

# Penn State Journal of Law & International Affairs

---

Volume 8 | Issue 2

---

September 2020

## Is this Belt One Size Fits All? China's Belt and Road Initiative

John C. Byrnes

Follow this and additional works at: <https://elibrary.law.psu.edu/jlia>



Part of the [International and Area Studies Commons](#), [International Law Commons](#), [International Trade Law Commons](#), and the [Law and Politics Commons](#)

ISSN: 2168-7951

---

### Recommended Citation

John C. Byrnes, *Is this Belt One Size Fits All? China's Belt and Road Initiative*, 8 PENN. ST. J.L. & INT'L AFF. 723 (2020).

Available at: <https://elibrary.law.psu.edu/jlia/vol8/iss2/9>

*The Penn State Journal of Law & International Affairs* is a joint publication of Penn State's School of Law and School of International Affairs.

**Penn State**  
**Journal of Law & International Affairs**

---

2020

VOLUME 8 NO. 2

---

**IS THIS BELT ONE SIZE FITS ALL?  
CHINA'S BELT AND ROAD INITIATIVE**

*John C. Byrnes\**

ABSTRACT

*Widely considered one of the largest and most ambitious infrastructure projects in human history, China's Belt and Road Initiative [BRI] has made major headway since its inception in 2013. Although the BRI is formally adopted under the Chinese Communist Party Constitution as an initiative to secure "shared growth through discussion and collaboration," the BRI is much more than these words convey. This Comment briefly introduces an overview of the BRI, including its components and early research on its effects on participating countries and regions. The Comment then conducts an in-depth analysis of four countries who have participated in the BRI with varying degrees of success. Next, the Comment discusses various international concerns surrounding the BRI, including possible debt diplomacy and military motivations. Finally, the Comment concludes that although the BRI should be applauded for its bold aspirations and developments, it should also be closely monitored by the international community to mitigate any deleterious effects incurred by BRI participants.*

---

\* John 'Jack' Byrnes is the Managing Editor of Student Works for the Penn State Journal of Law & International Affairs and a 2020 J.D. Candidate at Penn State Law.

## TABLE OF CONTENTS

I.	INTRODUCTION .....	725
II.	OVERVIEW OF THE BELT AND ROAD INITIATIVE.....	727
	A. Components of the Belt and Road and China's Motivations.....	727
	B. Early Research on the Effects of the Belt and Road Initiative .....	730
III.	AN IN-DEPTH ANALYSIS OF FOUR BELT AND ROAD COUNTRIES .....	734
	A. The Good with some Bad: Kenya.....	734
	B. Only the Bad: Sri Lanka & Malaysia .....	738
	1. Sri Lanka.....	738
	2. Malaysia .....	741
	C. The Questionable: Montenegro.....	745
IV.	INTERNATIONAL CONCERNS ABOUT THE BELT AND ROAD INITIATIVE.....	749
V.	CONCLUSION.....	754

## CHINA'S BELT AND ROAD INITIATIVE



1

## I. INTRODUCTION

The Silk Road, the ancient network of trade routes that connected Eurasia and Africa, is heralded to this day as one of the most significant examples of the early international exchange of goods and ideas between different cultures and nations. The Silk Road of the ancient world aided in the development of large cities along trade routes, acted as a catalyst for international relations between far-away nations, spread wealth and religion, and made the nomadic lifestyle of our ancestors more and more unnecessary.

In today's increasingly globalized and interconnected world, trade between nations has become easier and more accessible than ever

---

<sup>1</sup> Brook Larmer, *What the World's Emptiest International Airport Says About China's Influence*, THE NEW YORK TIMES, (Sept. 13, 2017); Illustration by Andrew Rae, <https://www.nytimes.com/2017/09/13/magazine/what-the-worlds-emptiest-international-airport-says-about-chinas-influence.html>.

before. However, some nations believe that there is more to be done to promote international trade - one of these nations is China. In 2013, China unveiled the Belt and Road Initiative, which would further its desire to increase trade with other nations in the Middle East, Eurasia, Africa, Southeast Asia, and even into the Western Hemisphere.<sup>2</sup> Originally referred to as “One Belt, One Road,” China’s Belt and Road Initiative (“BRI”), which Chinese President Xi Jinping has called the “project of the century,” has entered into its sixth year of progress towards creating a twenty-first century Silk Road for Chinese trade.<sup>3</sup> China has promised to invest nearly \$1 trillion in infrastructure to over 60 countries in Eurasia, Africa, and South-East Asia.<sup>4</sup> Although these infrastructure investments can be great for both aiding the trade aspirations of China and the domestic needs of developing nations, some experts are concerned that the large loans that these developing and smaller nations are taking from China can end in unintended consequences.

This comment will look to address the BRI in three parts. The first part will provide an overview of how China has developed and implemented the BRI; how it has impacted their economic and trade policies; and how it is likely going to shape their approach to international trade and affairs moving forward.

The second part will focus on how the BRI has impacted four nations in particular: Kenya, Sri Lanka, Malaysia, and Montenegro. Specifically, this section will focus on how the BRI brings with it both positive and negative impacts and highlight how, depending on a nation’s location and current economic condition, the risks of being involved in the BRI can sometimes outweigh its potential benefits. This part will also focus on how international legal bodies are looking to regulate and monitor the BRI’s implementation in these nations.

---

<sup>2</sup> David Tweed, *China’s New Silk Road*, BLOOMBERG (Aug. 23, 2018), <https://www.bloomberg.com/quicktake/china-s-silk-road>.

<sup>3</sup> *Id.*

<sup>4</sup> See Jane Perlez and Yufan Huang, *Behind China’s \$1 Trillion Plan to Shake Up the Economic Order*, NEW YORK TIMES (May 13, 2017), <https://www.nytimes.com/2017/05/13/business/china-railway-one-belt-one-road-1-trillion-plan.html>.

The third part will outline several concerns that the international community has regarding China's involvement in nations participating in the BRI. These concerns include fears of predatory lending, debt diplomacy, economic colonialism, and disguised military expansionism.

This comment will then conclude by recommending a cautious outlook on China's BRI. While the BRI has much to offer to both developed and developing nations who choose to participate in the trade program—namely an increase in domestic prosperity—China's ultimate motivations and projected increased influence deserve to be observed carefully by the international community.

## II. OVERVIEW OF THE BELT AND ROAD INITIATIVE

### A. Components of the Belt and Road and China's Motivations

It has been no secret that over the past three decades China has made infrastructure development a top priority. China believes that a top modern economy is only able to grow when it has ample roads, railways, electricity, and telecommunications capabilities.<sup>5</sup> To date, the BRI consists primarily of two economic corridors. The Silk Road Economic Belt links China to both Central and South Asia, and Europe. The New Maritime Silk Road links China to South East Asia, the Gulf Countries, North Africa, and Europe.<sup>6</sup> However, the Economic Belt is actually made up of six separate economic corridors.<sup>7</sup>

---

<sup>5</sup> A 2013 McKinsey & Company study showed that between 1992-2011 China spent 8.2% of its GDP on infrastructure. This far exceeded what any other country spent, including the United States and European Union, who each spent 2.6% of their GDP on infrastructure during the same period. See Yougang Chen, Stefan Matzinger, and Jonathan Woetzel, *Chinese Infrastructure: The Big Picture*, MCKINSEY QUARTERLY (June 15 2013), <https://www.mckinsey.com/featured-insights/winning-in-emerging-markets/chinese-infrastructure-the-big-picture>.

<sup>6</sup> *Belt and Road Initiative*, THE WORLD BANK (Mar. 29, 2018), <https://www.worldbank.org/en/topic/regional-integration/brief/belt-and-road-initiative#02>.

<sup>7</sup> In Northern China, the China-Mongolia-Russian Corridor runs from Tianjin to Ulan-Ude in Siberia. In Southern China, the China-Indochina Peninsula Corridor runs from the Pearl River Delta to Singapore, while the Bangladesh-China-Myanmar Corridor runs from Kunming to Kolkata. Western China has three

Taken all together, these economic corridors comprise nearly 30% of global GDP, 62% of the global population, and 75% of known energy reserves.<sup>8</sup> Through this massive global initiative, China is aspiring to reshape global trade with itself as the epicenter.

In a 2013 speech delivered by President Xi Jinping titled “Promote People-to-People Friendship and Create a Better Future,” Xi proposed what he called a “Silk Road Economic Belt.”<sup>9</sup> Xi listed a multitude of reasons for embarking on the process of developing this twenty-first century Silk Road, including: strengthening policy communication, improving road connectivity, promoting trade facilitation, enhancing monetary circulation, and strengthening people-to-people exchanges.<sup>10</sup> Although these are all underlying motivations for the BRI, infrastructure development is considered the central motivation.

In 2008-09, due to the global financial crisis, China saw a significant slowdown in GDP growth and adopted a so-called “4 trillion yuan stimulus package” that mainly focused on infrastructure investments and projects.<sup>11</sup> This focus on infrastructure development was ultimately able to help carry China through the global financial crisis. In an apparent parallel to this stimulus plan, it is the central role played by infrastructure development and investment that separates the BRI from other international cooperation endeavors.<sup>12</sup> With this in

---

corridors, which include the China-Pakistan Corridor running between Kashgar to Gwadar, the China-Central Asia-West Asia Corridor linking 5 Central Asian countries and 17 West Asian countries, as well as the (6) New Eurasian Land Bridge that starts in Jiangsu province, China, and ends in Antwerp, Brussels. See *Embracing the BRI Ecosystem in 2018*, DELOITTE (Feb. 12, 2018), <https://www2.deloitte.com/insights/us/en/economy/asia-pacific/china-belt-and-road-initiative.html>.

<sup>8</sup> Belt, *supra* note 6.

<sup>9</sup> *President Xi Jinping Delivers Important Speech and Proposes to Build a Silk Road Economic Belt with Central Asian Countries*, MINISTRY OF FOREIGN AFFAIRS OF THE PEOPLE’S REPUBLIC OF CHINA (Sept. 7, 2013), [https://www.fmprc.gov.cn/mfa\\_eng/topics\\_665678/xjpfwzysiesgjtfhshzzfh\\_665686/t1076334.shtml](https://www.fmprc.gov.cn/mfa_eng/topics_665678/xjpfwzysiesgjtfhshzzfh_665686/t1076334.shtml).

<sup>10</sup> *Id.*

<sup>11</sup> Yiping Huang, *Understanding China’s Belt & Road Initiative: Motivation, framework and assessment*, 40 CHINA ECONOMIC REVIEW 316 (2016).

<sup>12</sup> *Id.* at 319.

mind, many of the countries that China has brought into the BRI have substantially under-invested in their own infrastructure. Therefore, China is filling the need for global investment in infrastructure in developing parts of the world.<sup>13</sup> With a domestic surplus of steel, cement and infrastructure machinery, China's mostly State owned enterprises, through the BRI, are looking toward developing countries within the BRI's geographic sphere to sustain their steady economic growth.<sup>14</sup>

By investing in infrastructure projects set up through the BRI in foreign nations, China is able to give its state-owned enterprises the economic output it needs.<sup>15</sup> Chinese companies are taking note of the potential of the BRI for sheltering their overseas projects. Michael Every, head of financial markets research for Rabobank Group in Hong Kong eluded to this well-known notion amongst Chinese companies, stating "Belt and Road is a political special sauce . . . if you drizzle it on anything, it tastes better."<sup>16</sup>

The effects of the BRI projects in Africa highlight the way the program is designed to serve the interests of Chinese firms and people. Of the 1,073 Chinese firms conducting business across eight African nations, only 44% of the local managers for these enterprises are from Africa.<sup>17</sup> Additionally, only 47% of the Chinese firms' sourcing was from local African firms.<sup>18</sup> Although the Chinese investment will ultimately likely result in a strong net gain for these African nations,

---

<sup>13</sup> *Id.* at 319. "In early 2014, the IMF called for more investment in infrastructure around the world, as part of the efforts to stabilize economic growth."

<sup>14</sup> Perlez and Huang, *supra* note 4.

<sup>15</sup> *Id.*

<sup>16</sup> Bloomberg Marketing, *China's Empire of Money is Reshaping Global Trade*, BLOOMBERG, (Aug. 1, 2018), <https://www.bloomberg.com/markets/fixed-income>.

<sup>17</sup> Irene Yuan Sun, Kartik Jayaram, and Omid Kassiri, *Dance of the Lions and Dragons – How are Africa and China engaging, and how will the partnership evolve?*, MCKINSEY & COMPANY (June 2017), <https://www.mckinsey.com/~media/mckinsey/featured%20insights/Middle%20East%20and%20Africa/The%20closest%20look%20yet%20at%20Chinese%20economic%20engagement%20in%20Africa/Dance-of-the-lions-and-dragons.ashx>

<sup>18</sup> *Id.*



there are calls for more emphasis to be placed on local labor resources for these projects.

In summarizing President Xi's vision, Cao Wenlian, director general of the International Cooperation Center of the National Development and Reform Commission, a group dedicated to the initiative, stated "President Xi believes this is a long-term plan that will involve the current and future generations to propel Chinese and global economic growth . . . the plan is to lead the new globalization 2.0."<sup>19</sup> Indeed, President Xi's plan to have the BRI engrained in China's future has gone so far that, in October 2017, the BRI was officially written into the Chinese Communist Party's constitution.<sup>20</sup>

As many nations watching the emergence of the BRI have noted, China's growing involvement with foreign nations may also be pushed by political, and perhaps military, motivations – this will be discussed later in this comment.

#### B. Early Research on the Effects of the Belt and Road Initiative

Although the BRI is in its early stages of development, studies have already been published showing the current and potential changes that can come along with the initiative. Whenever a country with a robust economy, let alone one of the largest economies in the world like China, institutes widespread change in how they trade and conduct business with the rest of the world, the changes and effects are certain to be widespread.

In terms of the early impact on trade costs and timing, there are early signs for optimism for China. A 2018 study compiled data from over 1,818 cities that are located in BRI economies and compared them to a global database that contained over 1,000 cities in 191 countries.<sup>21</sup> Overall, the findings of the analysis pointed towards

---

<sup>19</sup> Perlez and Huang, *supra* note 4. .

<sup>20</sup> Deloitte, *supra* note 7.

<sup>21</sup> Francois De Soyres et al., *How Much Will the Belt and Road Initiative Reduce Trade Costs?*, WORLD BANK GROUP (Oct. 15, 2018), <http://documents.worldbank.org/curated/en/592771539630482582/pdf/WPS8614.pdf>.

significantly reduced shipment times and trade costs due to the BRI. Specifically, on a macro level, the world will see a reduction in shipment time for goods that will range between 1.2 and 2.5 percent, which will lead to a reduction of aggregate trade costs between 1.1 and 2.2 percent.<sup>22</sup> Additionally, these decreases in trade deficiencies are not only felt on a global scale. Indeed, for BRI country economies, the change in shipment times and trade costs will range between 1.7 and 3.2 percent and 1.5 and 2.8 percent, respectively.<sup>23</sup> Although these changes are significant, the largest impacts will be felt in the countries where corridors for the BRI are being constructed – shipment times along these corridors have declined by up to 11.9 percent and trade costs have declined by up to 10.2 percent.<sup>24</sup> Although the immediate effect of increasing infrastructure development through several highways, ports, bridges, and railways have caused the most substantial portion of the reduction in trade deficiencies, the study also states that these effects are “magnified by policy reforms that reduce border delays and improve corridor management.”<sup>25</sup> As this highlights, the changes the BRI facilitates are not merely infrastructural; the BRI also reoriented political and international affairs.

Another World Bank study addressed whether an improved transportation network would encourage more investment and, subsequently, more economic growth. The study, conducted in late 2018, showed two primary findings in terms of investment.

First, the study showed that there is a significant correlation between construction projects by Chinese firms in BRI countries and increased direct investment.<sup>26</sup> Specifically, according to the analysis conducted, a 10% increase in China’s construction activities is associated with an increase in outward foreign direct investment from

---

<sup>22</sup> *Id.* For purposes of this study, “Trade Cost = Tariff + Transport + Time Cost”

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> Maggie Chen and Chuanhao Lin, *Foreign Investment Across the Belt and Road – Patterns, Determinants and Effects*, WORLD BANK GROUP (Oct. 10, 2018). <http://documents.worldbank.org/curated/en/394671539175518256/pdf/WPS8607.pdf>.

China of 7% in the same year, 11% the next year, and 16% in two years.<sup>27</sup> “This suggests that China’s infrastructure activities overseas may serve as a catalyst for Chinese investments in manufacturing or services.”<sup>28</sup>

Secondly, the research showed that an increase in foreign direct investment resulting from reducing transportation costs can have a positive effect on GDP, trade, and employment growth, especially for lower-income countries.<sup>29</sup> The results of the study were found by exploring cross-country bilateral transportation cost and foreign investment data. The research showed that the transportation networks proposed in BRI countries can increase their GDP growth by 0.09 percentage points.<sup>30</sup> These effects were found to vary by region, with 0.01 percentage point growth in the Middle East and North Africa, and 0.23 percentage point in Sub-Saharan Africa.<sup>31</sup> The research also showed that the BRI can actually have a spill-over effect through their transportation networks, raising non-BRI Sub-Saharan countries’ GDP growth by 0.13 percentage point.<sup>32</sup>

However, one of the points of emphasis in much of the early research on the BRI has also pointed towards possible negative implications stemming from BRI projects in certain countries. A study conducted by the Center for Global Development has shown that there are serious concerns about sovereign debt sustainability in eight countries involved in BRI projects.<sup>33</sup> These eight countries are Djibouti, the Maldives, Laos, Mongolia, Tajikistan, Kyrgyzstan, Pakistan, and Montenegro.<sup>34</sup> In all of these countries, there is a high risk of indebtedness due to the high ratio of loans to overall GDP. On

---

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> John Hurley, Scott Morris, and Gailyn Portelance, *Examining the Debt Implications of the Belt and Road Initiative from a Policy Perspective*, CENTER FOR GLOBAL DEVELOPMENT POLICY PAPER, (2018), <https://www.cgdev.org/sites/default/files/examining-debt-implications-belt-and-road-initiative-policy-perspective.pdf>.

<sup>34</sup> *Id.*

top of this, many of these countries are continuing, despite warnings from international monetary groups, to incur debt over future projects that they have invested in alongside China.<sup>35</sup>

In order to address issues in countries that are suffering from debt distress over BRI-linked initiatives, the Chinese government has seemed to provide debt relief in an ad hoc, case-by-case manner.<sup>36</sup> Although many international groups have voiced concerns over the debt distress being encumbered by many BRI countries, China has “generally refrained from participating in multilateral approaches to debt relief, though it does participate in debt relief discussions at the international financial institutions and engages informally with IMF [International Monetary Fund] staff on individual country cases.”<sup>37</sup> The study notes that China is different from many other major official creditors, who “actively participate in multilateral mechanisms dealing with sovereign defaults, in particular the Paris Club.”<sup>38</sup> Without any guiding framework to base China’s approach to debt sustainability problems, countries “only have anecdotal evidence of ad hoc actions taken by China as the basis for characterizing the country’s policy approach.”<sup>39</sup>

However, despite the ad hoc approach taken by China, there are signs that these practices may be changing, or at least giving way to a more uniform approach. In November 2017, the China Banking Regulatory Commission issued regulations, for the first time, for China’s policy banks.<sup>40</sup> These regulations emphasized “greater risk controls for the overseas activities of The China Development Bank, China Exim Bank, and the Agricultural Development Bank of China.”<sup>41</sup>

---

<sup>35</sup> *Id.* “Mongolia is in a particularly difficult position because its future economic prosperity depends, in large part, on large infrastructure investments that will increase productivity and facilitate exports.”

<sup>36</sup> *Id.*

<sup>37</sup> *Id.* at 19.

<sup>38</sup> *Id.* at 19. NOTE – The Paris Club is an informal group of official creditors whose role is to find coordinated and sustainable solutions to the payment difficulties experienced by debtor countries.

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> Hurley, Morris, and Portelance, *supra* note 33.

## III. AN IN-DEPTH ANALYSIS OF FOUR BELT AND ROAD COUNTRIES

In order to show the varying degrees and intricacies of the BRI, it is important to take a holistic view of the countries where the BRI has been implemented. When analyzing a global initiative that is taking place in over 65 different countries, in very diverse areas of the globe, it would be foolish to try to paint in broad strokes. In order to avoid this mistake, this comment will focus on four particular countries: Kenya, Sri Lanka, Malaysia, and Montenegro. These countries were selected due to each of their unique geographic locations, economic positions, interactions with the BRI initiatives, and the observed and speculated effects of the BRI within their borders. This comment will first focus on Kenya, a country where, generally, the BRI has been mostly embraced by the local government and population for the benefits it has brought.

## A. The Good with some Bad: Kenya

“They assure us they’re going to bring a lot of money with this project . . . they assure us that they’re not crazy.”<sup>42</sup> This sentiment is being shared by the locals of Lamu, Kenya, where Chinese investment in the area’s first coal-fired power plant is taking place.<sup>43</sup> Projects like the one in Lamu are indicative of Kenya, as a whole, working towards attracting more foreign investment – and this is a need that China is more than happy to fulfill through the BRI. In order to attract more investment, Kenya needs electricity to power a large road-and-rail project to connect its landlocked neighbors to a new port.<sup>44</sup> Cyrus Kirima, the chief operating officer of the coal-powered plant, expressed a common Kenyan sentiment regarding these foreign investment infrastructure projects: “You need to do business . . . you need investment.”<sup>45</sup>

---

<sup>42</sup> Somini Segupta, *Why build Kenya’s First Coal Plant? Hint: Think China*, NEW YORK TIMES, (Feb. 27, 2018), <https://www.nytimes.com/2018/02/27/climate/coal-kenya-china-power.html>.

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

Although the coal plant project in Lamu is just a small example of the investment projects taking place in Kenya through Chinese actions, the feeling that development is needed is echoed across the country. One of the largest BRI infrastructure projects that has taken place in Kenya is the Standard Gauge Railway. The train currently runs over 293 miles from Kenya's capital city, Nairobi, to the port city of Mombasa, and it makes this trip twice a day.<sup>46</sup> This railway is the largest investment Kenya has made since its independence in 1963 at \$3.8 billion for the first phase of the construction alone, which equaled roughly six-percent of Kenya's GDP.<sup>47</sup> Over 90% of the funding for the project came from China.<sup>48</sup> However, on the Standard Gauge Railway's one-year anniversary in 2018, it appeared that expectations had been exceeded. Original projections showed that the railway would see its first 900,000 passengers by year five. However, by the end of its first year the Standard Gauge Railway has already recorded its first million passengers, and is currently seeing nearly five-thousand passengers per day.<sup>49</sup>

The early success of the Standard Gauge Railway has been a great source of optimism for those in Kenya's government who see foreign investment as a great way to continue to move the country forward. "The SGR [Standard Gauge Railway] and the Belt and Road Initiative are very important in the relationship between China and Africa, and indeed between China and Kenya" stated Raphael Tuju, the secretary general of Kenya's ruling Jubilee Party.<sup>50</sup> "It is key in the sense that it opened the hinterland for trade, for ease of doing business

---

<sup>46</sup> Eyder Peralta, *A New Chinese-Funded Railway in Kenya Sparks Debt-Trap Fears*, NPR, (Oct. 8, 2018), <https://www.npr.org/2018/10/08/641625157/a-new-chinese-funded-railway-in-kenya-sparks-debt-trap-fears>.

<sup>47</sup> CNN Staff, *Kenya Marks the First Anniversary of the Standard Gauge Railway*, CNN, (Jul. 16, 2018), <https://www.cnn.com/videos/world/2018/07/16/marketplace-africa-kenya-standard-gauge-railway-vision-a.cnn>.

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

<sup>50</sup> Shi Yinglun, *Kenya Reaps from Belt and Road Initiative Amid Infrastructure Boom: Official*, XINHUANET, (Aug. 29, 2018), [http://www.xinhuanet.com/english/2018-08/29/c\\_137428736.htm](http://www.xinhuanet.com/english/2018-08/29/c_137428736.htm).

and I think if there is anything that underlines and brings out the cooperation between China and Kenya, it is the SGR.”<sup>51</sup>

This optimism is also shared by Kenya’s President, Uhuru Kenyatta. Following Kenyatta’s meeting with Chinese President Xi at the 2018 China-Africa summit in Beijing, Kenyatta voiced gratitude towards China’s involvement in Kenya, and looked toward the future of their involvement together.<sup>52</sup> Specifically, President Kenyatta stressed his view that Kenya should be moving on from the pure debt-financing they had been using prior, principally with the Standard Gauge Railway, toward a new emphasis on Public Private Partnerships.<sup>53</sup> Coincidentally, President Kenyatta has noted that the priorities laid out for the next Forum on China-Africa Cooperation (FOCAC) align themselves well with what the Kenyan government has called its “Big Four Agenda”: Manufacturing, Food Security & Nutrition, Universal Health Care, and Affordable Housing.<sup>54</sup> “Each of these sectors offers viable investment opportunities. I therefore welcome Chinese companies to invest in any of these priority areas.”<sup>55</sup>

It is no coincidence that President Kenyatta is looking to work more with Public Private Partnerships as opposed to the debt financing that was undertaken with the SGR. This is important to President Kenyatta because, although Kenya has seen success with its infrastructure investments, the debt on these investments still needs to be paid.

Although the loans provided to the Kenyan government by the Chinese Export-Import Bank did not give the appearance that they were designed to be predatory,<sup>56</sup> Kenya now owes \$5.3 billion to China,

---

<sup>51</sup> *Id.*

<sup>52</sup> Official Press Release from the President of the Republic of Kenya, *Big Win for Kenya as Chinese Private Investors Line Up for Public Partnerships*, (Sept. 4, 2018), <http://www.president.go.ke/2018/09/04/big-win-for-kenya-as-chinese-private-investors-line-up-for-public-partnerships/>.

<sup>53</sup> *Id.*

<sup>54</sup> *Id.*

<sup>55</sup> *Id.*

<sup>56</sup> China Exim Bank provided a \$1.6 billion concessional loan and a commercial loan of \$1.633 billion for a total of \$3.233 billion. The \$1.6 billion concessional loan is good for 20 years at a 2% interest rate and a payment period of

and the reminders of this fact are ever-present on the railway. Most notably, at the entrance of every single rail car, an image of the Kenyan flag is flanked by an image of the Chinese flag.<sup>57</sup> In August 2018, Kenya's public debt surpassed the five-trillion Kenyan Shilling mark, equivalent to roughly \$4.6 billion.<sup>58</sup> Unsurprisingly, China accounts for a large chunk of this public debt.

Many global analysts, such as the Institute of Chartered Accountants in England and Wales, have released reports that have raised alarms over the accumulation of debt by Kenya, with the ICAEW stating, "the pace of public debt accumulation and the lack of a clear communication strategy regarding the government's plan to address deficits have raised concerns about the sustainability of Kenya's public finances."<sup>59</sup> Debt management is starting to become a major issue for Kenya. John Mutua, a program officer at Kenya's Institute of Economic Affairs stated that, "Carrying more commercial debt means interest payment will soon become our biggest challenge in public debt management. Kenya's official policy is to go for concessional loans, but we haven't managed that very well."<sup>60</sup>

Although the Standard Gauge Railway, the first of potentially many Chinese BRI projects in Kenya, has been seen mostly as a success, there are certainly both optimistic and pessimistic views of Kenya's interaction with China. On one hand, Kenya has a new transportation system thanks to Chinese investment, and revenues from the system have already exceeded expectations. Therefore, more Chinese investors are looking for more opportunities in the country.

---

13 years with a 7 year grace period (project #31777). The \$1.633 billion preferential concessional loan has a 'interest rate of six months' valid for 15 years with a payment period of 10 and grace period of 5. See A. Dreher et al. (2017). Aid, China, and Growth: Evidence from a New Global Development Finance Dataset. AidData Working Paper #46. Williamsburg, VA: AidData, <https://china.aiddata.org/projects/37103>.

<sup>57</sup> Peralta, *supra* note 46.

<sup>58</sup> Angeline Mbogo, *Kenya's Public Debt Surpasses Sh5 Trillion Mark; 58% of GDP*, THE KENYAN WALL STREET, (Aug. 30, 2018), <https://kenyanwallstreet.com/kenyas-public-debt-surpasses-sh5-trillion-mark-58-of-gdp/>.

<sup>59</sup> *Id.*

<sup>60</sup> *Id.*



However, the potentially disastrous amount of debt that Kenya is accumulating due to their dealings with China counterbalances the aforementioned benefits. Additionally, reports have stated that Chinese workers are not only taking over many of the principle positions on the Standard Gauge Railway—jobs that were supposedly to be reserved for native Kenyans—but local Kenyans are also facing underemployment and discrimination.<sup>61</sup>

Although China's BRI projects in Kenya have had positive and negative consequences, it can still be said that Kenya has gained more than it has lost from its endeavors with China. However, not all countries that take part in the BRI have had positive results that are sufficient to justify the negative sideeffects and costs. As illustrated by the following two countries, sometimes taking a gamble with China's BRI can end in unintended disaster.

## B. Only the Bad: Sri Lanka & Malaysia

### 1. Sri Lanka

Mattala Rajapaksa International Airport was designed to handle nearly a million passengers per year; it has also been called "The World's Emptiest [sic] International Airport."<sup>62</sup> This moniker was given for good reason, because Mattala International Airport, despite its capabilities, serves only a few dozen passengers per day.<sup>63</sup> In fact, the airport is so desperate for revenues that it has started renting out its unused cargo terminals to store rice and other goods.<sup>64</sup> Even with this unintended use of its cargo terminals, Mattala Airport only manages to produce revenues of roughly \$300,000 per year, which does not begin to cover the \$23.6 million per year, over eight years,

---

<sup>61</sup> Paul Wafula, *Exclusive: Behind the SGR Walls*, THE STANDARD, (Jul. 8, 2018), <https://www.standardmedia.co.ke/article/2001287119/exclusive-behind-the-sgr-walls>.

<sup>62</sup> Larmer, *supra* note 1.

<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

repayment plan that Sri Lanka must follow.<sup>65</sup> On the receiving end of the repayment plan is China.

As disastrous as business for the airport has been, it is unfortunately only one of multiple bad investments made by Sri Lanka as a result of the BRI. In addition to the Mattala Airport, Sri Lanka also has a seldom used \$1.5 billion deep-water port that was built and financed by the Chinese.<sup>66</sup> Both of these infrastructure investments came through the BRI, but how did they become such disasters for the Sri Lankan government?

Following a decades long civil war, the Sri Lankan government, headed by President Mahinda Rajapaksa, determined that the country's only airport, located in the largest Sri Lankan city of Colombo, was beginning to receive too much traffic and that a second airport needed to be built.<sup>67</sup> Unfortunately, the government decided to develop the airport, and other infrastructure projects, in a very underdeveloped area of Sri Lanka, Hambantota – the home region of then president Mahinda Rajapaksa.<sup>68</sup> Rajapaksa was hoping to make the development of the Hambantota region the crowning achievement of his regime – a fact that was highlighted by the decision to name the airport, deep-water port, and international cricket stadium after President Rajapaksa.<sup>69</sup>

Coming out of a long and expensive civil war, the Sri Lankan government had to look to outside funding for these projects. At the time, Sri Lanka had poor relations with Western powers, including the United States and European Union, due to alleged war crimes committed by the Rajapaksa regime that resulted in both the United States and European Union turning off economic aid and

---

<sup>65</sup> *Id.*

<sup>66</sup> *Id.*

<sup>67</sup> Wade Shepard, *The Story Behind the World's Emptiest International Airport*, FORBES, (May 28, 2016), <https://www.forbes.com/sites/wadeshepard/2016/05/28/the-story-behind-the-worlds-emptiest-international-airport-sri-lankas-mattala-rajapaksa/#5a4108f7cea2>.

<sup>68</sup> *Id.*

<sup>69</sup> *Id.* (Mattala Rajapaksa International Airport; Magapura Mahinda Rajapaksa Deep Sea Port; and Mahinda Rajapaksa International Cricket Stadium).

concessions.<sup>70</sup> Thus, Sri Lanka looked to another large foreign economy to help fund its infrastructure projects. China, ever eager to seize an opportunity to export some of its industrial capacities, obliged. In the form of a loan, China supplied \$190 million of the \$210 million building cost for the Mattala International Airport.<sup>71</sup> The Rajapaksa regime's aspirations did not stop with the Mattala Airport. Chinese funding was then sought for a \$1.4 billion multi-stage deep sea port, a world-class cricket stadium, and new highways to connect all of the projects.<sup>72</sup>

For China, Sri Lanka's geographic location, situated in the Bay of Bengal to China's south, is perfect for a port in its maritime BRI. Such an island port would be perfect in the so-called "String of Pearls" of ports and islands that China could use for trade and other geopolitical activities in the Indian Ocean and surrounding area.<sup>73</sup> Indeed, there are common themes present in both the "String of Pearls" theory, and the maritime aspirations of the BRI, such as a wish for establishing key ports, infrastructure development programs, and collaboration with regional governments.<sup>74</sup> Thus, Chinese motivations to gain an interest in Sri Lanka, and its new desire for a deep sea port, served both its BRI aspirations and possible geopolitical goals equally.

With such a large amount of loans being issued to Sri Lanka from China, there were fears that Sri Lanka may default. This

---

<sup>70</sup> *Id.*

<sup>71</sup> Larmer, *supra* note 1.

<sup>72</sup> Shepard, *supra* note 67.

<sup>73</sup> Jessica Dunn, *China's Maritime Ambitions: A Sinister String of Pearls or a Benevolent Silk Road (or Both)?*, Center for Advance China Research, (Dec. 5, 2017), <https://www.ccpwatch.org/single-post/2017/12/05/China%E2%80%99s-Maritime-Ambitions-a-Sinister-String-of-Pearls-or-a-Benevolent-Silk-Road-or-Both>. (In 2004, U.S. defense contractor Booz Allen Hamilton (BAH) coined the term "String of Pearls" in a report submitted to the Office of Net Assessment at the U.S. Department of Defense to describe China's strategy in the waters stretching south of the Eurasian continent. While the report, "Energy Futures in Asia," is not publicly available, those with access have consistently cited one line: China is building strategic relationships along the sea lanes from the Middle East to the South China Sea in ways that suggest defensive and offensive positioning to protect China's energy interests, but also to serve broad security objectives).

<sup>74</sup> *Id.*

culminated in Rajapaksa suffering a presidential election defeat at the hands of Maithripala Sirisena, who during the campaign actively drew attention to the idea that Rajapaksa was selling Sri Lanka's future to the Chinese through these expensive infrastructure loans.<sup>75</sup>

Rajapaksa's ambitions to revitalize the Hambantota region of Sri Lanka failed, and when the new Sirisena regime took control of the Sri Lanka government, its options for dealing with the loans were limited. While the government tried to reexamine the deals made with China, and halted construction on the deep sea port, nearly 95% of Sri Lanka's revenues were going towards servicing its foreign debt.<sup>76</sup> Ultimately, Sri Lanka handed over the Hambantota Deep Sea Port to China in a deal that gave China 70% equity in the port and a 99-year lease deal.<sup>77</sup> Mismanagement of government funds following these massive investments with China has led to a debt-crisis in Sri Lanka that has gotten so bad that the Auditor General, in February 2018, could not state with certainty how much public debt the country owed.<sup>78</sup>

The case of Sri Lanka is an example of what can happen if a country is not diligent and disciplined in its dealings with China and their BRI. Their investments can backfire, and result in not only massive public debt, but the surrender of resources to the Chinese. Although it can be argued that Sri Lanka lacked sufficient caution and scrutiny, the same cannot be said about another country in Southeast Asia.

## 2. Malaysia

Malaysia, a prosperous Southeast Asian country, appears to have seen the writing on the wall when it came to its investment projects with China's BRI. In fact, during his general election campaign in 2018, newly elected prime minister Mahathir Mohamad emphasized

---

<sup>75</sup> Shepard, *supra* note 67.

<sup>76</sup> Jonathan Hillman, *Game of Loans: How China Bought Hambantota*, CENTER FOR STRATEGIC & INTERNATIONAL STUDIES, (Apr. 2, 2018), <https://www.csis.org/analysis/game-loans-how-china-bought-hambantota>.

<sup>77</sup> *Id.*

<sup>78</sup> *Id.*

the charges of corruption levied against his predecessor, Najib Razak.<sup>79</sup> Former Prime Minister Razak had been formally accused of corruption and money laundering in connection with the Malaysia Development Berhad, a Malaysian strategic development company. It is believed that the Malaysian Development Berhad may have been the recipient of Chinese funds that were illegally taken from two pipeline projects that were being undertaken by Razak's regime.<sup>80</sup>

This is why since taking office Mohamad has tried to devise a way to undo the damage that his predecessor had done in his dealings with China and the BRI. Upon taking office, Mohamad stated publicly that due to Razak entering Malaysia into lopsided deals with no exit clauses with China, Malaysia is now desperately trying to avoid financial ruin.<sup>81</sup> "I believe China does not want to see Malaysia become a bankrupt country . . . if we have to pay compensation, we have to pay . . . we must find a way to exit these projects . . . this is our own people's stupidity."<sup>82</sup>

Since taking office, Prime Minister Mohamed has suspended three major Chinese-backed BRI projects.<sup>83</sup> The Malaysian Finance Minister, Lim Guan Eng, stated that the government ordered the suspension of two pipeline deals in addition to a railway that, all together, were worth \$22.35 billion.<sup>84</sup> Malaysia's deals with China will continue to be under the tight scrutiny of Prime Minister Mohamed,

---

<sup>79</sup> Laignee Barron, *Malaysia's Mahathir Mohamad Will Become the World's Oldest Leader After A Shock Election Win*, TIME, (May 10, 2018), <http://time.com/5272113/mahathir-mohamad-defeats-najib-razak-malaysia-2018-election/>.

<sup>80</sup> Blake Berger, *Malaysia's Canceled Belt and Road Initiative Projects and the Implications for China*, THE DIPLOMAT, (Aug. 27, 2018), <https://thediplomat.com/2018/08/malysias-canceled-belt-and-road-initiative-projects-and-the-implications-for-china/>.

<sup>81</sup> Kristy Needham, *Malaysia cancels Belt and Road projects with China over bankruptcy fears*, THE SYDNEY MORNING HERALD, (Aug. 21, 2018), <https://www.smh.com.au/world/asia/china-malaysia-agree-to-mutual-respect-amid-belt-and-road-tensions-20180820-p4zyo3.html>.

<sup>82</sup> *Id.*

<sup>83</sup> *Malaysia Halts \$22bn in China-backed Deals*, Al-Jazeera, (Jul. 5, 2018), <https://www.aljazeera.com/news/2018/07/malaysia-halts-22-billion-china-backed-deals-180705140537453.html>.

<sup>84</sup> *Id.*

who will continue to review any deals that may be seen as dubious in nature.<sup>85</sup> Prime Minister Mohamed has been quite blunt about Malaysia's interactions with China since assuming office, stating that Malaysia would only be pursuing "fair trade" with China, and has publicly warned about a possible new version of colonialism. This was seen as a reference to China's dealings with other countries leading to massive amounts of debt for the host nation. This would then result in countries becoming more beholden to China's will in order to relieve their debt.<sup>86</sup>

From the eyes of many financial experts, it would make sense that Prime Minister Mohamed would pull out of the three major BRI projects with China, given that the Malaysian national debt is estimated to be \$252 billion, or roughly 65% of the country's GDP.<sup>87</sup> However, although Prime Minister Mohamed has been publicly critical of China in its dealings with Malaysia, he has not been hesitant to heap blame on his predecessor, Razak:

"It is not about the Chinese, it is about the Malaysian government. They borrowed huge sums of money and now we have problems trying to repay the money that they have owed . . . That is Malaysians playing around with money, not even doing proper feasibility studies and due diligence before going into business."<sup>88</sup>

However, Prime Minister Mohamed has eased his criticism of China, and this may be because of the strong economic relationship Malaysia has with China. Malaysia's largest trading partner is China, and a large chunk of Malaysia's population have livelihoods that are at least partly reliant on Chinese investment and good diplomatic and

---

<sup>85</sup> *Id.*

<sup>86</sup> Needham, *supra* note 81; See also Selwyn Parker, *Malaysia rebuttal reflects mistrust of China's 'Belt and Road' plan*, PETROLEUM ECONOMIST, (Nov. 8, 2018), <http://www.petroleum-economist.com/articles/politics-economics/asia-pacific/2018/malaysia-rebuttal-reflects-mistrust-of-chinas-belt-and-road-plan> (The new Malaysian government's show of independence follows prime minister Mahathir Mohamad's promise to review all of the country's "unequal treaties" with China).

<sup>87</sup> Berger, *supra* note 80.

<sup>88</sup> *Id.*

economic ties between the two countries.<sup>89</sup> This puts Malaysia in a very tricky position when dealing with Chinese investment and BRI opportunities – both politically and economically.

Malaysia's unique situation with China has drawn the attention of many in the international community. Many are wondering where the relationship will go with the new administration under Prime Minister Mohamed, and what these setbacks spell for China's BRI aspirations in Southeast Asia. Yun Sun, director of the China Program at the Stimson Center, a nonpartisan think-tank, has speculated about the implications for both sides following the setbacks over the past few years.<sup>90</sup>

Sun believes that China has attributed the cancellation of the three major BRI projects in Malaysia to Malaysia's current state of domestic politics. This belief also serves to disregard the liabilities associated with the three BRI projects – such as their many irregularities and their unviable nature, in many aspects.<sup>91</sup> Sun sees the current state of affairs as a cooling period between the two countries as Malaysia's new regime settles in. Prime Minister Mohamed does not necessarily want to antagonize China with his current foreign policy decisions, but is aiming to strengthen economic ties that would yield more comprehensive benefits to Malaysia.<sup>92</sup> Sun has stated that Prime Minister Mohamed's recent visit to China "indicated his strong interests in industrial, technological and trade cooperation, but this is significantly different from cooperation based on infrastructure projects that are funded and built by China, the key priority of its Belt and Road Initiative."<sup>93</sup>

---

<sup>89</sup> Bhavan Jaipragas, *It's Not About the Chinese: Malaysia's Mahathir blames previous government for debt to Beijing and project woes*, SOUTH CHINA MORNING POST, (Aug. 20, 2018), <https://www.scmp.com/news/china/article/2160390/it-not-about-chinese-malaysias-mahathir-blames-previous-government-debt>.

<sup>90</sup> The Editors, *Do Axed Infrastructure Projects in Malaysia Spell Trouble for China's Belt and Road?*, WORLD POLITICS REVIEW, (Sept. 4, 2018), <https://www.worldpoliticsreview.com/trend-lines/25727/do-axed-infrastructure-projects-in-malaysia-spell-trouble-for-china-s-belt-and-road>.

<sup>91</sup> *Id.*

<sup>92</sup> *Id.*

<sup>93</sup> *Id.*

However, one of the key implications that China is focused on, because of its recent setbacks with Malaysia, is the escalation of concern coming from Southeast Asia. Sun agrees with the notion that most Southeast Asian nations, both those on Asia's mainland and the island nations, are having growing concerns over China's rapid growth in influence in the area as a result of their aggressive financial endeavors.<sup>94</sup> This fear is highlighted by the fact that China's BRI projects in this region are heavily involved with financing – and not investment. China actually ranks fifth in terms of foreign direct investment in Southeast Asia – the bulk of China's involvement in Southeast Asia is in the form of commercial and concessional loans that other nations will eventually have to pay back to China.<sup>95</sup> Thus, due to the failings of Sri Lanka, countries like Malaysia are now trying to slow down Chinese financing in the region, and sounding the alarm to other countries doing business with China and its BRI. Sun concludes that although individual countries, like Malaysia, are able to pull back a bit on Chinese investment in the area, the greater trend upward of Chinese investment in the area is unlikely to change anytime soon. This leaves Sri Lanka and Malaysia as cautionary tales for other nations.<sup>96</sup>

### C. The Questionable: Montenegro

*“Their fiscal space has shrunk enormously. They have strangled themselves. And for the time being this is a highway to nowhere.”<sup>97</sup>*

Situated in Southeastern Europe, on the shore of the Adriatic Sea, is the small Balkan country of Montenegro, a country that only gained its formal independence from Serbia in 2006, dissolving the last of what used to be Yugoslavia.<sup>98</sup> In this Balkan nation, one of the last

---

<sup>94</sup> *Id.*

<sup>95</sup> *Id.*

<sup>96</sup> *Id.*

<sup>97</sup> Noah Barkin and Alexander Vasovic, *Chinese ‘highway to nowhere’ Haunts Montenegro*, REUTERS, (Jul. 16, 2018), <https://www.reuters.com/article/us-china-silkroad-europe-montenegro-insi/chinese-highway-to-nowhere-haunts-montenegro-idUSKBN1K60QX>.

<sup>98</sup> Predrag Milic, *Montenegro Declares Its Independence from Serbia*, THE WASHINGTON POST, (June 4, 2006), <http://www.washingtonpost.com/wp-dyn/content/article/2006/06/03/AR2006060300899.html>.



things you would expect to see is the large and pronounced presence of China – but through its BRI initiative, China has now poured millions of dollars and thousands of its own workers into Montenegro.<sup>99</sup> The large Chinese presence stems from the wish of the Montenegro government to expand the country’s ability to connect its port city of Bar, to the city of Boljare in the landlocked nation of Serbia on Montenegro’s northeastern border.<sup>100</sup> Montenegro will seek to connect these two key cities through the construction of a 103 mile highway, the Bar-Boljare Highway, equipped with tunnels and bridges to navigate the mountainous terrain contained within Montenegro.<sup>101</sup>

In order to take on such an ambitious project, Montenegro, a country that is ranked 161 out of 230 countries in terms of GDP (purchasing power parity), needed outside financing.<sup>102</sup> Western financial institutions were not interested in investing in Montenegro. In fact, two feasibility studies, one carried out by the French firm Louis Berger and the second by the American company URS both concluded that there would not be enough traffic on the highway to justify its construction.<sup>103</sup> “The low current traffic volumes and the weak economic forecasts mean that the economic benefits of the proposed route do not provide adequate return on the investment” stated URS in its assessment.<sup>104</sup>

Nonetheless, China was willing to aid in Montenegro’s push for improved infrastructure. In order to fund just the first 41 kilometers of the highway, the first phase of construction, Montenegro needed to borrow nearly 809 million euros from China, which nearly

---

<sup>99</sup> Barbara Surk, *As China Moves in, Serbia Reaps Benefits, With Strings Attached*, THE NEW YORK TIMES, (Sept. 9, 2017), <https://www.nytimes.com/2017/09/09/world/europe/china-serbia-european-union.html>.

<sup>100</sup> Barkin, *supra* note 97.

<sup>101</sup> *Id.*

<sup>102</sup> CIA Fact Book, <https://www.cia.gov/library/publications/the-world-factbook/rankorder/2001rank.html>.

<sup>103</sup> Barkin, *supra* note 97.

<sup>104</sup> *Id.*

equates to one-fifth of Montenegro's entire GDP.<sup>105</sup> This amount has sent Montenegro's debt soaring, and has forced the government to take drastic measures such as raising taxes, partially freezing public sector wages, and ending a tax benefit for mothers.<sup>106</sup> In addition, the International Monetary Fund ("IMF") stated that Montenegro cannot afford to take on anymore debt in order to complete the entire ambitious project.<sup>107</sup> The IMF bluntly stated in its report that "fiscal space does not exist to finance the remaining phases of the highway with debt" even though it is likely the highway will cost an additional one billion dollars.<sup>108</sup>

In addition to the 809 million euros Montenegro received from China's state-funded Export-Import Bank, a loan which covers roughly 85% of the cost of the first section of the Bar-Boljare Highway, the China Road and Bridge Corporation ("CRBC"), a Chinese state-owned company, will be undertaking nearly 70% of the work.<sup>109</sup> CRBC was also able to include in its deal with the Montenegro government that all of its imported construction materials, equipment, and other goods would not be subject to customs and taxation.<sup>110</sup> These two conditions represent an unfortunate loss of revenue for Montenegro in its own infrastructure endeavor – both for the potential it could have had for local laborers and for the potential gain in tax revenue. Also under the current contract is the stipulation that an arbitration court in China would have jurisdiction in the event of any potential legal dispute.<sup>111</sup> These favorable terms have increased the confidence of Chinese workers, with Kang Shifei, deputy project

---

<sup>105</sup> James Kynge, *China's Belt and Road Projects Drive Overseas Debt Fears*, FINANCIAL TIMES, (Aug. 7, 2018) <https://www.ft.com/content/e7a08b54-9554-11e8-b747-fb1e803ee64e>.

<sup>106</sup> Barkin, *supra* note 97.

<sup>107</sup> *Id.*

<sup>108</sup> GCR Staff, *Montenegro at Crossroads with Expensive Chinese Motorway*, GLOBAL CONSTRUCTION REVIEW, (Jul. 18, 2018), <http://www.globalconstructionreview.com/news/montenegro-crossroads-expensive-chinese-motorway/>.

<sup>109</sup> Barkin, *supra* note 97.

<sup>110</sup> *Id.*

<sup>111</sup> *Id.*

manager for CRBC, stating that “CRBC expects to build the future sections of this project.”<sup>112</sup>

To make matters more uncertain for Montenegro, the government did not hedge against currency swings, and forgot to include a key turnpike in the original blueprint for the highway, which has only exacerbated their current debt problems.<sup>113</sup> This puts Montenegro in a precarious position, a position that can leave them vulnerable to the political will of China. Montenegro will have to pay back the Chinese loan, at two-percent interest, between the years 2020 and 2040 after an initial five-year grace period.<sup>114</sup> Most surprisingly, in the event of Montenegro defaulting on the loan, China would be able to seize parts of Montenegro’s territory.<sup>115</sup>

Given the terms and risks of the agreement, Vatroslav Belan, Adviser to the Deputy Prime Minister of Montenegro, stated that, “this highway is not a Chinese investment. This is the investment of the government of Montenegro. We are taking the risk, that is the difference.”<sup>116</sup> However, Belan does stress the positive outlook the Montenegrin government has on the infrastructure project, stating “[through] the growth of the economy, which will be grown thanks to the highway, we will earn enough money to pay for the highway.”<sup>117</sup> Montenegro’s Prime Minister, Dusko Markovic, has stated that the highway will be completed at any cost, and he has characterized those who have dismissed the feasibility of the project as “disbelievers.”<sup>118</sup>

Many in Montenegro, as well as international bodies outside of Montenegro, have concern about where the all of the debt can lead the country. Jelisava Kalezić, a former Professor of Civil Engineering at the University of Montenegro, understands the need for a major

---

<sup>112</sup> *Id.*

<sup>113</sup> *Id.*

<sup>114</sup> Steven Bartus, *China’s New Highway Could Make or Break this Poor European Country*, VICE NEWS, (June 5, 2018), [https://news.vice.com/en\\_us/article/ywen7x/chinas-new-highway-could-make-or-break-this-poor-european-country](https://news.vice.com/en_us/article/ywen7x/chinas-new-highway-could-make-or-break-this-poor-european-country).

<sup>115</sup> Bartus, *supra* note 114.

<sup>116</sup> *Id.*

<sup>117</sup> *Id.*

<sup>118</sup> GCR Staff, *supra* note 108.

highway in Montenegro, but believes that the highway would have been a well-received infrastructure project in “2002 or 2003, when our economy was in a much better state” and Montenegro was not threatened with bankruptcy.<sup>119</sup> Mladen Grgic, a China/Balkans expert from U.C. Berkeley, stated that, to the people of Montenegro, the highway is a big deal, and it reminds the people of “the days of grand socialist projects in the region.”<sup>120</sup> However, despite the fond feelings felt by some of the population of Montenegro, Grgic warns that the highway is beginning to resemble a trap. “Now that it’s been started, the politicians can’t stop it – no matter how harmful it might be. And frankly, they don’t want to.”<sup>121</sup> Due to the high levels of debt and the uncertain timeline surrounding the completion of the Bar-Boljare Highway, Montenegro’s future, and its relationship with China as its creditor and partner, remains uncertain.

#### IV. INTERNATIONAL CONCERNS ABOUT THE BELT AND ROAD INITIATIVE

As China has unveiled and implemented its BRI over the past six years, the international community has been watching closely in order to monitor the progress of the initiative. While watching the initiative’s progress, the international community has been weighing the pros and cons of the project as it relates to international affairs and the interests of individual countries. In the eyes of the international community, China is doing more than investing in foreign governments and creating opportunities for its state-owned companies and banks - it is also leveraging and enhancing its geopolitical position. Although Chinese officials claim that their involvement in developing nations is entirely benign in terms of geopolitical aspirations, and it is just an example of their “win-win cooperation,” many nations are skeptical of the BRI’s overall motivation.<sup>122</sup>

---

<sup>119</sup> *Id.*

<sup>120</sup> *Id.*

<sup>121</sup> *Id.*

<sup>122</sup> Brook Larmer, *Is China the World’s New Colonial Power?*, THE NEW YORK TIMES, (May 2, 2017), <https://www.nytimes.com/2017/05/02/magazine/is-china-the-worlds-new-colonial-power.html?login=email&auth=login-email>.

One of the more perplexing issues with China's interactions with nations willing to participate in the BRI is China's ad hoc approach to settling issues of debt.<sup>123</sup> The international community, and the countries that are dealing with the BRI, share concerns over China's willingness to, at times, write off or restructure debt and extend further lines of credit, but at other times to solely seek the assets of nations in order to service the loans.<sup>124</sup> In a study conducted by the Center for Global Development, the conclusion was that "without a guiding multilateral or other framework to define China's approach to debt sustainability problems, we only have anecdotal evidence of ad hoc actions taken by China as the basis for characterizing the country's policy approach."<sup>125</sup>

One international body that has particular concerns with China's approach to sovereign debt is the Paris Club. The role of the Paris Club is to find "coordinated and sustainable solutions to the payment difficulties experienced by debtor countries."<sup>126</sup> The Paris Club is comprised of 22 countries that have a "large exposure to other States worldwide;" China is not a full member of the Paris Club, but participates on an ad hoc basis.<sup>127</sup> As an ad hoc member, China is free to withdraw from discussions or participation at any time and is invited on a case-by-case basis to join on a country-specific discussion, which is based on a signaled interest in specific countries and issues.<sup>128</sup> China has shied away from multilateral approaches to debt relief aside from its informal participation with the Paris Club and the International Monetary Fund.<sup>129</sup> This stands in contrast to many other official creditors, all of whom actively participate in multilateral mechanisms, especially the Paris Club.<sup>130</sup> The international community believes it would be in their best interest if China, as they continue to increase

---

<sup>123</sup> James Griffiths, *Are the Wheels coming off China's Belt and Road Megaproject?*, CNN, (Dec. 31, 2018), <https://www.cnn.com/2018/12/31/asia/china-kenya-belt-road-bri-intl/index.html>.

<sup>124</sup> *Id.*

<sup>125</sup> Hurley, Morris, and Portelance, *supra* note 33.

<sup>126</sup> Paris Club, <http://www.clubdeparis.org/>.

<sup>127</sup> *Id.*

<sup>128</sup> *Id.*

<sup>129</sup> Hurley, Morris, and Portelance, *supra* note 33.

<sup>130</sup> *Id.*

their status as an international creditor, were to decide to fully participate in the Paris Club and end their history of non-transparent credit activities.<sup>131</sup>

China's ambitions with the BRI have also drawn backlash from its main competitor nations in terms of foreign investment – including the United States, India, and Japan.<sup>132</sup> Although these countries are unable to match Chinese investment in the region, they are attempting to stymie Chinese influence with their own influence. The United States recently passed the BUILD Act in October 2018, which created an International Development Finance Corporation with \$60 billion to lend.<sup>133</sup> Japan has increased its lending in Southeast Asia in response to the BRI.<sup>134</sup> India has sought to have greater diplomatic influence over its surrounding region, which had successfully swayed Bangladesh to pass on a Chinese BRI initiative to develop a deep-water port for the nation.<sup>135</sup> These efforts can prove to be a large detriment to the BRI.

The United States, known for its large international influence, has been particularly skeptical of China's BRI. Alarmed by the potential for corruption, and the vulnerability of some nations' sovereignty to Chinese investment, Vice President Mike Pence announced the new Indo-Pacific Transparency Initiative.<sup>136</sup> The initiative is funded with more than \$400 million, with the aim to “empower the region's citizens, combat corruption, and strengthen sovereignty.”<sup>137</sup> The United States has also joined Japan and Australia in a trilateral partnership which was formed in order to “mobilize investment in projects that drive economic growth, create

---

<sup>131</sup> *Id.*

<sup>132</sup> Nisid Hajari, *End of the Road?*, BLOOMBERG, (Nov. 1, 2018), <https://www.bloomberg.com/opinion/articles/2018-11-01/china-s-belt-and-road-ambitions-could-backfire>.

<sup>133</sup> *Id.*

<sup>134</sup> *Id.*

<sup>135</sup> *Id.*

<sup>136</sup> White House, *Remarks by Vice President Pence at the 2018 APEC CEO Summit | Port Moresby, Papua New Guinea*, WHITE HOUSE, (Nov. 16, 2018), <https://www.whitehouse.gov/briefings-statements/remarks-vice-president-pence-2018-apec-ceo-summit-port-moresby-papua-new-guinea/>.

<sup>137</sup> *Id.*

opportunities, and foster a free, open, inclusive and prosperous Indo-Pacific.”<sup>138</sup> The trilateral initiative is widely seen as a broader effort to reassert influence in the Pacific during a time that China is increasing its diplomatic pressure in the area through the BRI.<sup>139</sup> This new strategy involves the use of \$133 billion in new technology, energy and infrastructure initiatives in Asia, which is all a part of President Trump’s “Indo-Pacific” strategy.<sup>140</sup> Ideally, through the trilateral initiative, the United States, Japan, and Australia would be able to provide high-quality alternatives to BRI loans issued by China.<sup>141</sup>

Along with economic and diplomatic concerns from the international community about the BRI, there have also been growing military concerns about the influence of China and the BRI. Throughout China’s building of infrastructure projects in Southeast Asia there have been concerns about the possible military implications of the endeavors, but these suspicions did not have much factual basis behind them. That was until the first explicitly military component was added to the Maritime portion of the BRI in the form of a base in Djibouti which was constructed with the goal of providing support for Military Operations Other Than War (MOOTW).<sup>142</sup> From that point forward, the Pentagon’s suspicion has only heightened. It was revealed in 2018 that the Pakistani Air Force and Chinese officials had completed a secret proposal to have Pakistan build Chinese military jets, weaponry and other hardware with all of these military projects being designated as part of China’s BRI.<sup>143</sup> With its plan in Pakistan, China is now explicitly tying a BRI proposal to military purposes. The United States had thought that after suspending billions of dollars in

---

<sup>138</sup> Sonali Paul, *Australia, Japan join U.S. Infrastructure Push in Asia*, REUTERS, (Jul. 30, 2018), <https://www.reuters.com/article/us-usa-trade-australia-pacific/australia-japan-join-u-s-infrastructure-push-in-asia-idUSKBN1KK2KZ>.

<sup>139</sup> *Id.*

<sup>140</sup> *Id.*

<sup>141</sup> Abigail Grace and Max Hill, *How the US Should Respond to China’s Belt and Road*, THE DIPLOMAT, (Dec. 21, 2018), <https://thediplomat.com/2018/12/how-the-us-should-respond-to-chinas-belt-and-road/>.

<sup>142</sup> Dunn, *supra* note 73.

<sup>143</sup> Mari Abi-Habib, *China’s ‘Belt and Road’ Plan in Pakistan Takes a Military Turn*, THE NEW YORK TIMES, (Dec. 19, 2018), <https://www.nytimes.com/2018/12/19/world/asia/pakistan-china-belt-road-military.html>.

security aid to Pakistan in early 2018 that it would cause Pakistan to increase its cooperation with the United States.<sup>144</sup> However, it appears that it has only caused Pakistan to find a new source of security aid in China.

The deep-water port constructed by the Chinese in the Pakistani port city of Gwadar was originally built with trade and economic concerns in mind – giving both the Chinese and Pakistanis a quicker route to access the Arabian Sea.<sup>145</sup> However, now that the military implications of the BRI have come more into focus, many are now seeing the strategic advantage the port can give to China to play against the United States and India if the tensions in the area were to worsen to the point of naval blockades.<sup>146</sup> In fact, Pakistan as a whole has a multitude of military benefits for China to explore: “shared borders and a long history of cooperation; a hedge in South Asia against India; a large market for arms sales and trade with potential for growth; a wealth of natural resources.”<sup>147</sup> Moreover, military experts have predicted that China will use the deep-sea port at Gwadar to expand upon its naval fleet, after selling eight submarines to Pakistan for \$6 billion; the Chinese could then use the equipment it sells to Pakistan in order to refuel its own submarines in the port.<sup>148</sup> Vice President Pence made his thoughts on the potential military implications of China’s building of ports in foreign nations heard in his October 2018 speech at the Hudson Institute:

China uses so-called debt diplomacy to expand its influence . . . Just ask Sri Lanka, which took on massive debt to let Chinese state companies build a port of questionable commercial value. Two years ago, that country could no longer afford its payments, so Beijing pressured Sri Lanka to deliver the new port directly

---

<sup>144</sup> *Id.*

<sup>145</sup> *Id.*

<sup>146</sup> Abi-Habib, *supra* note 143.

<sup>147</sup> *Id.*

<sup>148</sup> *Id.*



into Chinese hands. It may soon become a forward military base for China's growing blue-water navy.<sup>149</sup>

It appears that the security and military implications have been known by those in the international community who have been watching the development of the BRI. "Most people working in military circles knew there was a security dimension to [the BRI] so this [New York Times report] is just a confirmation at best," said James Chin, director of the Asia Institute at the University of Tasmania.<sup>150</sup> Chin added that it is often very difficult, near impossible, for a country to separate military power and economic power when they are in the process of striving for greatness.<sup>151</sup> However, despite the military implications of the BRI, Chin also agrees that "in the end, BRI could end up as a logistical route to sell China-made stuff and nothing else."<sup>152</sup>

## V. CONCLUSION

*"The future is coming now; the Belt and Road is how."*<sup>153</sup>

Although the sentiments the BRI may invoke vary across different nations and people, the one fact that is not disputed is the high level of innovation, and the huge impact the BRI is having on the world in only six years. The trillion-dollar development deal has grown to 118 participant nations at the close of 2018.<sup>154</sup> The total value of

---

<sup>149</sup> White House Staff, *Remarks by Vice President Pence on the Administration's Policy Toward China*, WHITE HOUSE, (Oct. 4, 2018), <https://www.whitehouse.gov/briefings-statements/remarks-vice-president-pence-administrations-policy-toward-china/>.

<sup>150</sup> Nyshka Chandran, *Reports of China using its 'Belt and Road' program for military purposes are 'no real surprise'*, CNBC, (Dec. 24, 2018), <https://www.cnbc.com/2018/12/24/china-belt-and-road-reported-military-implications.html>.

<sup>151</sup> *Id.*

<sup>152</sup> *Id.*

<sup>153</sup> Staff, *Children from Belt and Road countries sing out their gratitude*, CHINA DAILY, (May 9, 2017), [https://www.youtube.com/watch?v=H6Adz\\_arAYE](https://www.youtube.com/watch?v=H6Adz_arAYE).

<sup>154</sup> Ben Heubl, *The Diverging Figures Behind the Belt and Road*, NIKKEI ASIAN REVIEW, (Dec. 17, 2018), <https://asia.nikkei.com/Spotlight/Datawatch/The-diverging-figures-behind-Belt-and-Road>.

BRI construction projects has reached \$380 billion, while investments in the projects stand at \$180 billion.<sup>155</sup>

As seen from the analysis of several countries throughout this comment, the effects of the BRI on nations with different backgrounds and economic conditions can vary from good, to bad, to dubious. In Kenya, there is reason for both optimism and caution as the SGR has exceeded expectations. Yet, this has the Kenyan government searching for a way to service their growing debt to China. The nations of Sri Lanka and Malaysia are both backed into a precarious corner with their dealings with China's BRI and are looking to dig themselves out of bad financial decisions that have left their countries in a hole of debt. Montenegro is situated at the peak of a growing mountain of debt over its Bar-Boljare highway, and the coming decisions made by the Montenegrin government will decide whether the country will be able to sustain itself or fall deeper into debt.

Developing nations will more often than not need creditors and prosperous nations to aid them with funding in order to grow their economies. However, the methods and rationales behind the funds being invested in these nations must always be analyzed by the international community. Although China has stated repeatedly that the BRI is an initiative that is only interested in win-win transactions with developing nations, some of the results of their initiative have caused those countries, and others in the international community, to be skeptical of China's investment strategies and possible ulterior motives.

The international community, as well as international monetary groups, should exercise caution in the degree of oversight they provide over China's BRI. Although the BRI can have a positive impact on the regions it is involved in, it will not excuse the international community from giving its due diligence. Additionally, countries that wish to host BRI projects should explore their options for creditors, including getting the recommendation of the Paris Club or other international crediting organizations. If countries wish to proceed with China in a

---

<sup>155</sup> *Id.*

BRI project, they should make sure the terms of the agreement are not only clear, but not lopsided in China's favor to a degree that would endanger the future of the nation's economy. In all likelihood, the BRI is a project that will be around for decades to come, and along with it will come a mix of prosperity and peril – the exact ratio of this mixture is an answer that will only come with time.