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ONE BELT ONE ROAD: UNDERSTANDING CHINA'S  
ACTIVISM IN CONTEMPORARY WORLD.  
DOES THE FLAP OF A BUTTERFLY'S WINGS IN CHINA  
SET OFF A TORNADO IN EUROPE (UK INCLUDED)?

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**Table of Content:** 1.- Introduction. 2.- *The New Silk Belt initiative – One Belt One Road.* 3.- *The strategic environment – What actually OBOR is?* 4.- *Chinese strategy towards Europe.* 5.- *European Union's perception and strategy about OBOR.* 6.- *Some considerations about the legal implications of OBOR: i) development of African Countries and the impact on migration* 7.- *Continued: ii) The B2B approach and the limits of the European legal contest.* 8.- *Continued: iii) The role of comparative law as mediator between different policies and legal systems.* 9.- *Conclusions.*

\* The authors are both responsible for the joint conception and revision of this article,. However, paragraphs 1 to 5 may be ascribed to G. Barbieri while paragraph 6 to 8 to A. Miranda.

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## *1. - Introduction*

The project of economic integration of the Countries of Eurasia, so called *One Belt One Road (OBOR)* or “*the new silk belt road*” initiative, on which President Xi Jinping is focusing to realize the great "Chinese Dream" of a strong and prosperous China, until now and notwithstanding a strong and widespread mediatic impact, is no more than a declared foreign policy strategy pursued by the Chinese Government to achieve two different sets of results.

The first, and most important (as well as undervalued) is to close China’s internal development gap between coastal and inland regions, through the creation of a widely interconnected national logistic and industrial infrastructure which will serve as the national standpoint for China’s projection abroad.

The second and most investigated aspect of OBOR is its international and global scope, which will allow China to promote its industrial and financial power across the world in a truly new way.

Despite the general attitude of confronting OBOR with the United States Marshall Plan in the immediate aftermath of the World War II, China is pursuing a totally different strategy, based on a win-win diplomacy and aimed at developing new models of regional and inter-regional integration and economic cooperation.

This process is likely to imply great difficulties, due to the large amount of infrastructure needed and the consequent need of financial stream to support their realization. Moreover, the way is paved with undervalued problems, such as the substantial incompatibility between different legal system among the countries interested by the initiative, which is one of the main obstacles to the full realization of OBOR on a its large scale.

An important point at stake are is the degree of advantage the European Union could gain (at a time of gripped economic recovery) with an intelligent, coherent and compact approach to the OBOR initiative, which still seems to be shy and uncertain. On this point, much work is still to be done to find cooperation models which fit both part’s needs and interests, not to mention the new regional security scenario which could arise from such a virtuous approach.

In every case, despite its geographical indeterminacy, OBOR is yet a reality in terms of political cooperation between European Union, European Union country members (and Great Britain) and China's Government.

The potential of OBOR is outstanding, and an appropriate implementation could bring benefits to all the countries comprised in its route, even in terms of Sustainable Development (thus matching the UN Sustainable Development Goals Agenda).

## *2.- The New Silk Belt initiative – One Belt One Road*

China's One Belt One Road initiative (OBOR) stems directly from the the initiative taken by President Xi Jinping in Autumn 2013. The Obor project is modeled on the heritage of the Ancient Silk Road, which brought great economic and commercial benefits to Asia, Continental Europe and the Near East.

Even though, in principle, the rationale of Obor initiative could be easily understood from a Chinese *going-global* perspective, it still lacks a clear strategic framework as well as a political guidance.

In the words of the Chinese government, OBOR is aimed at Europe, Asia, Africa and their adjacent seas. So long, the Chinese government claimed that more than 65 countries showed a strong interest in the project, even if it is not fully clear to what extent these countries consider their involvement in the project, and how China is considering their involvement in OBOR's development.

The main driver for OBOR, in China's vision, is "*connectivity*". This is, as well, the main strategy and opportunity, as it emerges from government official declarations, to implement OBOR, in order to bring Chinese influence outside the Asian continent, in a wide variety of sectors.

Besides the shipping and export sector, where China is the global leading actor, OBOR project has the potential to affect a wide variety of activities, stemming from TLC's to Energetic Infrastructural and Commercial sector, not to mention its potential in modeling and changing the Global Value Chains structure<sup>1</sup>.

All these implications, to the date, could be simply envisaged, given that OBOR is still lacking a clear field of application.

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<sup>1</sup> Vision and Actions on Jointly Building Silk Road Economic Belt and 21st-Century Maritime Silk Road', March 2015, [http://en.ndrc.gov.cn/newsrelease/201503/t20150330\\_669367.html](http://en.ndrc.gov.cn/newsrelease/201503/t20150330_669367.html)

OBOR is the result of two distinct political initiatives, announced respectively in September and October 2013 by Xi Jinping: the Silk Road Economic Belt and the 21st century Maritime Silk Road. Each one identifies two distinct political and economic fields of application: the former refers to an economic corridor from inland China towards and across the Eurasian Continent, the latter to the maritime link which, through eastern Africa, should connect China and Europe.

These two initiatives<sup>2</sup> seem to be underpinned by very different strategies of development, but would definitely result in a renewed role for China on the international stage, as it leadership covertly aspires<sup>3</sup>.



<sup>2</sup> Image courtesy of LIMES: [http://www.limesonline.com/corridoi-economici-delle-nuove-vie-della-seta/96723?refresh\\_ce](http://www.limesonline.com/corridoi-economici-delle-nuove-vie-della-seta/96723?refresh_ce)

<sup>3</sup> Djankov S. *et al.*, 'China's Belt and Road Initiative: Motives, Scope and Challenges', PIIE Briefing 16:2,, 2016

March; Johnson C. K., *President Xi Jinping's 'Belt and Road Initiative' – A Practical Assessment of the Chinese Communist Party's Roadmap for China's Global Resurgence*, CSIS Report, March 2016; Mikko Huotari and Maximilian Mayer (2015)

The Silk Road Economic Belt pivots around terrestrial transport infrastructure, aiming at the creation of a continuous area of economic (thus political) influence, mainly over Eastern and Central Europe, and Russia as well. This implies the involvement of all those countries (Germany and the Netherlands, for instance) which already benefit from direct rail links with China.

The 21st Maritime Silk Belt, on the other hand, is likely to challenge European Union as a whole, as well as European single countries, in those areas like Middle East and Eastern Africa, where traditionally national interests converged and still do. This is due, mainly, to the maritime vocation of China in international trade, which is a vital factor for its industrial output surplus.

Given this overall overview, it's important to highlight the highly undefined nature of the OBOR initiative, as well as the absence of a Chinese political global implementation strategy.

This could be explained, at first glance, with the Chinese attitude to carry out negotiations on such matters with high-end representatives, mainly on a bilateral level, given the high strategical value China attach to OBOR initiative.

### *3.- The strategic environment – What actually OBOR is?*

When President Xi first introduced the Economic Silk Belt and the 21st Century Maritime Silk Road in September and October 2013, many commentators merged the two initiatives together into OBOR, framing it exclusively in terms of geostrategic Chinese manoeuvring.

If, on one hand, OBOR could give way to a new era in International Relations where China seats at the top, it is nonetheless true that, most of the time, we tend to interpret OBOR and, in general, Chinese foreign policy, according to our political culture.

OBOR is surely an ambitious global infrastructural project, but its real nature could be understood looking behind its mere name. Commonly, OBOR is labeled under the geostrategic tag, not considering the geoeconomic motives and implications lying behind it.

There is no doubt OBOR is intended by the Chinese government as an instrument to foster China's foreign policy globally, but the more interesting aspects of OBOR have to be searched in the short-middle run.

Strategically speaking, OBOR is aimed at fostering relations with China neighbors, according to the guidelines of 'peripheral diplomacy'<sup>4</sup>.

According to this foreign policy address, China should look at its near neighbours<sup>5</sup> to strengthen economic cooperation, integration and to properly address a China led regional security strategy.

This view came to maturity during the last Bush Jr. Presidency and the whole Obama Presidency, at the time of Chinese activism within Asean<sup>6</sup>. What is more interesting is that many of United States' traditional regional allies in security and economic cooperation organizations, are lining up with Beijing in security and regional economic integration initiatives subsumed under OBOR<sup>7</sup> (for example, Philippines, Taiwan, but also Japan and Pakistan). Moreover, the recent United States rejection of the Trans-Pacific-Partnership, by President Trump, disclosed new opportunities for China to become a leading actor in the economic integration process in the South-East Asian region, as well as towards the West<sup>8</sup>. The logic underlying this pro-active and, in

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<sup>4</sup> “习近平在周边外交工作座谈会上发表重要讲话 [Xi Jinping's Important Speech at the Peripheral Diplomacy Work Conference]”, Xinhua News Agency, 25 October 2013, [http://news.xinhuanet.com/politics/2013-10/25/c\\_117878897.htm](http://news.xinhuanet.com/politics/2013-10/25/c_117878897.htm); for a full discussion of China's Peripheral Diplomacy Work Conference, see Swaine M.D., “Chinese Views and Commentary on Peripheral Diplomacy”, *China Leadership Monitor* 44 (Summer 2014), <http://www.hoover.org/research/Chinese-views-and-commentary-periphery-diplomacy>

<sup>5</sup> According to Li X., *neighborhood* comprises nearly 63 states across Asia, Oceania and Russia. Their geographical location stems from East of the Bosporus and Suez, South of the Caucasus, East of the Urals and East of the Bering Strait. For further reading, see 一带一路背景下的中国周边外交方略

[China's Neighbourhood Foreign Policy against the Backdrop of One Belt and One Road]”, *Financial Times* (Chinese edition), 11 January 2016, <http://www.ftChinese.com/story/001065641>

<sup>6</sup> Cheng, J. Y. S. (2001), “Sino-ASEAN Relations in the Early Twenty-First Century”, *Contemporary Southeast Asia*, 23(3): 420-451; see also Wang, Vincent Wei-cheng, and Chyungly Lee, "ASEAN and Recent Tensions in the South China Sea", in *A Bridge Over Troubled Waters: Prospects for Peace in the South and East China Seas*, edited by Szu-shen Ho, Kuan-hsiung Wang, and Yingjiu Ma, 135-154. Taipei, Taiwan: Prospect Foundation, 2014

<sup>7</sup> Min T., 一带一路战略彰显大国心态, 读懂一带一路, 国家智库顶级学者前

瞻中国新丝路 [“One Belt and One Road Shows China's Great Power Attitude”, in *Leading Scholars from National Think Tanks and Their Insights on China's New Silk Road*] (Beijing: CITIC Press, 2015).

<sup>8</sup> Boyer d., “At White House, Leader of Singapore Urges Congress to Approve Free-trade Deal”, *The Washington Times*, 2 August 2016, <http://www.washingtontimes.com/news/2016/aug/2/singapore-pm-urgescongress-ok-free-trade-deal>



some ways, assertive policy design by Chinese authorities, is their consciousness of the potential constituted by their abundant resources, the dimension of their would be internal market and, not to say, their excess of productive capacity. Moreover, the first objective of the Chinese policy in OBOR implementation seems to be the creation of an Asian regional value and supply chain, mainly based in China, as well as the creation of an integrated regional economic block based on Chinese standards. If successful, such a policy would give way to China's transformation into a regional hegemon and stabilizer power.

The two distinct initiatives of the Economic Silk Belt and the Maritime Silk Belt are part of an even more ambitious plan of internal policy, which reflect the chronic differences in terms of economic development between the western inland regions and the eastern seaboard regions, including cities and megatropolis.

The primary aim of the Economic Silk Belt would be that of boosting development and industrial growth in China's heartland, to close the social gap still existing between rural and urban areas. To this extent, many of the infrastructural programmed investments related to the Economic Silk Belt are thought to integrate these regions into regional and trans-regional value and supply chains, whose benefits are captured only by coastal metropolis. This policy is functional to the cut out of the subsidized economy that, for years, contributed to depress rural areas economy, making them very unattractive for the penetration of market economy. A distinctive sign of the economic closure and underdevelopment of China's inland is captured by the China Economic Research Institute Free Market Index<sup>9</sup>: for an average national value of 6.56, Xinjiang<sup>10</sup>, Tibet, Qinghai and Gansu score 2.67 (0 is total closure to free market and 10 total disclosure). This figure shows how centralized and planned economy in China's inland let disparities with coastal conglomerates grow across years, a situation that the central government is trying to reverse through the Economic Silk Belt Initiative.

On the contrary, the Maritime Silk Belt could be seen both as an instrument to gain weight at the international level, diffusing Chinese industrial and regulation standards, and to find a solution to its excess production capacity. The rationale for the

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<sup>9</sup> The Free Market Index measures Chinese provinces' degree of economic liberalisation. The Index is published by the China Economic Research Institute

<sup>10</sup> As well explained in Cai P., "Understanding China's Belt and Road Initiative", *Lowi Institute for International Policy*, March 2017

implementation of the Maritime Silk Belt is, firstly, to export Chinese standards<sup>11</sup>, not goods, abroad, mainly through the internazionalisation of its top-industrial goods and technologies, and seeks to reproduce the ancient imperial sea trade routes of the time of the Tang Dynasty (618-907 AD). Many enterprises in the TLCs sector, like Huawei and ZTE, are growingly gaining market shares abroad, imposing their technological standards right outside China. In TLCs, retaining high market shares means occupying a strategic position in most of the relevant economic sectors within modern economies, given that it lets enterprises to design, set and govern international technical standards<sup>12</sup>, and to participate to the capital of foreign TLC companies.

To date, China experiences excess in production capacity in various sectors, like steel and concrete. Anyway, Chinese authorities do not see OBOR as an instrument to find new final markets for Chinese output surplus. Instead, OBOR is seen as a tool to relocate entire production lines being part of the Chinese excess production problem<sup>13</sup>. In short, China is trying to replicate its experience during the '80s, at the time when it used to buy industrial machineries from Western Countries (Germany, in particular). The scope of Chinese policy is to relocate its industrial capacity, and to modernize its industrial system. Seen as unfeasible by many observer, this particular policy must deal with the circumstance that many of China's neighbours are direct competitors in the same industrial sector Chinese authorities want to relocate. Even if this would allow China to be the starter for the industrialization of neighboring underdeveloped country, it must deal with the eventual political opposition which is likely to become manifest. In addition, China's internal labour market still has some 240 million people. Moving abroad whole heavy-industrial sector, would mean not to solve the problem of chronic underdevelopment of China's inland, while boosting modern and technological industry

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<sup>11</sup> A fresh example of this policy could be the government effort to promote the diffusion of the Chinese rail high-speed technology within the Asian Continent. See Lu S., “李克强的‘高铁外交’成绩单 [Li Keqiang's 'High-Speed Rail Diplomacy' Scorecard]”, Xinhua News Agency, 26 November 2015, [http://news.xinhuanet.com/finance/2015-11/26/c\\_128469565.htm](http://news.xinhuanet.com/finance/2015-11/26/c_128469565.htm)

<sup>12</sup> Breznitz D. and Murphree M., “The Rise of China in Technology Standards: New Norms in Old Institutions”, Research Report Prepared on Behalf of the US–China Economic and Security Review Commission, 16 January 2013, 4, <https://www.uscc.gov/sites/default/files/Research/RiseofChinainTechnologyStandards.pdf>

<sup>13</sup> Li Keqiang's Official Speech at the 17th ASEAN–China (10+1) Leaders' Meeting, Nay Pyi Taw, Myanmar, 13 November 2014, [http://www.fmprc.gov.cn/web/ziliao\\_674904/zt\\_674979/dnzt\\_674981/qtzt/ydy1675049/zyxw675051/t1210820.shtml](http://www.fmprc.gov.cn/web/ziliao_674904/zt_674979/dnzt_674981/qtzt/ydy1675049/zyxw675051/t1210820.shtml)

would result in a worsening of the regional disparity in terms of individual income levels and economic underdevelopment.

#### *4.- Chinese strategy towards Europe*

The substantial absence of a wide public diplomacy activity, while leaving the large public unaware of the consequences attached to such a mastodontical project, lets governments to carry out negotiations with an high degree of discretion over the strategies and all the necessary measures to implement OBOR. It is also important to underline the different degree of interest of Western and Central European Countries towards OBOR, as well the different consideration attached by China to the same countries.

Chinese government, infact, seems to classify countries upon three main criteria:

- If that Country is critical to the realization of an OBOR related infrastructure
- If and how that Country replies to Chinese proposals of cooperation around OBOR
- If a Country is particularly attractive due to potential OBOR related ongoing projects

With regards to the last point, it is worth to note that, thanks even to the non-binding and malleable nature of OBOR initiative, especially in Europe, many ongoing projects on infrastructures and economic recovery were turned, at a national level, under OBOR light (for instance, all the projects subsumed under the Juncker Plan). To this extent, European Union comes to be a very important, if not necessary, partner in China's project to expand its area of influence globally through OBOR. At the same time, it's up to European Union institutions, as well as to single Members, to develop a constructive and pro-active approach to the theme which, to the date, seems to be far from reality.

An important aspect of China public diplomacy activity in the promotion of OBOR in Europe is its minilateral subregional activity, of which CEE 16+1 classification is an evident manifestation. CEE 16+1 (Central and Eastern Europe + China) is one on this diplomatic activity, aimed at strenghtening relations at a high stage with European Union member countries, outside European Union official channels like the

Commission level, through annual meetings ending with a plenary session in which Prime Minister Li Keqiang gives a final speech.

Being part of Chinese strategy in the development of the Economic Silk Belt corridor, it is paired with the diplomatic activity and the high end meetings addressed to Mediterranean countries<sup>14</sup> (Greece and Italy in particular) which is part of the strategy for the development of the Maritime Silk Belt, with a special focus on agriculture and maritime cooperation.

Nonetheless, other countries that are not comprised in these two regional blocs are not excluded a-priori. They are taken into consideration depending on the advantages they can secure in OBOR development process and in all the activities related to its implementation. United Kingdom, for instance, is a key partner for China for the internationalization of the Renmimbi (RMB), thus giving Chinese national currency more weight as an international mean of payment (and, consequently, a reserve of value<sup>15</sup>).

British enterprises are also warmly welcomed by Chinese authorities in developing their own investment programs in China's heartland, as the British Government, through the Foreign and Commonwealth Office and the China-Britain Business Council already set up a strong cooperation and pro-active initiative, assisting those economic sectors interested in OBOR.

Greece is also another strategic partner for China for the implementation of the Maritime Silk Belt. Its importance became manifest with COSCO's acquisition of the Piraeus Port Terminal<sup>16</sup>, which became a vital logistic HUB for Chinese exporting capacity in the Western Hemisphere. Nonetheless, the Piraeus case is instructive for the case of the control and modelling of Global Value Chains, which are strictly related to logistics control and leadership. Through the Piraeus, China started to cross-dock HP

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<sup>14</sup> Ekman A., 'La Chine en mediterranee: un nouvel activisme', Ifri, *Politique étrangère*, 81:4, December 2016

<sup>15</sup> On October 1st 2016, the Renmimbi has been included in the IMF's Special Drawing Rights basket. If, on the one hand, this would require a greater degree of transparency by the Chinese financial institutions regarding chinese banking sector statistics, it nonetheless will be a great booster for the internationalization of the RMB within a free currency exchange scheme.

<sup>16</sup> Lin C., 'China Drops Anchor in Mediterranean Ports', MERICS Blog, 25 May 2016. See also Van der Putten F-P., 'Greece: Piraeus and the Maritime Silk Road', in Frans-Paul van der Putten (ed.), *The Geopolitical Relevance of Piraeus and China's New Silk Road for Southeast Europe and Turkey*, Clingendael Report, December 2016

components, produced in China's heartland by Foxconn, towards Czech Republic, where HP has assembly plants. HP components are, thus, produced in China by a Chinese firm and exported to assembly plants in Europe through a logistic infrastructure firmly led by Chinese companies<sup>17</sup> and also to elude the rigid European rules.

One more important part of the Chinese public diplomacy activity is the inclusive approach towards those European countries that still exert their economic and financial influence in non-european regions, such as the Francophone Africa, Latin America and South Asian countries. In all these areas, European presence is still manifest mainly through ongoing investments in infrastructural projects which, especially with regard to Subsaharan Africa, are taking place in the framework of the External European Investment Plan (an extension of the European Fund for Strategic Investments).

#### *5.- European Union's perception and strategy about OBOR*

On June 2016, the European Commission and the European External Action Service (EEAS) published a joint communication titled Elements for a New European Union Strategy on China<sup>18</sup>. The rationale for this document was to urge China to maintain cooperation and transparency on the OBOR initiative within a framework of rule-based governance and regional cooperation.

Besides this apparently pro-active attitude, European Union is still far from taking on the initiative seriously. Years after the 2008 economic crisis, average growth rates in Europe are at 1,4%, far from 2001 yearly 2%. OBOR represents a major opportunity for Europe to swing up on the train of economic recovery, given the great potential the New Silk Belt constitutes for the Euro Area as well as for the European Union at whole. To the date, we assist to a partial involvement of the European Union, mainly through the Connectivity Platform proposed by the European Commission. The Connectivity Platform is intended as an instrument to exchange information and coordinate policies

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<sup>17</sup> COSCO Logistics (2013), 'COSCO Logistics Set Up Cross-Docking Center for Hewlett-Packard in Piraeus', COSCO Logistics website, [http://www.cosco-logistics.com.cn/e\\_about%20us/news.jsp?newsid=95000620](http://www.cosco-logistics.com.cn/e_about%20us/news.jsp?newsid=95000620)

<sup>18</sup> European Commission and HR/VP, *Elements for a New European Union Strategy on China*, Joint Communication to the European Parliament and the Council (22 June 2016), available online at: [http://eeas.europa.eu/archives/docs/china/docs/joint\\_communication\\_to\\_the\\_european\\_parliament\\_and\\_the\\_council\\_-\\_elements\\_for\\_a\\_new\\_eu\\_strategy\\_on\\_china.pdf](http://eeas.europa.eu/archives/docs/china/docs/joint_communication_to_the_european_parliament_and_the_council_-_elements_for_a_new_eu_strategy_on_china.pdf)

with Chinese Government on all those issues involving infrastructure financing in the field of connectivity between China and Europe.

The platform, co-chaired by the European Commissioner for transports Violeta Bulc and the National Development and Reform Commission (NDRC) chairman Xu Shaoshi. It was agreed during the High-Level Economic and Trade Dialogue (September 2015) and it is focused mainly on transport infrastructure projects, and more broadly on logistics. From the European point of view, the platform is a necessary vehicle to avoid duplications of existing forums, like the European Union-China 2020 Strategic Agenda for Cooperation, the European Union-China Transport Dialogue, the European Union-China Green Lane project, and is focused on a full set of interrelated issues, among which:

- To facilitate cooperation on transport infrastructure projects' financing in Europe by Chinese institutional investors, and to coordinate respective institutional policies on this ground;
- To ensure reciprocity in investments for European investors in China and to regulate Chinese investments in Europe's heartland in transport infrastructure;
- To catch up all the opportunities represented by Chinese capital flow into EFSI related projects, keeping them under European Union vigilance;
- To monitor, supervise and expand the area of application of European Union's internal market rules, environmental and social protection regulation within OBOR country, especially in Eastern Europe and neighborhood.

The Platform has so far allowed both parties for a transparent exchange of ideas and for a modest policy coordination activity. Nonetheless, an opportunity of strengthening cooperation was missed at the 18th European Union-China summit, in July 2016, where no joint communiqué was released on OBOR. This is due, mainly, to the free-hand approach by Chinese government, who avoids to be entangled in binding procurements about infrastructure financing when public investments are at stake.

This approach is reflected in Chinese government's attitude towards European Institutions. If, on the one hand, China joined the Connectivity Platform, thus accepting an institutional confrontation, on the other it keeps preferring a bilateral approach based on vis-à-vis negotiations with single European National Governments.

From China perspective, the European Union Institutions are perceived as a blocking actor that prevents Chinese institutions to play freely on the ground of OBOR development across Europe. If negotiated at the European Union-Level, the expansion of the Economic Silk Belt would be subjected to the respect of all the European procurements concerning investment finance, internal market rules and, eventually, social protection regulations. China's strategy, conversely, is aimed at realizing the Economic Silk Belt on a piece-by-piece basis, directly negotiating infrastructure investments and economic joint ventures.

As suggested in the second Report on Europe and China's New Silk Roads by the European Think-tank Network on China<sup>19</sup>, the solution might be a negotiation scheme taken on a project-by-project basis, instead of an all-in-one comprehensive buy-in into the EFSI instrument.

Good progresses in this sense have been made with the May 2016 agreement between European Investment Bank and Asian Infrastructure Investment Bank. The two are regional development banks, whose mission is to strenghten cooperation and development intitiative among their respective members.

The core of the agreement was the strengthening of cooperation between the two financial institutions about streamlines financing operation of regional and trans-regional infrastructure projects. The agreement is of the utter importance, considering the role Chinese government attaches to Asian Infrastructure Investment Bank (AIIB) in the development of the Economic Silk Belt and the attitude showed by many European Union Member States in gaining individual membership in AIIB (France, Germany and Italy, in particular). Given that AIIB is the main instrument for Chinese leadership to direct investements in infrastructure projects, the European Commission became aware of the danger deriving from an uncoordinated acces to its membership by several European Union countries.

At least formally, Asian Infrastructure Investment Bank is a multilateral international financial institution whose mission is to promote development and regional cooperation in Asia among its members. As a multilateral institutions, with voting rights for its funding members, AIIB is formally lacking any political guidance by Chinese

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<sup>19</sup> First ETNC report, *Mapping Europe-China Relations: A Bottom-Up Approach*, 2015, available [online](#)  
Second ETNC report, *China's New Silk Roads and China-Europe Relations*, 2016, available [online](#)

political institutions and its free to set its own investment agenda, with no clear procurements on OBOR. Actually, like the European Investment Bank in the funding of EFSI and of the European External Investment Plan, AIIB is likely to set its investments agenda in a way consistent with the Asian Interest, which is growingly tied to the Chinese capacity to represent an alternative leadership to the unsecure United States political global guidance. Moreover, China is the major contributor of AIIB and shows a clear political willingness to tie its mission to OBOR implementation.

The European Commission, through its DG Ecfm, set up 6 clauses to regulate the accession negotiations of the fourteen European countries interested in becoming funding members of AIIB. These six objectives concerned standards and good practices to be followed within AIIB, to assure safeguards and transparency, as well to ensure cooperation with other International Organization, thus setting a more difficult background for China to act in a free-hand style.

*6.- Some considerations about the legal implications of OBOR: i) development of African Countries and the impact on migration*

As we have seen, the One Belt One Road initiative is a declared foreign policy strategy pursued by the Chinese Government to achieve two different sets of results. The first is to close China's internal development gap between coastal and inland regions through the creation of a widely interconnected national logistic and industrial infrastructure which will serve as the national standpoint for China's projection abroad: this an aspect with great political impact but with a mere "internal" legal answer.

The second aspect of OBOR is its international and global scope allowing China to promote its industrial and financial power across the world and to develop new models of regional and inter-regional integration and economic cooperation: of course this is an aspect strongly linked, from a juridical point of view, to the "mediation" and co-existence of different legal systems and different rules and politics.

While the process is, until now, likely to imply great difficulties due to the large amount of infrastructure needed and the consequent needs of financial flow to support their realization there are also more undervalued legal problems, such as the apparent substantial incompatibility between different legal (and political) systems among the Countries interested by the initiative: 65 different legal systems with some of them (and



possibly the most “influential”) obliged to follow the E.U. common rules give us the real dimension of the problem.

Notwithstanding its geographical indeterminacy, OBOR is yet a reality in terms of political cooperation between European Union members (and United Kingdom) and China’s Government and may be a great laboratory for “common” new laws and, perhaps, a new exemplum of “*lex mercatoria* 2.0” if essentially based on the ground of a harmonisation by “competition” of different rules and systems and not on the “uniformation” by the imposition of a predominant model.

The potential of OBOR is outstanding, and an appropriate implementation could bring benefits to all the Countries comprised in its route, even in terms of Sustainable Development and possibly to develop new rules on “green economy” and, of course, on job and protection of workers, on new markets needs and so on.

From this point of view, we also believe that the possibility, underlying the actual success of the project, of the enormous chances of development of the countries involved with the consequence, particularly with regard to the countries of sub-Saharan Africa, of the development and growth of new markets with a significant increase in per capita wealth which, if accompanied by the development of steady and consolidated legal rules, could significantly influence positively the phenomenon of migration for economic needs.

As to this latter aspect according to EuroStat (REF: [http://ec.europa.eu/eurostat/statistics-explained/index.php/Migration\\_and\\_migrant\\_population\\_statistics](http://ec.europa.eu/eurostat/statistics-explained/index.php/Migration_and_migrant_population_statistics)) a total of 4.7 million people immigrated to one of the European Union-28 Member States during 2015. Among these 4.7 million immigrants during 2015, there were an estimated 2.4 million citizens of non-member countries. Germany reported the largest total number of immigrants (1543.8 thousand) in 2015, followed by the United Kingdom (631.5 thousand), France (363.9 thousand), Spain (342.1 thousand) and Italy (280.1 thousand). Regarding the gender distribution of immigrants to the European Union Member States in 2015, there were slightly more men than women (56 % compared with 44 %). Finally, immigrants into European Union Member States in 2015 were, on average, much younger than the total population already resident in their country of destination. On 1st January 2016, the median age of the total population of the European Union-28

was 42.6 years. By contrast, the median age of immigrants to European Union-28 in 2015 was 27.5 years. Going beyond raw numbers and crude statistics, it is a fact that thousands of Africans put their lives at risk as they go on a boat journey in search of what they think would be a better and easier living. It is a journey that begins with hope, but often ends in despair.

Most of them depart from Libya late at night, traveling across the Mediterranean Sea in broad streams with Italy as their central destination. Last year, more than 170,000 migrants arrived there, representing the largest influx of people into one country in European Union history. This poses an even more troubling conundrum: the influx is almost impossible to stem. It originates in dozens of countries, and moves via shifting networks of people-smugglers. Most of those who make it to Europe will eventually be judged economic migrants, not refugees. But Libya, without a effective government since 2011, is so lawless that they cannot be sent back there. Nor is it always possible to send them home, as their governments often refuse to accept them. Most end up staying in Europe despite being denied asylum.

Those interviewed on the route to Libya recently suggest that the prospect of benefits or government hand-outs in Europe comes low on their list of motives. Instead, they're driven by the absence of any economic or professional prospects at home.

Increased economic investment in their countries of origin would have to be part of any well-rounded response to the migration crisis.

We believe it is time for European Union countries to focus energies on job creation in Africa, which we know is so fundamental to peace, security and unity. However, young people who desire to start a business face several tough challenges. Perhaps the most commonly cited is the lack of adequate funding schemes for young would-be entrepreneurs. Other determinants of entrepreneurship include the degree of risk-aversion, the regulatory and policy environment, and the accessibility of potential markets (e.g. urban markets for rural entrepreneurs). Unfortunately, supporting programs usually created by governments are less common in sub-Saharan Africa, due to a combination of limited resources and lack of institutional capacity. The existing programs are sometimes based on ad-hoc interventions by NGOs or specific government initiatives.

On August 28, 2017, leaders of France, Germany, Italy and Spain agreed to help Chad and Niger with border control to stem Europe migration. The European leaders agreed that such measures are only preliminary, and that - as Spanish Prime Minister Mariano Rahoy said - it is necessary to take steps in the right direction, also generating growth in the countries of origin.

At present, the only available consulting services physically placed in United States or E.U. offer, in the vast majority of cases, pre-packed solutions in a “One fit All” perspective. In other words there are no services that take into account the enormous diversity across different African countries, including peculiar legal constraints, economical limits or striking social differences.

China was able to penetrate strongly in some African Countries consolidating its commercial and economic (or financial) influence but also cleverly expanding its political influence with its strong support to local development of infrastructures and industrial plants, also with unscrupulous imposition of more “favourable” legal rules and models. More African Countries are now under pressure notwithstanding they are historically and economically or politically connected with European Countries. As consequence the OBOR project may be decisive for future improvement and development of new forms of cooperation and assistance, not only economic but also legal.

The OBOR project indeed may contribute to the economic and social growth in the Countries from where economic migrants arrive in Europe by providing a specific and targeted instrument to encourage the setting up of new business activities in their own country, increasing the political stability and the growing of the economy also with the “suggestion” and development of new legal rules, reducing therefore the incentives to migrate to Europe.

#### *7. - Continued: ii) The B2B approach and the limits of the European legal contest*

As we said the main driver for OBOR, in China’s vision, is “connectivity”. This is the main strategy and opportunity to implement OBOR, in order to bring Chinese influence outside the Asian continent, in a wide variety of sectors but is not separated from the needs of development of new legal rules: of course this is an understimed question in China were the “sensation” is that with the economic pressure and a self-

evident “convenience” for the Countries involved it will be easy to overcome the obstacle of the different legal approach of each different legal system. As the system dynamics approach explains us it is not only a “simple” question of economic efficiency but of better quality of life<sup>20</sup>.

For instance beside the shipping and export sector, where China is the global leading actor, OBOR project has the potential to affect a wide variety of activities, stemming from TLC's to Energetic Infrastructural and Commercial sector, not to mention its potential in modeling and changing the Global Value Chains structure: this necessarily will have a strong impact not only on the international rules but also on the rules of each legal system involved, we mean also on “private law”.

Thus to avoid this risk of “misunderstanding” in the development of the OBOR China is running a strong diplomatic activity addressed to the Sub-saharian countries and to Mediterranean countries (Greece and Italy in particular) with a special focus on agriculture and industrial cooperation: the recent acquisition of Pireus and the issue of the decree by the Italian government establishing a "free zone" for the Trieste harbour are two good examples of the consequence of this activity.

It is also clear that the diplomatic activity of China is aimed to the bilateral agreement thought as simpler and more concrete than a “global” or general approach. It is obvious that it is more convenient to act discussing “country by country” than discussing with the international organisations or with strong entity like the European Union.

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<sup>20</sup> See: Miranda A., *The Bleeding of Legal Rules between Rights and Limits*, In *Trasformazione Rivista di Storia delle Idee*, 7:1 (2018), 176 “In any case is difficult to understand the reason for the bearing of bleeding or hybridization or transplantation or the reasons for their rejection only on the basis of the alleged economic efficiency or inefficiency of the choice.

Who goes with the lame learns to lame, so having a daily attendance with a business economist colleague of mine and with... my wife I did a kind of test: I asked both of them to tell me why our society should "welcome" a foreign culture or a foreign rule. In fact, my question was more sneaky, because I had previously asked why, according to them, American music is so successful in Italy and why, so far, no one is subject to the Islamic prohibition (but once spread among Catholics) of listening to Rock and Roll.

The answer was almost identical: we follow an alien "thing" if it is compatible with our habits but above all if we "like" it (as my wife says) or improves our quality of life (as my colleague says) present or future (the Catholic promise of paradise for the poor, the Islamic promise of virgins...).

We reject what "we don't like" or what we believe can worsen our quality of life.

In this sense, “the individual satisfaction” plays an important role in the dynamics of systems and can help explain why we continue to use the "discoloured" canvas instead of throwing it away or trying to clean it.”

United Kingdom, for instance, that is a key partner for China for the internationalization of the Renmimbi (RMB), is a “target” especially looking at the imminent leave from the European Union. Thus while British enterprises are yet warmly welcomed by Chinese authorities in developing their own investment programs in China’s heartland, the British Government, through the Foreign and Commonwealth Office and the China-Britain Business Council already set up a strong cooperation and pro-active initiative, assisting those economic sectors interested in OBOR relying on the flexibility and elasticity of common law rules in the event of new situations and cases.

Of course this Chinese activity towards those Countries such as the Francophone Africa, Latin America and South Asian countries is not always understood and "appreciated" as in all these areas, the “western legal tradition” as well as the political influence of the Countries like France or Spain is still manifest mainly through ongoing investments in infrastructural projects which, especially with regard to Subsaharan Africa, are taking place also in the framework of the External European Investment Plan (an extension of the European Fund for Strategic Investments) and accordingly with the rules of the European Union.

From China perspective, as we have said, the European Union Institutions seems to be perceived as a blocking actor that prevents Chinese institutions to play freely on the ground of OBOR development across Europe. China’s strategy, on the contrary, is aimed at accomplishing the Silk Belt road project on a piece-by-piece basis, directly negotiating infrastructural investments and economic joint ventures preferring a bilateral approach based on vis-à-vis negotiations with single European National Governments.

The cooperation model based on bilateral relationship between national governments and the Chinese one, implies a direct negotiation at country level, which bypasses the European Union common legal framework even though European Union institutions started to provide some initial law-based guidelines to negotiate with China, as in the case of the AIIB accession procedure. As we have seen in this case the question is under which law will be regulated the legal documents and agreements related to OBOR.

The issue is of overall importance, given that starting from the little business level to the broader sector of transport and logistic infrastructure, China seems to be willing to retain the contractual power on its side.

This is a "classic" problem of "comparative law" as "mediation tool" between different legal and political approaches. And it is also the proof that legislative interventions based on predominance or imposition of a model can still be "legal irritants". Indeed while admitting that there may be a "pacific coexistence" of parallel systems, we strongly doubt that in this case too, at the end of the day, there is not a minimal degree of bleeding or a deviation from the original purity of the each regulatory pattern with the risk of its "irritation" or negative reaction. When we try to understand why a legal transplant is a success, jurists draw the concept of efficiency from the economic analysis: the winning rule is that, by allowing the reduction of transaction costs, it is the most efficient and convenient in the economic sense. We are not economist but it does not seem to us that this type of analysis can be applied to all situations, especially when, as in these cases, interests have been involved other than purely economic ones. If it were so easy.... in theory there should be no dispute.

Anyway it is difficult to understand the reason for the bearing of bleeding or hybridization or transplantation or the reasons for their rejection only on the basis of the alleged economic efficiency or inefficiency of the choice: in the OBOR case certainly there is a substantial economic interest but, again, it is impossible to sacrifice the general principles or values of a legal system when the consequence of the economic development are so strongly connected with the development of the society.

The point is that even if involved in "bilateral agreements" the European Union member countries are however tied to a communitarian binding legal framework if not a proper respect of the general values protected in each European legal system.

Finance agreements, banking sector coordination, intellectual property rights, commercial agreements, workers protection, individual rights protection, social regulations and so on are all fields that have to be further investigated in the perspective of the deepening of economic and political cooperation around the New Economic Silk Belt because there is a "common legal framework" to be respected by the European Union Countries.

An immediate example, which could give an idea of the importance of the argument, is in the context of the foreign expansion of Chinese corporations; the Chinese companies prefer to export Chinese workforce in the destination country, due to the high cost of labour abroad, especially in western states and the European Union. Anyway, these companies must (or, at least, they should) cope with local regulations about minimum wage, union law and foreign labour, which make investment projects unsecure and sticky.

One more field of interest is the environmental regulation, which is becoming more and more stringent in nearly every country in the world. As notably known, Chinese companies and enterprises, at home, does not pay much attention to environment protection related issues, but they should do once they go abroad, as the case of the Myitson Dam in Myanmar testifies<sup>21</sup>. Not to take in consideration environmental regulations means, first of all, infringing the general spirit of U.N. Sustainable Development Goals, which have been taken as the hardground for the next decades' developmental strategies, being them nationals or global. Secondly, it could mean vanifying all the efforts made (and, still, all those that are being carried out) by western governments, to catch up with the opportunities given by the OBOR initiative. That is, the blocking power of the 'green' lobbies of civil pressure groups.

*8.- Continued: iii) The role of comparative law as mediator between different policies and legal systems*

Until now there is no clue within academic literature of studies on the legal aspect of the impact of the OBOR project on the single countries involved even if in order to ease the success, generally speaking, of OBOR, it is essential to verify if and to what extent is necessary to layout a new international legal structural framework will deal with 65 different national (constitutional) legal orders, each one with its own legal provisions in terms of financial, economic and social regulation; and again, if and once

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<sup>21</sup> The State Power Investment Corporation initiated this mega project in Myanmar in 2011. Shortly after the start, the project was stopped due to environmental regulations infringements and environmental lobbies' opposition. In the words of these groups, the project was not only environmentally catastrophic, but also even useless for the local communities. The project was then abandoned, meaning a considerable loss in capital value for SPIC.

China manages to set its standards on the international level, how these new international standards will affect national and supranational legal orders.

This is not only a European Union perspective but is a "global" law question.

By and large, the legal issues that seem to arise from OBOR could be defined into main sets of macro-aspects:

a) Expansion of Public and Private Partnership (PPP) in Eurasia. Of course this means alongside the commercial development in the area the growing of tools letting the Chinese Public Companies to make investments and commercial agreements in Countries with different legal approaches. The "Joint venture" or the "partnership" may be a good answer even if some open questions still remain. For instance it is unclear what are the current developments on bilateral investment treaties (BITs) and Preferential Trade Agreements (PTAs) investment chapters between China and countries situated along OBOR routes. Or it is difficult to establish what is the role of the protection of state-owned enterprise as well as sovereign wealth funds in such negotiations or what is the current state of market access and the ground of liberalisations for foreign investment in transportation infrastructure along the OBOR routes. It is also really difficult to foreseen if Chinese investors will adapt or comply with local conditions of terms of corporate governance, labour standards, environmental protection and generally in terms sustainability.

Some Authors who have summarized the main legal problems as follows, have recently thoroughly and effectively described the intricacy of the situation<sup>22</sup>: i) There are current problems of trade facilitation and reduction of non-tariff-barriers to trade along the OBOR routes, such as 1) reduction of custom clearance procedures, 2) prospects for the liberalisation of the provision of land-transportation-services within EEA, between Russia/EEA and the EU, or between Russia/EEA and China. 3) taxation of transportation services along OBOR routes.

ii) How can the new transit regime be harmonized with any bilateral and sub regional agreements that might exist along the OBOR routes? What are the current issues in the *lex mercatoria* used along the OBOR routes, particularly in railway truck and multimodal transportation, such as 1) the choice of law and forum, 2) choice of

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<sup>22</sup> Górski J., Chaisse J., Chi M., Manzoor H., Cheng T., *One Belt One Road Initiative ("OBOR")*, *Transnational Dispute Management (TDM)* [2017] 14(3)



instruments securing the repayment of trade credit (bank guarantees, letters of credit, any other), 3) insurance of transport across several countries?

iii) There are obstacles to dispute settlement along OBOR routes, including 1) intergovernmental dimension, for example long-lasting Russia's disputes with Central European Countries over truck permits), and 2) international private law dimension, i.e. the recognition and enforcement of foreign courts decisions and arbitration awards.

iv) it is open to establish what public or private dispute resolution systems will form part of the trade and investment transactions encouraged by OBOR or if OBOR itself develop any new dispute resolution schemes or if OBOR-related transactions rely on existing mechanisms for dispute resolution.

b) Contract models for implementing OBOR. Provided that OBOR is not a single project but involves a multiplicity of projects of different types, a new **collaborative** contracting model will be needed to settle an effective and shared interface for managing project to project relations. Moreover, projects may be funded in one currency, built in another and operated in yet more currencies across different parts of the project, with revenues also being generated in yet more. Currency risk hedging arrangements are common but also complex. They are notoriously fertile ground for dispute and will require careful structuring.

One more point is the choice of law and dispute resolution: OBOR projects will be truly international, involving participants from many countries. Deciding which law will govern a project will be critical, not least to ensure the fundability of the venture. Both commercial and political influences may well be at stake and issues such as certainty of law and the speed/effectiveness of enforcement procedures will be important considerations. Similarly, should disputes arise, the best forum in which to resolve them is one that is familiar with OBOR. A number of jurisdictions are already seeking to establish themselves as the OBOR dispute resolution.

c) Special Courts, Judicial cooperation and enforcement issues. It is already in the agenda of the Chinese Supreme People Court the sensitive point of the enforcement of foreign court judgements (in terms of a negotiation on the Hague Convention on the Recognition & Enforcement of Foreign Judgements and of the ratification of the Hague Convention on the Choice of Courts Agreements). This matter is going to become crucial with regards to the OBOR disputes, including cases between Chinese

contractors and their demand guarantee issuing banks, as well as cases involving Chinese and parties located in OBOR countries.

In addition to this, some financial medias reported that China was setting up courts that would handle disputes relating to the OBOR area. These Courts would operate out of Beijing, precisely in Xian (Xian court would handle the land route across Central Asia) and in Shenzhen that would manage Southeast Asia and Africa. Moreover, It is under discussion the settlement of an international commercial court, following the model of Singapore, Dubai or London.

d) Education. It is time of a new paradigm in legal education that should be able to tackle with new global commercial and legal trends.

Accordingly it is impossible to think that a new "lex mercatoria" along the Silk Road may arise from single (even if common) commercial and financial agreements and from commercial and financial customs literally ignoring the international and national peculiarity of each legal system and the different approach and respect of the "Rule of Law". Indeed even if the "financial approach" is undoubtedly important and interesting we cannot forget that in European Union and generally in the Western Legal Tradition area the Public Opinion counts and the respect of the Rule of Law is a common characteristic both in common law and civil law systems.

Ignoring this, thinking that is enough to control the economy growth with "peaceful investment strategy" with a formal respect of the "apparent" legal norms i.e. thinking that a contract is the same under the sky of Berlin or under the sky of Tonkin, is a common mistake but is always a mistake.

History, tradition, public opinion, legal rules and their interpretation and judicial reconstruction, economy, society, may be extremely different but always determinant for the comprehension of a legal system and the building up of new synergistic rules.

Let please us say again that as sociologist wrote, interaction is not integration and (in our opinion) harmonisation is more "efficient" and reliable than unification. We believe that, in a win-win strategy, the "natural" solution to the "legal" problems of the OBOR project may be pacifically overpassed only leaving the different rules and system "competing" each other so that thanks to the "interaction" a new "best model for a better way of life" will emerge.

And again this is a job for a comparatist not a job for a simple legal “consiglieri” or for an expert manager economist or even for a compliance advisor (be aware of “cosmetic compliance” ... as in the Volkswagen “dieselgate” case) of course even if legal compliance is an important aspect. The “respect” of the rules and the risk that a blind and narrow submission to statutory rules (sectorial and too much self-confident) may create more troubles than the ones it would eradicate should always be kept in mind when facing the legal questions of the OBOR.

The “compliance” today is one of the most complex aspects of law, so much so that it can be sometimes out of control.

But compliance is also a global phenomenon: the most part of Countries have some rules on compliance and some book of good intentions is almost on going. These mean that Compliance will be one of the critical points of OBOR project.

Legal compliance is the process to guarantee that an organisation follows the laws, regulations, standards and business rules. The definition of legal compliance includes understanding and adhering to ethical codes within entire professions or activities so that it is almost impossible to act or work without the risk of making something wrong or “un-correct”.

To be compliant with the law the “complier” should manage its policies so that those will be: i) consistent with the law, and ii) complete with respect to the law. The role of legal compliance has also been expanded to include self-monitoring the non-governed behaviour with industries and corporations that could lead to workplace indiscretions: “It is important to keep in mind that if a strong legal governance component is in place, risk can be accurately assessed and the monitoring of legal compliance be carried out efficiently”<sup>23</sup>.

In brief we can say compliance has two meanings: 1) the everyday round to comply with a set of rules and 2) the procedures adopted to prove that an organisation is compliant with a set of rules when the failure in adopting these protocols is blameworthy. The point is that looking for the rules on compliance and their reconstruction it seems that they progressively have been shifting to the meaning of a generic but strict compliance to the rules.

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<sup>23</sup> World Heritage Encyclopedia, Legal Governance, Risk Management, and Compliance,; see also, G. P. Miller, *The Law of Governance, Risk Management and Compliance* (Aspen Casebook), Aspen publisher, 2014.

But this is the risk inside the OBOR project too: observing the Chinese approach it seems that they are not fully aware of the risk to clash with compliance rules that are so severe in the legal system of the principal actors of the project. We mean<sup>24</sup>, for instance, of the English "Bribery Act 2010" (a good example for the "general and speculative" civil law systems too)<sup>25</sup>.

One more point is "symbolic" of the risks inherent in the OBOR project, i.e. the "Country risk". Country risk<sup>26</sup> is very important and the most of times underestimated by small business: we think, for instance, about the actual situation in Sicily where a certain number of small firms thought to "delocalize" part of their activities in Northern African Countries just before the blowing of the "Arab Spring" or the fall of the Libyan regime. Usually the entrepreneur thinks that all is simple and a personal knowledge of a "friend" is the right key to start an activity... saving money for the consultant and the lawyer. In reality operating on external markets (but sometimes also operating in the internal market) should be aware at least of the perceived high levels of corruption, an absence of effectively implemented anti-bribery legislation, a failure of the foreign government, media, local business community and civil society effectively to promote transparent procurement and investment policies and ... (in a certain society) a somewhat diffused idea that complying the law may be useless and/or non convenient.

In our opinion this is a job for "Super-comparatist man" i.e. who can manage the differences through a holistic approach being aware of the evolution of legal systems and of the problems of legal transplant but also of the reality of the local or national situation. We mean that even if the mere "financial or economic approach" is important we cannot forget or sacrifice the respect of social rights, the respect and protection of environment, the wellness of the society, the workers' rights, the gender equality, the respect of human rights, etc.

Social costs for a western society (but maybe also for China) are really high more than the possible "immediate" financial or economic advantage we can obtain from a

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<sup>24</sup> See: Miranda A., *The Limits of the Law and The Future of Compliance*, In: Plywaczewski Emil W. (ed.), *Current problems of the penal law and criminology*., Warszawa:Wydawnictwo C.H. Beck university of Białystok,

<sup>25</sup> [http://www.legislation.gov.uk/ukpga/2010/23/pdfs/ukpga\\_20100023\\_en.pdf](http://www.legislation.gov.uk/ukpga/2010/23/pdfs/ukpga_20100023_en.pdf)

<sup>26</sup> For a complete analysis of those topics and a complete explanation of the Bribery Act see: S. H. Deming, *Anti-Bribery Laws in Common Law Jurisdictions*, Oxford Univ. Press, 2014

passive participation to the Obor project. Only a interdisciplinary approach to the problems and the different legal systems involved may be helpful to avoid those risks.

This is a point that should be known and understood by the Chinese part as by our Governments. As we say: it takes two to tango ... and without reciprocal respect and without the effective reciprocal knowledge of the different legal (and socio- political) systems involved it is very high the risk of a failure.

### *9. Conclusions*

So far, One Belt One Road initiative is a tentative effort taken by the Chinese government to plan a global grand strategy to foster China's economic and political influence across the world. As we previously laid out, it is still more a 'manifesto' lacking a structured political approach, made of various actions jointly undertaken by Chinese political, economical and financial institution and stakeholders.

In other words, OBOR is still not underpinned by any official national strategic position paper or a political 'declaration of intents' (unlike the U.S. National Security Strategy policies and papers). Anyway, the various actions taken by Chinese companies and Institutions across the world, in order to strengthen political and economic ties under the connectivity 'motto', are producing heavy transformations, both at the institutional and legal level.

What we aimed at with this paper is to highlight the important and undervalued aspects brought forth by a growing Chinese influence on the international stage.

While the EU seems to be indolent compared to the challenges posed by the Economic Silk Belt implementation, EU's member States show a more proactive approach to the issue and does not indulge in bringing on bilateral negotiations with Chinese officials, a point that, in principle, is clearly in contrast with the spirit of the Treaties and the call for a joint implementation of a Common External Action.

The point is even more surprising given that this behaviour comes from Countries that are binded to a common legal framework and are exploiting all the advantages brought from being economically, politically and juridically integrated, to foster their own national economic interests.

Notwithstanding the 'explorative' approach of this paper, it is nonetheless possible to draw some important (and transient) conclusions.

The first one relates to the political effects produced by OBOR implementation.

Even though it lacks a structured centralized direction, OBOR's gradual implementation is producing some important effects on the way States relate to each other, as well as private stakeholders (like the banking sector) are recasting their strategies to cope with a changing international environment. Undoubtedly, OBOR is bringing to a new life some forgotten areas of the planet. Chinese activism in re-building a transport and docking facility network in countries like Afghanistan and Pakistan, as well as in the whole central Asia region, will have a great impact on the future external relations of the EU. The point in question is whether or not EU will be able to gather the challenge and to implement proper integration policies to cope with the challenges posed by an international environment which is being driven more and more by the logic of connectivity, instead by the one of national interests and balance of power. In order to achieve such a result, the lesson to be learned is the one that we are moving from a 'Westphalian international order' (or post-Westphalian, depending on the personal view) to a functional one. The State, in its legal sense, is not disappearing. It is disappearing relating to its 'national' dimension. Today, in order to be considered successful, a State must be able not to preserve the integrity of the national community that lives within its formal boundaries, but to assure an adequate degree of connectivity with the rest of the world.

This consideration brings us to the second main conclusion.

If we are moving from a national to a functional State framework, what are the consequences in terms of respect of Rule of Law and national juridical systems? There will be a "complying answer" by Chinese (public and private) enterprises or they will impose their own rules, pushing their hand even on the legal systems less able to flexibly adapt their own rules to new situations? Will the "western Legal Tradition Countries" be so able to interact with the OBOR project without renouncing to the respect of their general principles and legal values, but using a concrete flexibility to accept and solve the new needs of the international market?

As we previously set out, the most likely output would be the rise of what we call a 'Lex Mercatoria 2.0' following the natural competition between different legal rules and systems that, thanks to their interaction, should lead to a harmonisation of rules (and not to the imposed uniformation to "alien" and irritant rules).

Given that the main core of the trans-national Lex Mercatoria originated from the legal order of the middle ages' most powerful commercial powers, the maritime republics of Genoa and Venice, we may easily conclude that the future international legal order will be pacifically shaped only if according to the standards of the new emerging Chinese economic power but with the interaction with the Western Legal Tradition systems and fundamental values.

According to the chaos theory: the flap of a butterfly's wings in China set off a tornado in Europe (UK included).