and challenges ... We should constantly improve the Belt and Road legal guarantee system, and deepen the Belt and Road legal exchanges and international

⁸⁴ Ibid

⁸⁵ CICC. (2018), *Opinion Concerning the Establishment of the Belt and Road International Commercial Dispute Resolution Mechanism and Institutions*. China International Commercial Court. Retrieved from <http://cicc.court.gov.cn/html/1/219/208/210/819.html>, 2 April 2020.

⁸⁶ Ibid.

⁸⁷ Ibid.

⁸⁸ Ibid.

cooperation. China will provide funding for the implementation of a Belt and Road legal cooperation research program and support the legal capacity building and international law talent training of countries along the Belt and Road.”⁸⁹ This forum had over 350 participants who discussed in panels about “The BRI and International Rule of Law”, “Rules, Treaties and Laws Supporting the BRI” and “The BRI and International Dispute Settlement”, where as the latter panel discussed about the hardware of International Dispute System related to the OBOR initiative ⁹⁰.

4.2. WTO dispute settlement system

World Trade Organisation was founded in mid 1990s with the aim of promoting peaceful relations among nations and same time the WTO dispute settlement system was founded ⁹¹. This system was founded during the Uruguay Round by Member governments for various reasons such as trading rules would be respected. With fully functional international trade, it will benefit individuals, governments, businesses.

WTO dispute settlement system is the very important a vital for today’s international trade as it benefits not only the states but also companies as well as individuals by enhancing stability and predictability for international trade⁹². The WTO members have agreed that if they violate trading rules, they will use WTO’s dispute settlement system to settle it. Since the OBOR initiative influences in many fields from technology to infrastructure and to different states, it can cause some legal issues and questions⁹³. WTO dispute settlement system aims to be equitable, fast, effective and mutually acceptable.

WTO dispute settlement also handles disputes considering the OBOR, as in example free trade disputes. Importantly not every country along the OBOR are not a member of the WTO. Therefore, China, can help some countries to negotiate and contribute to their accession to the WTO. This will enable more countries to make full use of the WTO dispute settlement mechanism, as well as

⁸⁹ Ministry of Foreign Affairs. (2018). *Forum on the Belt and Road Legal Cooperation Opens in Beijing*. Retrieved from https://www.fmprc.gov.cn/mfa_eng/zxxx_662805/t1573758.shtml , 23 March 2020.

⁹⁰ Yee, S. (2018). Dispute Settlement on the Belt and Road: Ideas on System, Spirit and Style. *Chinese Journal of International Law*, 17 (3), 907-914.

⁹¹ WTO. (2020) *History of the multilateral trading system*. Retrieved from https://www.wto.org/english/thewto_e/history_e/history_e.htm, 9 July 2020.

⁹² Wilson, B. (2003). *Dispute Settlement System Training Module, Introduction to the WTO dispute settlement system*. Retrieved from https://www.wto.org/english/tratop_e/dispu_e/dispu_settlement_cbt_e/intro1_e.htm, 23 March 2020.

⁹³ Ibid.

promote the improvement of the WTO mechanism⁹⁴. As another drawback, country-to-country trade and investment disputes cannot be settled directly through the WTO mechanism, this makes these types of disputes more difficult to settle⁹⁵.

4.3. The China International Commercial Court

The Chinese authorities quickly noticed the lack of Chinese influence in the dispute resolution as well as commercial arbitrations. Typical the OBOR project contract is to construct the railway, port, industrial project and financing it, all of these contracts have at least one Chinese party forming this agreement⁹⁶. The previously mentioned China International Commercial Court – CICC - was established in 2018 to mainly focus on the developments of the OBOR. This establishment has a significant impact on the China's judicial system because it contributes to the good business environment in the multilateral trading system among the OBOR countries. These courts serve the purpose for handling cases in accordance with law as well as equally protecting all the legal parties and their rights⁹⁷. Most importantly these courts are designed to handle the OBOR related disputes with cooperation with other courts in China and countries which are involved in the OBOR initiative.

CICCs are also supported by the International Commercial Expert Committee established by the Supreme People's Court in August 2018, where the main function of the committee members is to advise any issues the courts may be having. As we can notice, many of these elements are Chinese led and organised, which tells about China's motives to aim for their own best outcome⁹⁸. Add to this, the CICC was established to have an efficient, inexpensive and fair international commercial dispute settlement mechanism, which creates a durable working business environment for the OBOR⁹⁹. As an example, judgements by the CICC are final, which makes the system effective in time management as well as saving cost from the parties. Party autonomy is respected and guaranteed by the CICC's jurisdictions which are agreement of the parties or discretion of the

⁹⁴ Li, M. (2019). Research on the Dispute Settlement Mechanism of Intellectual Property in International Trade Under the Belt and Road Initiative. *Advances in Economics, Business and Management Research, Atlantis Press*. 94.

⁹⁵ Wang, G. (2017). The Belt and Road Initiative in quest for a dispute resolution mechanism. *Asia Pacific Law Review*. 25(1)

⁹⁶ Norton, P.M. (2018). China's Belt and Road Initiative: Challenges for Arbitration in Asia. *University of Pennsylvania Law Review*, 13.

⁹⁷ Ibid.

⁹⁸ Ibid.

⁹⁹ Ibid.

CICC¹⁰⁰. Evidence used in the CICC can be either in Chinese or English and importantly they do not need notarization, this process as flexible as possible for all the international participants, which makes the procedure more transparent.

The Shenzhen and the Xi'an were the first two location where the CICC were established. Since the establishment the CICC has achieved milestones; first, the Supreme People's Court of China assigned 14 senior judges with experience in international dispute settlement and international background to look over the CICC¹⁰¹. These judges are members of the International Commercial Expert Committee, which work together with the consent of the parties to solve the dispute¹⁰². This committee together with institutions providing law ascertainment can ascertain of foreign laws. The process is made as flexible as possible – connecting mediation and litigation. Furthermore, if parties reach a mediation agreement, the CICC will issue either a conciliation statement or a judgement which is law based on the meditation agreement. Importantly, the CICC can lean on the support from the other international commercial arbitration mechanisms¹⁰³. The CICC has set up an electronic litigation service platform to support online case registration, litigation and meditation, preparation and evidence exchange, this is all done for making the CICC user-friendly as possible and flexible.

International commercial dispute settlement mechanism includes deep integration between national interest and expansion of private companies, therefore there are few aspects on what this dispute settlement mechanism should focus on to function even better. First, multilateralism is great for the international community as well as the development of the international dispute settlement mechanisms because the enhanced version of these mechanisms will benefit all the participants¹⁰⁴. Second, the International Commercial Expert Committee should be expanded and focus more on the international judicial cooperation. Third, database for foreign law and foreign law ascertainment regarding the OBOR participant countries, would make the CICC and international dispute settlement to function even more smoothly, and it would also strengthen information management¹⁰⁵. All of these answers to one of the research questions about Chinese dispute

¹⁰⁰ Xiangzhuang, S. (2020). A Chinese Approach to International Commercial Dispute Resolution: The China International Commercial Court. *The Chinese Journal of Comparative Law*, 8 (1), 45–54

¹⁰¹ Ibid.

¹⁰² Ibid.

¹⁰³ Ibid.

¹⁰⁴ Long, F. (2020). Innovation and Development of the China International Commercial Court. *The Chinese Journal of Comparative Law*, 8(1), 40–44.

¹⁰⁵ Ibid.

resolution. CICC is China's way setting an example for well-functioning legal international dispute settlement¹⁰⁶, and yet there has been no evidence, that CICC would be biased or other ways favourable for China.

4.4. Comparing WTO's and CICC's Dispute Resolution

Commercial arbitration disputes are unavoidable in international business but international commercial arbitration has its advantages, such as speed, timing, cost and being neutral as well as private¹⁰⁷. Solving commercial disputes in the courts can be costly, time consuming and end up highly bitter. This is the reason why many commercial agreements and contracts have some level of arbitration clause written into them. As noticed in the previous chapters, these two dispute resolution systems have some similarities and differences related to the OBOR initiative.

As mentioned in the previous chapter, the CICC is very flexible and 'user-friendly' in regarding of the dispute settlement. But as a drawback, the CICC cannot appoint foreign judges because law restrictions, this makes consider are the International Commercial Expert Committee's judges favourable for China¹⁰⁸. Also, it faces critique from lack of necessary supervision. If the CICC wants to be recognized internationally, it needs to deliver high quality judgements from a team of excellent judges. But due to lack of international judges in the International Commercial Expert Committee, makes it lack internationalization, can it really be "international" if all the judges are Chinese nationals? Judges should be free from any external interference and corruption¹⁰⁹. The CICC is leading on Chines existing civil law traditions, which differences a lot from the Western/German law, but the CICC still plays an important part in the international dispute settlement. The CICC will contribute to the provision of better services, playing its part in facilitating the reinforcement of the rule of law in the international business environment.

What comes to the WTO's dispute settlement mechanism, it is much stiffer than the CICC. It roots back to time of the GATT and it is very valued and trusted in solving international commercial disputes. But due to a fact that some countries along the OBOR initiative have not joined the WTO,

¹⁰⁶ Xiangzhuang, S. (2020). A Chinese Approach to International Commercial Dispute Resolution: The China International Commercial Court. *The Chinese Journal of Comparative Law*, 8 (1), 45–54

¹⁰⁷ China International Commercial Court. Retrieved from <http://cicc.court.gov.cn/html/1/219/199/203/1639.html> , 8 November 2020.

¹⁰⁸ Xiangzhuang, S. (2020). A Chinese Approach to International Commercial Dispute Resolution: The China International Commercial Court. *The Chinese Journal of Comparative Law*, 8 (1), 45–54

¹⁰⁹ Ibid.

therefore this mechanism cannot be applied¹¹⁰. There are other drawbacks as well, as most of the WTO mechanism makers are developed countries and the procedures are partly defective, which is not conducive to the appeals of developing countries¹¹¹.

4.5. CICC Case: Siemens International Trade (Shanghai) Co. v. Shanghai Golden Landmark Co.

As an example case, this is underlining the core elements of contract law and honouring the New York Convention's obligation of international arbitration award enforcement, which creates superior environment of Rule of Law¹¹². This case was settled through CICC.

Basic fact of this case concerns Siemens International Trade (Shanghai) Co., Ltd entering into contract on 23rd of September 2005 for goods supply. Siemens agreed to deliver goods to a construction site before February 2006 and if there were any disagreements, they should have been settled at the Singapore International Arbitration Centre. Between these two dates, the contracting parties had disputes, which made Golden Landmark Co. to demand rescinding contract and end the goods' payment. Siemens' counterclaim demanded rest of the payment with interest and for the losses. The Singapore International Arbitration Centre rejected Golden Landmark Co.'s claim in November 2011¹¹³. Despite of this outcome, Golden Landmark Co. had a large sum of outstanding payments and interest, which made Siemens to follow up actions.

New York Convention obligates enforcement of foreign arbitral awards and it is in a key element in this case as well as international arbitration¹¹⁴. Based on this convention, Siemens requested Intermediate People's Court of Shanghai Municipality to recognize the Singapore International Arbitration Centre decision. Golden Landmark Co.'s counter argument was that the arbitral award should not be recognised since contract was made within China¹¹⁵. They also argued that recognising and enforcing the Singapore International Arbitration Centre's decision would violate China's public policy¹¹⁶.

¹¹⁰ Li, M. (2019). Research on the Dispute Settlement Mechanism of Intellectual Property in International Trade Under the Belt and Road Initiative. *Advances in Economics, Business and Management Research, Atlantis Press*. 94.

¹¹¹ *Ibid.*

¹¹² CICC Court decision, Siemens International Trade (Shanghai) Co., Ltd. v. Shanghai Golden Landmark Co., Ltd.

¹¹³ *Ibid.*

¹¹⁴ *New York Arbitration Convention*. Retrieved from <http://www.newyorkconvention.org> , 17 October 2020.

¹¹⁵ CICC Court decision, Siemens International Trade (Shanghai) Co., Ltd. v. Shanghai Golden Landmark Co., Ltd.

¹¹⁶ *Ibid.*

The final judgement was made by Intermediate People’s Court of Shanghai, which ruled the Singapore International Arbitration Centre’s decision to be recognized and enforced under the New York Convention. The key element concerned the contractual relationship and its possible foreign-related factor ¹¹⁷. It is having a foreign-related factor, then the arbitration is valid and on the other hand side, if it doesn’t, it is invalid. This is stated in the Article 1 Item 5 of “*the Interpretation (I) of the Supreme People’s Court on Several Issues Concerning the Application of the “Law of the People’s Republic of China on the Laws Applicable to Foreign-Related Civil Relationships*” ¹¹⁸” and it verifies that the core is a foreign-related civil law relationship. Reasons behind this were that both of the contractual parties were legal persons of China and both were based within Shanghai Free Trade Zone despite of their other business relations outside of China’s borders. Furthermore, this contract involved elements of an international sale and purchase goods as the good were delivered and transferred crossing the Shanghai Free Trade Zone borders ¹¹⁹. The deciding court, Intermediate People’s Court of Shanghai, ruled that the arbitration clause was valid and did not violate China’s public policy. The court also didn’t support Golden Landmark Co. counter argument that this case was not done in good faith, fairness and reasonably ¹²⁰.

The significant factor of this case are the pilot free trade zones, which link and support China to promote the OBOR initiative. Because the goods were transported across this zone, it made it a subject of international arbitration. This case is also enchanting China’s international credibility and rule of law by supporting the development of free trade zones and improving cross border arbitration and other international dispute resolution mechanisms ¹²¹. As mentioned previously, the core of this case relies on determination of foreign-related factor which will be in an important role of further the OBOR arbitration and dispute settlements. The court ruling is also important due to a fact that it executes enforcement of international arbitral awards of the New York Convention, which also reflects on China’s standing of obligation international treaties. All of this makes more stable legal business environment for the OBOR initiative and importantly underlines China’s willingness to honour international organisations, the UN and implement their conventions to its juridical system.

¹¹⁷ Ibid.

¹¹⁸ Ibid.

¹¹⁹ Ibid.

¹²⁰ Ibid.

¹²¹ Ibid.

5. CONCLUSION

The aim of this thesis was to examine China's position in the current international system as a possible economic hegemon and find China's real motives behind its the OBOR initiative. It also, examined the impact of the OBOR initiative to China's economic growth. The other aim was to compare the WTO's and CICC dispute settlement arising from the OBOR initiative.

First, this thesis examined China's position among the other major powers and its possibilities to become a hegemon. It becomes evident that China's the OBOR initiative is one of the multiple reasons behind China's growth to be one of the leading countries in the world. The OBOR shows that China has all the prerequisites to create new international order but it is still too early to claim that China will do so. But China's economic and political power is challenging the role of the US, the EU, Russia and other major powers. It is safe to say that China's real motives behind the OBOR initiative as a foreign policy is very difficult to define. This initiative is very complex and has raised a lot of concerns and scepticism. And to recall that the OBOR, even in its hegemonic aspect, has many dimensions.

Second, this thesis discovered the economic impact of the OBOR initiative. It is clear that China's emphasis on multilateral and bilateral agreements shape the OBOR initiative, which in fact effect on multiple economies around the globe. The OBOR initiative embraces international trade and long-term direct foreign investments as well as flows of national investments in order to boost China's economic and political place in current international environment. China and the neighbouring countries have both benefitted from this initiative's projects as it creates more job vacancies, deepens cooperation and boosts the economies. But as a drawback, this project also creates difficult environment for the developing states. In example, Sri Lanka and dept-trap diplomacy, where China has made huge investments for critical infrastructure points and Sri Lanka does not have the funds to pay back the dept for China anytime soon. In dept-trap diplomacy, the creditor cannot pay off the debt and ends up giving economic or political concessions.

Third, this thesis defined different types of legal challenges which are included in the OBOR initiative and how to avoid this legal issues and disputes. The OBOR initiative also includes different kind of legal and even sometimes illegal investments across borders – one example of them being the Siemens International Trade (Shanghai) Co., Ltd. v. Shanghai Golden Landmark

Co., Ltd. case. To answer my research question about how are disputes that arise within the OBOR project settled and comparing the WTO's Dispute Settlement System to Chinese Dispute Settlement system I found out the following.

Both of these dispute settlement systems have positive and negative aspects. WTO has a long history and Since China's accession to the WTO, China has changed from a negative and passive observer to one of the most active participants in the WTO dispute settlement. The China International Commercial Court was established to solve arbitration issues and legal problems arising from the OBOR. But as a drawback, all of the judges in the CICC are Chinese, which makes the international community to consider are these judges to favourable for China. As in the example case, it got critique over that aspect.

To conclude, the OBOR initiative is a massive long-lasting project expanding different continents which has and will have impact on China's position in the world, economy and it will shape the Chinese dispute settlement and other legal environment. This initiative benefits travel industry and increase transportation services, since many of the OBOR projects include railways, ports or roads. It is also a pass way to share knowledge and information and enhances the cooperation among the countries along the OBOR.

The OBOR initiative is an intractable bone of connecting China between states around it and other continents. As the OBOR affects the international community as a whole, the step towards dispute settlement will need to be taken to secure the maintenance of international trade and security, both regionally and globally.

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