

The Essence of the Belt and Road initiative and Regional Cooperation in the South China Sea

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Abstract: The Belt and Road initiative has been widely supported by the international community since it was put forward in Sept.-Oct. 2013 due to its conformity with the development trend of the international community and the strategic needs of the countries along the route. It is a new mode and system of regional cooperation. The expansion and deepening of the contents and principles of the Belt and Road, the documents issued by the Chinese government and the explanations made by Chinese leaders on important international occasions, as well as the platforms set up by the Chinese government (Asian Infrastructure Investment Bank, the Silk Road Fund, Belt and Road Forum for International Cooperation and China International Import Expo, etc.) have promoted the process and effect of the Belt and Road initiative. However, it is an the initiative led by Chinese leaders and the subjects participating in it (state-owned enterprises and private enterprises) are very active, so there are some shortcomings such as lack of evaluation, hasty investment, environmental influence and imbalance of interests in the early projects of infrastructure, investment and trade, etc., which negatively affect the initiative to

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some extent. That is to say, the Belt and Road initiative focusing on regional economic cooperation has changed the strategic framework of the region involved in Belt and Road initiative, showing security tension and resulting in development trend and behaviors containing China. Therefore, it is essential that the Belt and Road initiative will have a positive development in the future so as to change other countries' prejudices and positions and make them participate in the construction progress of Belt and Road. However, it is undeniable that the South China Sea issue related to the maritime silk road of the Belt and Road initiative is an important factor affecting the regional cooperation in the South China Sea and needs to be handled with efforts and care in order to promote the progress of Maritime Silk Road. Because the South China Sea region is a key area in the Maritime Silk Road initiative, it is particularly important to strengthen the internal and external cooperation in the South China Sea.

Keywords: the Essence of the Belt and Road initiative; the Role of China; Regional cooperation in the South China Sea; the Code of Conduct in the South China Sea

Introduction

The Belt and Road initiative is not only an important part of China's strategy for peaceful development, but also a new highlight and achievement of the great-power diplomacy with Chinese characteristics, thus it has become the focus of attention of the international community and a hot research topic of scholars. Therefore, it is of theoretical value and practical significance to analyze the essence of the Belt and Road initiative.

I. The Worldwide Significance of Belt and Road initiative and China's Contribution

1. The background of put forwarding the Belt and Road initiative. Under the international background that the world economy was in depression, the global pattern was changing and adjusting, the global governance mechanism was weak, and the international issues were complicated, difficult and hard to control, China proposed the Belt and Road initiative in a timely manner in order to give full play to China's multiple identities and roles, on basis of the achievements and experiences gained since China's reform and opening up. That is, Chinese President Xi Jinping put forward the initiative of Jointly Building the Silk Road Economic Belt and 21st Century Maritime Silk Road (hereinafter referred to as Belt and Road initiative) when he visited Kazakhstan and Indonesia in September 2013 and October 2013. For example, President Xi Jinping pointed out in an important address entitled "Towards a Closer ASEAN-China Community of Shared Future" in the Indonesian Parliament that Southeast Asia has been an important hub of the "Maritime Silk Road" since ancient times, and China is willing to strengthen maritime cooperation with ASEAN countries to make good use of the China-ASEAN Maritime Cooperation Fund established by the Chinese Government and develop a good maritime partnership and build the 21st Century Marine Silk Road together.⁽¹⁾

2. The subsequent remarks and actions on the Belt and Road initiative and their worldwide impact. After the Belt and Road initiative was put forward, President Xi Jinping made an Address named Connectivity Spearheads Development and Partnership Enables Cooperation at Dialogue on Strengthening Connectivity Partnership on November 8, 2014. The contents and specific suggestions of such

(1) See http://www.china.com.cn/news/world/2013-10/04/content_30202173.htm, visited on Oct. 14, 2013.

address further clarify the significance of connectivity as one of the basic contents of Belt and Road and deepen countries' understanding and recognition. In this address, President Xi Jinping pointed out that the Belt and Road and Connectivity are coordinative and complementary and put forward five suggestions on deepening pragmatic cooperation, producing certain worldwide impact. Firstly, we should focus on Asian countries and take the lead in realizing Asian Connectivity. Secondly, we should build the basic framework of Asian Connectivity with the support of the economic corridors. Thirdly, we should make breakthroughs in transportation infrastructure to realize an early harvest of Asian Connectivity. Fourthly, we should break the bottleneck of Asian Connectivity by building financing platforms. Fifthly, we should strengthen the social foundation for Asian Connectivity by promoting personal and cultural exchange. The purpose and prospect of such cooperation are to optimize regional cooperation in Asia and work together to build a community of common development and shared destiny through deepening connectivity partnership.⁽²⁾

The aforesaid contents and objectives are particularly confirmed and expanded by important domestic documents of China which enable the international community to further get knowledge of and understand aims, cooperation areas, paths, achievements and other connotations of the Belt and Road initiative, for example, the Vision and Actions on Jointly Building Silk Road Economic Belt and 21st Century Maritime Silk Road issued by the National Development and Reform Commission, Ministry of Foreign Affairs, and Ministry of Commerce of the People's Republic of China, with State Council authorization, on Mar. 28, 2015;⁽³⁾ Building the Belt and

(2) Xi Jinping. Connectivity Spearheads Development and Partnership Enables Cooperation (Nov. 8, 2014), Selected Compilation of Important Documents after the 18th CPC National Congress (Volume II) edited by Party Literature Research Office of the CPC Central Committee, Central Party Literature Press, 2016 Edition, pp.208-213.

Road: Concept, Practice and China's Contribution issued by Office of the Leading Group for Promoting the Belt and Road Initiative on May 10, 2017;⁽⁴⁾ and the Belt and Road Initiative Progress, Contributions and Prospects issued on Apr. 22, 2019.⁽⁵⁾ In other words, since China put forward the Belt and Road initiative, its main contents, organizational structure, specific measures and other aspects have been continuously deepened and guaranteed, which increases its international impact and produces positive effect that the international community shows more recognition and is more willing to cooperate, embodying its vitality and worldwide significance. The following two aspects are detailed manifestations.

(1) The participation and actual impact are increasing. By the end of March 2019, the Chinese government had signed 173 cooperation agreements with 125 countries and 29 international organizations. The initiative of jointly building Belt and Road and its core concepts have been written into documents from the United Nations, G20, APEC and other international and regional organizations. That means that the Belt and Road initiative has been developed from a concept to actions and from vision to reality, achieving abundant fruits and producing great impact and attraction.

(2) Great cooperative progresses have been achieved in specific fields. According to a report named the Belt and Road Initiative Progress, Contributions and Prospects, the cooperation achievements are mainly reflected in the following

(3) For details on Vision and Proposed Actions on Jointly Building Silk Road Economic Belt and 21st-Century Maritime Silk Road, see http://www.gov.cn/xinwen/2015-03/28/content_2839723.htm, visited on Mar. 28, 2015.

(4) See http://www.china.com.cn/news/2017-05/11/content_40789833.htm, visited on May 11, 2017.

(5) For details on Belt and Road Initiative Progress, Contributions and Prospects, see http://www.xinhuanet.com/world/2019-04/22/c_1124400071.htm, visited on Apr. 22, 2019.

aspects:

Firstly, in terms of industrial cooperation, China has signed agreements on industrial-capacity cooperation with more than 40 countries and dovetailed industrial cooperation programs with regional organizations such as the ASEAN, African Union, and CELAC. China has signed third-party market cooperation agreements with France, Italy, Spain, Japan, and Portugal.

Secondly, in terms of trade volume, the value of trade between China and other B&R countries from 2013 to 2018 surpassed US\$6 trillion, accounting for 27.4 percent of China's total trade in goods and growing faster than the country's overall foreign trade.

Thirdly, in terms of direct investment, China's direct investment in B&R countries from 2013 to 2018 surpassed US\$90 billion, realizing a turnover of US\$400 billion in foreign contracted projects in these countries.

Fourthly, in terms of financial connectivity, as of the end of 2018, the membership of AIIB had grown from the 57 founding members to 93, spread across five continents. It had approved loans of US\$7.5 billion and leveraged other investments totaling almost US\$40 billion. Its 35 approved projects are distributed over 13 countries including Indonesia, Pakistan, Tajikistan, Azerbaijan, Oman, Turkey and Egypt. In Nov. 2014, the Chinese government pledged US\$40 billion to establish a Silk Road Fund, and in May 2017, it announced an additional RMB100 billion contribution to the fund. As of the end of 2018, the contracted investment under the fund had reached about US\$11 billion, with actual investment adding up to US\$7.7 billion.

Fifthly, in terms of education and training, China has set up the Chinese Government Scholarship - Silk Road Program, signed agreements with 24 B&R countries on the mutual recognition of higher education degrees, and opened 153 Confucius Institutes and 149 Confucius Classrooms in 54 B&R countries.

Sixthly, in terms of dialogue mechanism, China and other relevant countries have established the Silk Road Think Tank Association, Silk Road Think Tank Network, and University Alliance of the Silk Road and other dialogue mechanisms from time to time. It could be concluded that fruitful results have been achieved in each field, producing profound impacts.

3. The values of Belt and Road initiative. The cooperation achievements after the introduction of Belt and Road initiative have been deepening and expanding. For example, On the Belt and Road Forum for International Cooperation featuring extensive consultation, joint efforts and shared benefits as purposes and principles held on May 14-15, 2017 in Beijing, a series of cooperation consensus, important measures and practical results were achieved and a list of major deliverables of the Belt and Road Forum for International Cooperation was reached, including 76 items comprising more than 270 concrete results in five key areas, namely policy, infrastructure, trade, financial and people-to-people connectivity.⁽⁶⁾ On the Second Belt and Road Forum for International Cooperation themed Belt and Road Cooperation, Shaping a Brighter Shared Future on Apr. 25-27, 2019 in Beijing, a list of deliverables was formed, including 283 concrete results in six categories on various cooperation projects among countries, local governments and enterprises.⁽⁷⁾

Just as pointed out in the Joint Communiqué of the Leaders Roundtable of the Belt and Road Forum for International Cooperation (May 16, 2017), the Belt and Road, as an important international initiative, has achieved positive outcomes and has future potential to deliver more benefits to parties involved by providing important opportunities for countries to deepen cooperation. For this, we will uphold the spirit

(6) See List of Deliverables of the Belt and Road Forum for International Cooperation (May 16, 2017), <http://www.fmprc.gov.cn/web/zyxw/t1461873.shtml>, visited on May 16, 2017.

(7) For details on List of Deliverables of the Second Belt and Road Forum for International Cooperation, see People's Daily (Apr. 28, 2019), p.5.

of peace and cooperation, openness and inclusiveness, mutual learning and reference, equality and transparency, mutual respect to strengthen cooperation on the basis of extensive consultation, joint efforts and shared benefits and in the principles of the rule of law and equal opportunities for all. Meanwhile, we affirm the need to prioritize policy, infrastructure, trade, financial and people-to-people connectivity, and we highlight concrete actions, in accordance with our national laws and regulations and international obligations where applicable.

Obviously, its values are to provide new opportunities and impetus for international cooperation and to help to work for a globalization that is open, inclusive and beneficial to all, through joint endeavor on the Belt and Road initiative and seeking complementarities with other connectivity initiatives.⁽⁸⁾ Just as President Xi Jinping addressed in a speech at the Opening Ceremony of the Belt and Road Forum for International Cooperation, the main aim of the Belt and Road is to make use of the silk spirit (featuring peace and cooperation, openness and inclusiveness, mutual learning and mutual benefit) and take into account the reality (that is to say, we find ourselves in a world fraught with challenges which include that global growth requires new drivers, development needs to be more inclusive and balanced, and the gap between the rich and the poor needs to be narrowed; hotspots in some regions are causing instability and terrorism is rampant) to change the environment and situation of deficit in peace, development and governance. How to deal with these difficult problems is a daunting challenge to the international community.⁽⁹⁾ In this context,

(8) See <http://www.ydy1.people.con.cn/n1/2017/0516/c411837-29277121.html>, visited on May 16, 2017.

(9) Xi Jinping, Work Together to Build the Silk Road Economic Belt and the 21st Century Maritime Silk Road-Speech at the Opening Ceremony of the Belt and Road Forum for International Cooperation (May 14, 2017), See http://www.gov.cn/guowuyuan/2017-05/14/content_5193708.htm, visited on May 15, 2017.

Belt and Road initiative enjoys worldwide significance of the times.

4. China's contribution to the Belt and Road initiative. In order to practically promote the building progress of the Belt and Road and ensure the effective implementation of the Belt and Road Initiative, China has taken specific measures including the incorporation of the Asian Infrastructure Investment Bank, the establishment of Silk Road Fund and setting up corresponding organizations, for example, Office of the Leading Group for the Belt and Road Initiative is set up to expand and ensure the achievements of building the Belt and Road. One of contributions is to formulate regulations and lead directions on issues related to the initiative in many domestic government documents of China.⁽¹⁰⁾

For example, the Report on the Work of the Government (Mar. 5, 2016) states that the Asian Infrastructure Investment Bank was officially inaugurated, and the Silk Road Fund opened for business; progress was made in the Belt and Road initiative, the pace of our industrial-capacity cooperation with other countries was stepped up, and breakthroughs were made in China's export of high-speed railway and nuclear power equipment; China will work to secure solid progress in pursuing the Belt and Road initiative, promote domestic regional development and opening up and international economic cooperation in a coordinated way, work with other countries

(10) For example, the Report on the Work of the Government (Mar. 5, 2015) tells that progress has been made in pursuing the Silk Road Economic Belt and 21st Century Maritime Silk Road initiatives; preparations have been made for establishing the Asian Infrastructure Investment Bank, and the Silk Road Fund has been set up; China will move faster to strengthen infrastructure connectivity with China's neighbors, simplify customs clearance procedures, and build international logistics gateways; China will work to build the China-Pakistan Economic Corridor and the Bangladesh-China-India-Myanmar Economic Corridor. See Li Keqiang, the Report on the Work of the Government delivered at the Third Session of the 12th National People's Congress of the People's Republic of China on March 5, 2015, People's Publishing House, 2015 Edition, pp.9 and 20.

and regions to build overland economic corridors and maritime cooperation hubs, and promote connectivity, economic and trade cooperation, and personal and cultural exchange; China will work to develop cooperative mechanisms for achieving compatibility in customs clearance procedures along the routes and build international logistics networks; China will promote the development of border economic cooperation zones, cross-border economic cooperation zones, and overseas economic and trade cooperation zones; with a commitment to achieving common development and shared growth through joint consultation, China will ensure that the Belt and Road initiative creates bonds of peace, friendship, and common prosperity.⁽¹¹⁾

The Report on the Work of the Government (Mar. 5, 2017) points out that China has pushed ahead with the Belt and Road Initiative and enhanced strategic connectivity and practical cooperation with other countries along the routes; China will make solid efforts to pursue the Belt and Road initiative, adhere to the principle of achieving shared growth through consultation and collaboration, accelerate the building of overland economic corridors and maritime cooperation hubs, and establish cooperative mechanisms for achieving compatibility in customs clearance procedures along the routes; China will deepen international industrial-capacity cooperation, promote the export of Chinese equipment, technologies, standards, and services, to see that China and other countries are able to draw on each other's strengths; China will strengthen in education, science and technology, culture, healthcare, tourism and other personal and cultural exchanges and cooperation; China will host the Belt and Road Forum for International Cooperation to offer a meeting of real quality, and open the page on a great new chapter of mutually beneficial cooperation.⁽¹²⁾

(11) See Li Keqiang, the Report on the Work of the Government delivered at the Fourth Session of the 12th National People's Congress of the People's Republic of China on March 5, 2016, People's Publishing House, 2016 Edition, pp.5, 30-31.

The Report on the Work of the Government dated Mar. 5, 2018 indicates that China will advance international cooperation under the Belt and Road initiative, be committed to achieving shared growth through discussion and collaboration, and act on the outcomes of the Belt and Road Forum for International Cooperation; China will work toward building major international corridors and deepen cooperation on streamlining customs clearance along the routes of the Belt and Road initiative; China will expand industrial capacity cooperation with other countries and promote the export of Chinese manufacturing and Chinese services; China improve the composition of outbound investment; China will expand opening up in the western region, inland areas, and border areas, upgrade the development level of border and cross-border economic cooperation zones, create new opportunities for China's opening up to and cooperation with other countries.⁽¹³⁾

In addition to the fact that important documents of Chinese governments regulate the progress and direction of Belt and Road initiative, Chinese leaders have further deepened and expanded the cooperation under the Belt and Road in many international events and secured the promotion of the Belt and Road. For example, Li Keqiang, the Premier of the State Council of China, pointed out in Remarks at the 18th China-ASEAN (10+1) Summit that in recent years, we (China and ASEAN Countries) have accelerated the building of the 21st Century Maritime Silk Road and forged a sound momentum of China-ASEAN relations featuring shared future, integrated interests and close emotional bond; China is willing to synergize the Belt

(12) See Li Keqiang, the Report on the Work of the Government delivered at the Fifth Session of the 12th National People's Congress of the People's Republic of China on March 5, 2017, People's Publishing House, 2017 Edition, pp.6 and 29.

(13) See Li Keqiang, the Report on the Work of the Government delivered at the First Session of the 13th National People's Congress of the People's Republic of China on March 5, 2018, People's Publishing House, 2018 Edition, p.33.

and Road initiative with the development strategies of other countries in the region, including making full use of such platforms as the AIIB, the Silk Road Fund and the China-ASEAN Investment Cooperation Fund.⁽¹⁴⁾

Xi Jinping, the President of China, pointed out in the Keynote Speech at the Opening Ceremony of the G20 Summit named A New Starting Point for China's Development, A New Blueprint for Global Growth (Sept. 3, 2016, Hangzhou) that the initiative of building Belt and Road initiative aims to share China's development opportunities with countries along the route and achieve common prosperity; the new mechanisms and initiatives launched by China are not intended to reinvent the wheels or target any other country. Rather, they aim to complement and improve the current international mechanisms to achieve win-win cooperation and common development. China's opening drive is not a one-man show. Rather, it is an invitation open to all. It is a pursuit not to establish China's own sphere of influence, but to support common development of all countries. It is meant to build not China's own backyard garden, but a garden shared by all countries.⁽¹⁵⁾

Chinese government and leaders' sincere and vigorous explanation of the Belt and Road in important documents and domestic and international events do not only show China's deepened understanding of the content of the Belt and Road, but also obtain comprehension and support from the international community through further interpretation, which is specifically reflected in the Belt and Road Forum for International Cooperation including the number of representatives of participating countries and international organizations as well as the development, leading function and comprehensiveness of interpretation of connotation of the Belt and Road. For

(14) See http://www.fmprc.gov.cn/web/ziliao_674904/zt_674979/dnzt_674981/lzlzt/lzlcxhybfwmlxy_684796/zxxx_684798/t1317207.shtml, visited on Nov. 23, 2015.

(15) See http://www.fmprc.gov.cn/web/ziliao_674904/zt_674979/dnzt_674981/xzxzt/xjpxzcg20_687489/zxxx_687491/t1394306.shtml, visited on Sept. 2016.

example, there were 29 heads of state and government, and 1600 representatives from more than 140 countries and over 80 international organizations attending the First Belt and Road Forum for International Cooperation (May 2017), which produced 279 deliverables, involving 76 major items in five key areas. All these achievements have now been implemented.⁽¹⁶⁾

II. The Essence of Belt and Road Initiative

Chinese government expounded the nature, content, objective and vision of the Belt and Road at the Belt and Road Forum for International Cooperation hosted on May 14, 2017, which become the action guideline for building the Belt and Road.

1. The nature and tasks of the Belt and Road initiative. Chinese President Xi Jinping pointed out, in the address at the welcome banquet and theatrical performances held for heads of foreign delegations and guests attending the Belt and Road Forum for International Cooperation, that the Belt and Road carries on the Silk Road spirit, so the extensive consultation on building the Belt and Road is a continual of historical trend and also a correct choice of looking into the future. Meanwhile, the Belt and Road initiative carries on our desires for civilization exchange and will bring more colorfulness to human civilization, carries on our expectation of peace and tranquility and will let all countries join together to build harmonious homes and peaceful world, carries on our pursuits of common development in the future and will help countries with building a development community featuring shared joys and sorrows and connected destiny, carries on our dreams of wonderful lives and will turn ideal into reality and bring happiness and health to all people.⁽¹⁷⁾ The above

(16) See The Belt and Road Initiative Progress, Contributions and Prospects published by Office of the Leading Group for Promoting the Belt and Road Initiative on Apr. 22, 2019, http://www.xinhuanet.com/world/2019-04/22/c_1124400071.htm, visited on Apr. 22, 2019.

(17) See http://www.gov.cn/xinwen/2017-05/15/content_5193787.htm#1, visited on May 15, 2017.

explanation of the task of the Belt and Road initiative shows direction for our understanding of its nature.

2. The spatial scope of the Belt and Road initiative. Just as discussed above, in order to jointly build the Belt and Road, Chinese government established the Office of the Leading Group for the Belt and Road Initiative under the National Development and Reform Commission. According to the text of Building the Belt and Road: Concept, Practice and China's Contribution issued by it on May 10, 2017, there are five routes in the Belt and Road, among which, Silk Road Economic Belt has three routes: one from Northwestern China and Northeastern China to Europe and the Baltic Sea via Central Asia and Russia; one from Northwestern China to the Persian Gulf and the Mediterranean, passing through Central Asia and West Asia; one from Southwestern China, through the Indochina Peninsula, to the Indian Ocean. The 21st Century Maritime Silk Road has two routes: one from coastal ports of China, crossing the South China Sea, through the Malacca Strait, to the Indian Ocean and extending into the Europe; one from coastal ports of China, passing through South China Sea, extending to the South Pacific.⁽¹⁸⁾ This enjoys important guiding significance and plays a practical role in our understanding the spatial and geographical scope of the Belt and Road.

3. Basic content of the Belt and Road initiative. It is well known that the Belt and Road initiative is a systematic project which should be jointly built by adhering to the principles of extensive consultation, joint efforts and shared benefits and vigorously promoting integration of development strategies of countries along the route. According to the Vision and Actions on Jointly Building Silk Road Economic Belt and 21st Century Maritime Silk Road formulated and published by Chinese

(18) See http://www.china.com.cn/news/2017-05/11/content_40789833.htm, visited on May 11, 2017.

government in Mar. 2015, the key areas of cooperation are five aspects of connectivity, i.e. policy connectivity is an important guarantee for implementing the initiative; facilities connectivity is a priority area for building the Belt and Road; trade connectivity is a major task in building the Belt and Road; financial connectivity is an important underpinning for building the Belt and Road; people-to-people connectivity provides the social foundation for building the Belt and Road.⁽¹⁹⁾ In other words, China and other countries along the route will push forward the progress of the Belt and Road initiative by focusing on cooperation in such five areas at various levels to share achievements of building the Belt and Road.

4. Objectives and vision of the Belt and Road initiative. According to policy documents of Chinese government concerning the Belt and Road Initiative, the objectives and vision of the Belt and Road may be summarized as the following five aspects:

Firstly, the political objective is to foster win-win cooperation and forge partnerships of dialogue with no confrontation and of friendship rather than alliance to build the Belt and Road into a road for peace;

Secondly, the economical objective is to focus on the fundamental issue of development and achieve economic integration and interconnected development and deliver benefits to all in a bid to build the Belt and Road into a road of prosperity;

Thirdly, the objective in terms of model of opening up is to build an open platform of cooperation, boost the orderly flow of production factors, efficient resources allocation and full market integration in a bid to build the Belt and Road into a road of opening up;

(19) The Vision and Proposed Actions on Jointly Building Silk Road Economic Belt and 21st Century Maritime Silk Road, Selected Compilation of Important Documents after the 18th CPC National Congress (Volume II) edited by Party Literature Research Office of the CPC Central Committee, Central Party Literature Press, 2016 Edition, pp.442-455.

Fourthly, the objective in terms of development drive is to pursue innovation-driven development, improve the environment for innovation and pool resources for innovation and develop an innovation highland in a bid to build the Belt and Road into a road of innovation;

Fifthly, the objective in terms of culture and values is to make more efforts in deepening multi-tiered cultural and personal exchanges, boost mutual understanding, mutual respect and mutual trust among different countries in a bid to build the Belt and Road into a road connecting different civilizations.⁽²⁰⁾

In other words, the objectives and vision of the Belt and Road show features as follows: peace in politics and security, property in economy and trade, opening-up in development path, innovation in development approach and maintaining civilization in culture. In this context, the Belt and Road initiative is a systematic and comprehensive project, needing each party to act in the same direction to take specific and effective measures with joint efforts to make progress, thus the objective of common development, shared benefits and interests could be realized.

It should be noted that, the common understanding on specific objectives and vision of the Belt and Road Initiative currently reached by the international community is to promote peace and mutually-beneficial cooperation, and honor the purposes and principles of the UN Charter and international law, which are our shared responsibilities; to achieve inclusive and sustainable growth and development, and improve people's quality of life, which are our common goals; to create a prosperous and peaceful community with shared future for mankind, which is our common aspiration.⁽²¹⁾ These responsibilities, goals and aspiration are totally in compliance with the development trend of international community and the common interest and

(20) Zhang Gaoli, Attending the High Level Meeting of Belt and Road Forum for International Cooperation and Giving an Address, See http://www.gov.cn/guowuyuan/2017-05/14/content_5193708.htm, visited on May 15, 2017.

welfare of mankind and shall be honored and recognized by each country, because they are in conformity with the law of development of mankind and the shared expectation of all countries. Specifically speaking, it is to build the Belt and Road into a road of peace, prosperity, opening up, green development, innovation, connected civilizations, and clean government, and make economic globalization become more open, inclusive, balanced and beneficial to all.⁽²²⁾

5. Cooperation under the Belt and Road initiative and guaranty measures. In order to build the Belt and Road with focus on promotion of policy, facility, trade, financial and people-to-people connectivity, the initiative shall be advanced in an orderly way through cooperation modes at various levels (multilateral, regional and bilateral) with other countries especially countries along the route, according to laws and international obligations of countries concerned. The cooperation progress shall be accelerated mainly under the five principles of equality and consultation, mutual benefit, harmony and inclusiveness, market-based operation, balance and sustainability and with the aim to achieve practical results with efforts. In other words, the Belt and Road is built under the basic principles of openness, inclusiveness, willingness, mutual benefit, which are in total compliance with rules of international relations and principles of international law, enjoying strong vitality and practicability. This can be demonstrated by the international community's understanding of and participation in the Belt and Road.

In order to build the Belt and Road and present sustainable positive effect and result, it is necessary to establish and enrich the Belt and Road operation platforms

(21) Joint Communique of the Leaders Roundtable of the Belt and Road Forum for International Cooperation (May 16, 2017), See <http://ydy1.people.com.cn/n1/2017/0516/c411837-29277121.html>, visited May 16, 2017.

(22) For details on The Belt and Road Initiative Progress, Contributions and Prospects, see http://www.xinhuanet.com/world/2019-04/22/c_1124400071.htm, visited on Apr. 22, 2019.

and guaranteeing measures, which constitute the important foundation. In this regard, China plays a big role and makes great contribution. For example, The National Development and Reform Commission of China established the Facilitating Center for Building the Belt and Road on basis of the original framework and launched the official Belt and Road website and published the Marine Silk Road Trade Index; China has hosted International Import Expo since 2018; The Silk Road Fund is expanded by 100 billion Yuan; the China-Russia Regional Cooperation Development Investment Fund is set up; the Ministry of Finance of China established Multilateral Development Finance Cooperation Center together with the Multilateral Development Banks; the China Development Bank set up the Belt and Road Multi-currency Special Lending Scheme for Infrastructure Development, the Belt and Road Multi-currency Special Lending Scheme for Industrial Cooperation, and the Belt and Road Multi-currency Special Credit Lines for Overseas Financial Institutions; the Export-Import Bank of China set up the Belt and Road Multi-currency Special Lending Scheme and the Belt and Road Multi-currency Special Lending Scheme for Infrastructure Development; the Asian Financial Cooperation Association has been officially established; the Chinese government has increased its assistance to the developing countries along the Belt and Road and the total assistance over the next three years will be no less than 60 billion Yuan; Belt and Road News Alliance is set up; the Silk Road Think Tank Association (SRTA) launched the International Think Tank Cooperation Program on Enhancing People-to-People Connectivity along the Belt and Road; Opinions on the Establishment of the “Belt and Road” International Commercial Dispute Resolution Mechanism and Institutions.⁽²³⁾ The establishment

(23) For details on Opinions on the Establishment of the Belt and Road International Commercial Dispute Resolution Mechanism and Institutions (June 2018) issued by of the General Office of the CPC Central Committee and the General Office of the State Council, see People’s Daily (June 28, 2018), pp.1, 3.

and expansion of these overall and comprehensive concrete measures and platforms will guarantee the achievements of the Belt and Road initiative, in which China has played a leading role and made great contribution.

6. The effect of Belt and Road initiative. It is undeniable that the Belt and Road initiative has become an important part of China's peaceful development strategy, a core concept and new measure of the great-power diplomacy with Chinese characteristics, and an important practicing platform of building a human community with a shared future. At the same time, it is gradually becoming a worldwide common view and an important platform for and a common product of economic cooperation and development.

Just as mentioned above, the Belt and Road initiative has obtained active response and participation from most countries since its introduction and subsequent enrichment and improvement, showing its great vitality and innovation. In other words, in terms of effect, to jointly build the Belt and Road opens up new space for world economic growth, sets up new platforms for international trade and investment, offers new ways for improving global economic governance, makes new contribution to increasing living standard and welfare of people in countries involved, thus it becomes a common road of opportunities and prosperity.⁽²⁴⁾ Such China's plan with traditionally cultural spirit shows Chinese wisdom and contains China's contribution, deserving insistence and enrichment.

However, because countries and other participants along the route have different patterns, are at different development levels, demand different things and enjoy diversified cultures, there inevitably emerge various difficulties and challenges

(24) Xi Jinping. Working Together to Deliver a Brighter Future for Belt and Road Cooperation-the Keynote Speech at the Opening Ceremony of the Second Belt and Road Forum for International Cooperation (Apr. 26, 2019), see http://www.xinhuanet.com/politics/leaders/2019-04/26/c_1124420187.htm, visited on Apr. 26, 2019.

as well as some disputes in the course of building the Belt and Road. If parties involved may adhere to principles and spirit contained in the Belt and Road initiative and comply with international law and rules of international relations including international commercial disputes resolution mechanisms, various problems and disputes in the progress will definitely be solved and countries' confidence in and responsibilities for extensive consultation, joint efforts and shared benefits of the Belt and Road will be enhanced. This is the position on the Belt and Road initiative and its building progress we should take.

The Opinions on the Establishment of the Belt and Road International Commercial Dispute Resolution Mechanism and Institutions issued by of the General Office of the CPC Central Committee and the General Office of the State Council in June 2018 and the Statement of the Co-Chairs of the Forum on the Belt and Road Legal Cooperation published at the Forum on the Belt and Road Legal Cooperation co-organized by the Ministry of Foreign Affairs and China Law Society in July 2018 play important roles in guiding and promoting the resolution of disputes especially commercial disputes by means of law-based train of thought and legal methods in the course of building the Belt and Road.⁽²⁵⁾

III. Predicaments of Maritime Silk Road: Security Issues in South China Sea

Just as stated above, the area of South China Sea cannot be bypassed in the

(25) For details on Answers of Person in Charge of Supreme People's Court of China to Journalists' Questions on Opinions on the Establishment of the Belt and Road International Commercial Dispute Resolution Mechanism and Institutions, see People's Daily (June 28, 2018), p.3; for details on Statement of the Co-Chairs of the Forum on the Belt and Road Legal Cooperation, see http://www.fmprc.gov.cn/web/wjbxw_673019/t1573634.shtml, visited on July 5, 2018.

spatial scope and route of the Maritime Silk Road of the Belt and Road, so the South China Sea issues cannot be avoided too. The core of South China Sea issues is mainly reflected in two aspects: one is the dispute over territorial sovereignty over Nansha Islands and Reefs and the ensuing marine delimitation issue and resources exploration issue. The other is the issue over so-called freedom of navigation carried out in sea areas surrounding South China Sea islands, i.e. the so-called marine security issue.

These issues, due to different contributing factors and objects, need to be handled by adopting different methods and paths. However, the cooperation among countries within the South China Sea area is the key for dealing with issues regarding Nansha islands, and the marine security issue in South China Sea area needs consultation and efforts of China and the USA. Now the so-called action of freedom of navigation carried out by the USA warships in sea areas surrounding the South China Sea islands are taken as an example for analysis.

From Oct. 2015 to Apr. 2019, according to media report, the USA warships unilaterally entered into sea areas surrounding South China Sea islands to conduct the so-called freedom of navigation without the approval of Chinese government up to 15 times. Thus, Chinese government (Ministry of Foreign Affairs and Ministry of National Defense) promptly published special speeches to make denouncement and protest, and sent Chinese warships to conduct identification, investigation and check, give warnings and expel USA warships for safeguarding China's sovereignty, security and marine rights and interests in South China Sea. However, the USA warships do not cancel the so-called actions of freedom of navigation in sea areas surrounding South China Sea islands in spite of strong opposition and protest by Chinese government. Then, what are purposes and intention of the so-called actions of freedom of navigation carried out by the USA warships? How is the effect of such freedom of navigation actions? What should Chinese government do to deal with and eliminate such predicament? These are the main content of this part.

1. The purposes of actions of freedom of navigation carried out by the USA warships in sea areas of other countries. The so-called USA Freedom of Navigation Program was put forward by the Carter Administration in 1973 and has been implemented since 1983 to challenge Excessive Maritime Claims all over the world unilaterally recognized by the USA according to laws of the sea (inclusive of customary international law, the Geneva Convention on the Law of the sea of 1958 and the United Nations Convention on the Law of the Sea of 1982) for maintaining the objective of security and freedom of navigation in the sea especially in the high seas.⁽²⁶⁾

According to the Report on the Implementation of Freedom of Navigation Program in Year 2016 published by the USA Ministry of National Defense in Mar. 2017, the USA challenged 22 countries and the reasons for being regarded as having Excessive Maritime Claims by the USA included excessive straight baselines, advance permission for a warship's passage of the territorial sea, claim for historic bay, etc. Among 22 claimants being challenged, there are allies of the USA such as Japan, the Philippines, South Korea and Thailand, and also non-allies such as China, Brazil, India, Indonesia, Malaysia and Vietnam.⁽²⁷⁾

However, the so-called actions of freedom of navigation carried out by the USA in the name of Freedom of Navigation Program in sea areas of claimants unilaterally decided by the USA do not change such countries' positions such as application of straight baselines, advance approval for a warship's passage through

(26) Song Yanhui. South China Sea Arbitration, Interpretation of Paragraph 3 of Article 121 of United Nations Convention on the Law of the Sea and National Practice: The Case of the USA. Wu Sicun (Chief Editor). South China Sea Review II, World Affairs Press, 2018 Edition, p.4.

(27) Song Yanhui. South China Sea Arbitration, Interpretation of Paragraph 3 of Article 121 of United Nations Convention on the Law of the Sea and National Practice: The Case of the USA. Wu Sicun (Chief Editor). South China Sea Review II, World Affairs Press, 2018 Edition, pp.4-5.

the territorial sea. That is to say, the so-called actions of freedom of navigation carried out by the USA did not achieve expectant results. On the contrary, such so-called actions of freedom of navigation resulted in protests and dissatisfaction of most countries including China and produced serious potential security conflicts.

2. Grounds and Intention of the USA Warships conducting actions of freedom of navigation in sea areas surrounding South China Sea. Among the so-called actions of freedom of navigation carried out by the USA warships in sea areas surrounding the South China Sea without the approval of Chinese government, there were seven entries of the USA warship into the territorial sea of Xisha Islands and seven entries into the sea areas surrounding the Nansha Islands. They were related to the regime of a warship's innocent passage through the territorial sea and the issue of legal status of actions of freedom of navigation in sea areas surrounding Nansha Islands especially the legal status of surrounding sea areas.

(1) Actions of freedom of navigation carried out by the USA warships in the territorial sea of Xisha Islands. It is well known that in the Declaration of the Government of the People's Republic of China on China's Territorial Sea (Sept. 4, 1958), China promulgated that the breadth of China's territorial sea shall be twelve nautical miles, and that such provision shall apply to all territories of the People's Republic of China, including mainland of China and its coastal islands, and South China Sea islands (Dongsha Islands, Xisha Islands, Zhongsha Islands, Nansha Islands). In addition, China promulgated in Declaration of Chinese Government on the Baseline of the Territorial Sea (May 15, 1996) that the baselines of the territorial sea of Xisha Islands are straight lines joining adjacent base points. For this, the USA published a report named Limits in the Seas-Straight Baseline Claim: China (No. 117) on June 9, 1996 to criticize China's excessive claims in Xisha Islands on grounds of straight baselines. Therefore, the USA's recent actions of the so-called freedom of navigation in the territorial sea of Xisha Islands are based on these claims.

Indeed, according to the regime of the territorial sea, especially Article 5 and Article 7 of the United Nations Convention on the Law of the Sea, each country may choose to adopt the normal baseline and the straight baseline, but it should be recognized that it is an exception to adopt the straight baseline and some requirements need be satisfied, for example, the coastline is deeply indented and cut into, or if there is a fringe of islands along the coast in its immediate vicinity. Meanwhile, according to Paragraph 2 of Article 8, where the establishment of a straight baseline in accordance with the method set forth in Article 7 has the effect of enclosing as internal waters areas which had not previously been considered as such, a right of innocent passage as provided in this Convention shall exist in those waters. Therefore, the USA considers that China's request for straight baselines in Xisha Islands breaches rules of the United Nations Convention on the Law of the Sea, and China's claims in Xisha Islands are beyond an archipelagic state's request of delimiting archipelagic waters by means of straight baselines and thus illegal, so the USA may conduct actions of freedom of navigation.

In addition, the USA holds that the stipulation of Article 6 of the Law of China on the Territorial Sea and Contiguous Zone (Feb. 25, 1992) that foreign warships can enter into the territorial sea of China only with the approval of the Chinese government violates the United Nations Convention on the Law of the Sea. Because the United Nations Convention on the Law of the Sea does not stipulate that a foreign warship's innocent passage through the territorial sea of other countries must be approved in advance and meanwhile, the practice of applying for approval in advance is only adopted by a few countries, the USA considers that there is no need to apply for approval in advance for a warship's innocent passage through the territorial sea of other countries.

(2) The legal status of sea areas where the USA warships carried out actions of freedom of navigation in Nansha Islands. Just as mentioned above, the USA warships

have carried out actions of freedom of navigation in sea areas surrounding Nansha Islands without approval of Chinese government seven times. In the speeches of Ministry of Foreign Affairs and Ministry of National Defense of China, the terms such as Adjacent Waters and Near-shore Waters were referred to, then what is the legal status of these terms and what kind of regime of freedom of navigation shall be applicable?

It is well known that the division of sea areas in the system of the law of the sea has developed from the dualism of the Geneva Convention on the Law of the Sea (the territorial sea and high seas) to the pluralism of the United Nations Convention on the Law of the Sea (the territorial sea, archipelagic waters, exclusive economic zone/the continental shelf, high seas). In light of the types of sea areas divided by such conventions, there is no such terms as Adjacent Waters or Near-shore Waters, that is to say, they are not terminology of the system of the law of the sea in the strict sense.

It is true that a country's delimitation of sea areas is based on the formality that such country declares the base points and baselines of the territorial sea. In the situation that China has not declared the base points and baselines of the territorial sea of Nansha Islands, the scope of China's sea areas is not clear. However, according to domestic laws of China and international laws especially the United Nations Convention on the Law of the Sea, China enjoys potential jurisdiction over sea areas within a certain scope, specifically, the sea areas within the 12 nautical miles shall be the territorial sea of China. Foreign countries' warship in such sea areas shall observe laws and regulations of China on innocent passage through the territorial sea. It should be noted that the specific scope of sea areas under China's jurisdiction within a certain scope shall be determined according to the wholeness, partialness or uniqueness of maritime features in Nansha Islands. That is, China has long claimed rights on basis of a whole archipelago of Nansha Islands, so the territorial sea shall be

correspondingly delimited according to the regime of straight baselines. However, whether such practice can be accepted by the international community is a question. Especially just as indicated in the Award of South China Sea Arbitration, there is no island in South China Sea which may claim the exclusive economic zone, so it is impossible to claim sea areas on basis of a whole archipelago. Such award greatly challenges China's ensuing actions in South China Sea islands, so the USA carried out actions of freedom of navigation for preventing the possible excessive claims.

3. Measures and suggestions on China's response to the USA warships' actions of freedom of navigation in South China Sea islands. It is beyond doubt that the USA warships' action of freedom of navigation in the territorial sea of Xisha of China shall comply with laws and regulations of the coastal State on innocent passage through the territorial sea. Because Article 30 of the United Nations Convention on the Law of the Sea states that if any warship does not comply with the laws and regulations of the coastal State concerning passage through the territorial sea and disregards any request for compliance therewith which is made to it, the coastal State may require it to leave the territorial sea immediately. This requires that China shall further improve laws on innocent passage through the territorial sea and relevant regulations including procedures and competent authorities concerning advance approval or notice according to Paragraph 1 of Article 21 of the United Nations Convention on the Law of the Sea.

Meanwhile, in order to protect the national security including navigation security in the territorial sea, the coastal State may designate or regulate sea lanes and traffic separation schemes for foreign ships' passage. The coastal State may also take measures such as suspending foreign ships' innocent passage through certain area of the territorial sea in order to prevent illegal activities of other countries. However, considering that the sea areas surrounding Xisha is not a usual or busy international waterway and it is important to stop foreign ships' innocent passage through certain

area of the territorial sea for a long time, so such measure has limitation and its effect of preventing illegal innocent passage is small. Another comparatively effective measure is that China amends the regime of the territorial sea of Xisha Islands with focus on the redeclaration of the base points and baselines of the territorial sea of Xisha by adopting both the straight baselines and normal baseline methods and improvement of procedural regulations on innocent passage, thus reasonably responding to the USA's long-lasting concerns about the straight baselines of Xisha Islands and coordinating the requirement of uniformity of adopting the system of advance approval or notice for innocent passage through the territorial sea in China and eliminating the gap. Therefore, the revision and assessment of relevant domestic laws and regulations shall be put on the agenda.

The USA warships' actions of freedom of navigation in sea areas surrounding Nansha Islands were carried out with the intention to consolidate the award of South China Sea Arbitration to some extent, so China shall take measures to partially declare the base points and baselines of the territorial sea of South China Sea islands so as to make clear the scope of sea areas under China's jurisdiction according to the actual situation after the land reclamation and by taking advantage of frequency and damaging factors of the USA warships' actions of freedom of navigation in sea areas surrounding South China Sea islands. For this, China shall strengthen research into the nature of the dotted line or U-shaped line of South China Sea and legal status of the waters within such line on basis of the general international law, and clarify the specific connotation of historic titles so as to provide support for claim for special historic waters on basis of historic titles. Before this, regarding actions of freedom of navigation carried out by the USA warships in sea areas surrounding South China Sea islands, China shall use the term of sea areas under potential jurisdiction to confront the USA because the term of sea areas under China's jurisdiction is referred to in Article 2 of Marine Environment Protection Law and Article 2 of Fisheries Law of

China and can be borrowed. The actions of freedom of navigation within 12 nautical miles of sea areas surrounding South China Sea islands shall be regulated by laws of China on innocent passage through the territorial sea.

Indeed, actions of freedom of navigation carried out by the USA warships in other countries on basis of Excessive Maritime Claims unilaterally decided by the USA itself will not cease due to fierce opposition of other countries, contrarily such actions enjoy spillover effect. The actions of so-called freedom of navigation carried out in sea areas surrounding Diaoyu Island and its affiliate islands drive China into a situation that is hard to deal with, so China will face a long-lasting and hard task of responding to such behaviors and the important thing is that China shall gradually improve laws and regulations including the regime of innocent passage through the territorial sea, make efforts to gradually earn recognition of the international community, maintain rule-based marine order, ensure the realization of the goal of law-based governance of the sea, thus changing other countries' impression about China and providing assistance for China to play a bigger role.

IV. Prospect of Regional Cooperation South China Sea

It is undeniable that South China Sea is an important place of international waterway, so to conduct cooperation of different levels in South China Sea complies with not only the requirements of Declaration on the Conduct of Parties in the South China Sea and the United Nations Convention on the Law of the Sea but also development realities and needs of countries involved, thus stabilizing regional order in South China Sea and enabling parties involve to share resources and spatial interests in South China Sea. That is to say, it is of special importance to enhance cooperation on lowly sensitive fields of the sea between China and ASEAN countries so as to increase political mutual trust and upgrade cooperation potential and effect, and create opportunities for final settlement of disputes over South China Sea.

Nowadays, in terms of regional cooperation in South China Sea, it is an important task for China and ASEAN countries to formulate the Code on the Conduct in the South China Sea. The Code on the Conduct in the South China Sea may not only make up the shortage of Declaration on the Conduct of Parties in the South China Sea, but also guide and control parties' conducts in South China Sea, and even contribute to maintenance of the order in South China Sea so as to realize the goal of integrating functional nature and normative nature of the sea. Therefore, the cooperation between China and ASEAN countries on formulating the Code on the Conduct in the South China Sea is essential for maintaining the order in South China Sea, which is a major issue needing consultation and cooperation.

The nature of the Code on the Conduct in the South China Sea, i.e. whether it is a risk control mechanism or dispute settlement mechanism is an important issue which shall be determined through consultation. Meanwhile, the status of the Code on the Conduct in the South China Sea, i.e. whether it is legally binding shall be determined upon negotiated consensus of China and ASEAN countries and depends on wishes of all countries involved. The author considers that the Code on the Conduct in the South China Sea enjoys multiple natures for it is not only a risk control mechanism for South China Sea issues, but also a framework and principled document for settling disputes over South China Sea, playing an important guiding role in final settlement of disputes over South China Sea. However, the form in which the Code on the Conduct in the South China Sea will be showed is a major issue attracting attention from countries within and outside South China Sea region because it relates to many kinds of interests and roles of these countries in South China Sea region. Therefore, the progress of negotiation on the Code on the Conduct in the South China Sea will inevitably limited by many factors and its finishing and implementing date, its nature and status are variable.

Conclusion

In short, the joint pursuit of the Belt and Road initiative aims to enhance connectivity and practical cooperation, jointly deal with various challenges and risks confronting mankind and realize the goal of delivering win-win outcomes and common development.⁽²⁸⁾ The 21st Century Maritime Silk Road is an important aspect of the jointly pursuit of the Belt and Road initiative. Its promotion needs cooperation management among countries in the South China Sea region, thus stabilizing the order in the South China Sea, maintaining security in the South China Sea, providing guaranty for reasonable use of resources and space of South China Sea, and contributing to the establishment of a community with shared future in South China Sea region. (Apr. 2019)

(Translated by Dr. Chen Ling)

(28) See Xi Jinping. Working Together to Deliver a Brighter Future for Belt and Road Cooperation—the Keynote Speech at the Opening Ceremony of the Second Belt and Road Forum for International Cooperation (Apr. 26, 2019), see http://www.xinhuanet.com/politics/leaders/2019-04/26/c_1124420187.htm, visited on Apr. 26, 2019.