

Research on The International Legal Protection of China's Overseas Interests in The Construction of “Belt and Road” Based on The Perspective of Bilateral Treaties

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Abstract. Western powers have been interfering in the internal affairs of some countries along the Belt and Road, promoting "hegemonic diplomacy", and thus affecting the economic interests of Chinese citizens and enterprises in local investment, trade and other activities. In the process of promoting the construction of the Belt and Road, the biggest risk facing my country's overseas interests is the change of foreign regimes and political turmoil. In order to prevent and resolve the risks that hinder cooperation, especially the problems of project suspension, contract cancellation, and investment loss caused by regime change, it is urgent to find solutions with international credibility and authority, and with a certain degree of compulsion. International rule of law is recognized as the most effective way to resolve cross-border disputes and disputes to form international consensus and legitimacy. After studying the legal mechanism for protecting overseas interests, this article proposes to promote the protection of my country's overseas interests by creating new bilateral treaties specifically for the construction of the Belt and Road. In the construction of the Belt and Road, my country should actively use international rule of law to shape rules, and while effectively protecting my country's overseas interests, express its advocacy of international governance and international order, which is in line with the reality of my country's growing economic strength and rising international status.

Keywords: Bilateral treaty perspective; “Belt and Road” construction; overseas interests; international rule of law guarantee.

1. Introduction

Through the construction of the Belt and Road Initiative, we will strengthen the connectivity between countries in various fields such as politics, transportation, economy, trade, finance, and humanities, and promote the building of a community with a shared future for mankind. As the Belt and Road Initiative continues to deepen its global practice, the results of cooperation continue to benefit more countries and people, and its concepts and practices have been responded to by more and more countries [1]. At the same time, the international attention surrounding the construction of the Belt and Road Initiative is increasing, including discussions from the academic community, as well as competition and even obstruction based on geopolitics. The proposal and implementation of the Belt and Road Initiative have achieved remarkable results in promoting cooperation and benefiting the people of countries along the route. At the same time, the personal and property safety risks faced by Chinese "going out" enterprises and citizens are becoming increasingly prominent. This risk is characterized by its suddenness, unpredictability, and strong destructiveness. Once it occurs, Chinese investors' overseas projects, property, and even personal safety will face a heavy blow [2]. Such incidents have occurred in Sri Lanka and Pakistan. The report of the 18th CPC National Congress clearly stated that "we must resolutely safeguard national interests and the legitimate rights and interests of Chinese citizens and legal persons overseas." If these problems cannot be solved for a long time, the enthusiasm of Chinese citizens and enterprises to participate in the construction of the Belt and Road Initiative will be dampened, which will in turn affect the development process of the Belt and Road Initiative. my country has continuously strengthened the protection of its overseas interests from the top-level design and has made certain progress. However, the risks and challenges of the Belt and Road Initiative still exist, and my country still faces severe challenges in protecting

its overseas interests [3]. In response to these challenges, in the process of promoting the steady and long-term development of the Belt and Road Initiative, we should make full use of international legal tools, based on internationally accepted rules and principles of international law, to seek a guarantee mechanism suitable for the needs of the Belt and Road Initiative to protect my country's overseas interests. From the perspective of international rule of law, creating a special new bilateral treaty to define the responsibilities and obligations of the two parties to the cooperation, while protecting my country's overseas interests in the Belt and Road Initiative, respecting and satisfying the interests of the host country is a more appropriate and effective way, and it is more in line with the needs of current practical development.

2. Research on the Protection of my country's Overseas Interests in the Construction of "One Belt and One Road"

2.1 The Need to Protect Overseas Interests

From the perspective of the types of overseas interests, political interests occupy the most important position in overseas interests, and the specific contents include national sovereignty and territorial integrity, national image and international status. Political interests are the foundation and the premise for the realization of overseas interests [4]. The security of a country's citizens overseas needs to first realize the political interests of its country. In the construction of the "Belt and Road", the emphasis on protecting my country's overseas interests must first ensure the country's political interests, that is, to establish political mutual trust between cooperating countries and carry out cooperation and exchanges in accordance with the principle of equality and mutual benefit. At the same time, it should be clear that the protection of my country's overseas interests in the construction of the "Belt and Road" is based on the realization of interest sharing on the basis of win-win cooperation with other countries, rather than at the expense of the interests of other countries. Therefore, adhering to political interests and advocating the value orientation of the "Belt and Road" initiative is the premise for protecting my country's overseas interests. Economic interests are an important content, involving trade, investment, project cooperation, labor export and other fields, and are the focus of overseas interest protection [5]. In the practice of my country's "Belt and Road" construction, economic interests are the top priority of overseas interest protection, which is related to the continuous advancement of construction. In reality, my country's overseas economic interests have long faced complex risks, insufficient response and disposal capabilities, and a lack of protection mechanisms, which are urgent issues to be addressed in protecting overseas interests. Security interests are the core and also the weakest part of my country's overseas interest protection.

2.2 The Development of China's Overseas Interest

After the reform and opening up, China opened its door to foreign exchanges. In this process, the development of overseas interests entered a period of rapid development. The subjects and forms of overseas interests have been greatly expanded compared with the past. In terms of maintaining international security, as a permanent member of the UN Security Council, China has played an active role in maintaining world peace, participating in international security affairs, and promoting international disarmament and arms control [6]. At the same time, based on the Five Principles of Peaceful Coexistence, China has developed peaceful diplomacy with more countries, coordinated border issues with neighboring countries through negotiations, and maintained regional peace and stability. In promoting international governance and international order, China firmly opposes hegemony and power politics and promotes the establishment of a new international political and economic order. China has widely participated in multilateral, regional and global cooperation, and used different mechanisms and platforms to express its diplomatic positions and propositions, which has further enhanced China's international influence and promoted the comprehensive development of China's overseas political interests.

While overseas economic interests are developing rapidly, Chinese citizens, enterprises and various organizations that "go out" have also encountered more and more security risks. Since 2000, under the deployment of major national strategic decisions, China's "going out" process has accelerated. Driven by the two-way opening path of "bringing in", the development of China's overseas interests has entered a new stage of development. While China's overseas economic interests are developing rapidly, they are also more diversified, with deep roots in trade, investment, finance, project construction, tourism, and labor export [7]. China has participated in almost all intergovernmental international organizations and more than 500 international conventions, and has also widely participated in multilateral and regional governance mechanisms for global issues such as climate change, environmental governance, and international security. At this stage, China's overseas economic interests occupy an important position in national interests, and their supporting role in the national economy and national life is increasing. It is also an important supplement to connect domestic economic development. Especially in the context of today's great changes in the world, China has proposed to build a domestic and international dual circulation development pattern, which is not only a correction to the excessive reliance on foreign trade to support the national economy in the past few decades, but also a rational choice to give full play to the advantages of foreign economic cooperation and tap domestic development potential under the current situation.

3. Risks and Challenges of Protecting China's Overseas Interests in the Construction of the Belt and Road Initiative

3.1 Challenges Facing the Construction of the Belt and Road Initiative

While the Belt and Road Initiative is being advanced in depth, it is also facing many difficulties, which not only affect the interests of citizens and enterprises going global, but also pose challenges to the vision and goals of the Belt and Road Initiative [8]. At the same time, with the rapid changes in the external environment, "anti-globalization" and trade protectionism continue to rise, geopolitics and regional competition intensify, coupled with the spread of the new coronavirus pneumonia epidemic around the world, the continued downturn of the world economy, etc., the construction of the "Belt and Road" Facing an important juncture for high-quality development. With the rapid changes in the external environment, the rise of "anti-globalization" and trade protectionism, the intensification of geopolitical and regional competition, the spread of the COVID-19 epidemic around the world, and the continued sluggishness of the world economy, the construction of the "Belt and Road" is facing high challenges. An important gateway for quality development. At the international cognitive level, the values advocated by the "One Belt, One Road" initiative and the concept of a community with a shared future for mankind have not yet been fully recognized and understood. The layout planning of the "Belt and Road" construction needs to be improved urgently, especially considering the significant differences in actual conditions among regions and countries. There are certain risks and threats in foreign investment and infrastructure construction projects. Chinese enterprises are still in their infancy in "going global", and many of their attempts still have to "cross the river by feeling for the stones." Faced with a development environment (politics, law, culture, standards, etc.) that is different from that in China, the first thing that enterprises face when investing and operating overseas is compliance operations [9]. They must abide by local laws, regulations, policies and market requirements, and comply with professional norms and Business rules, etc.

3.2 Risks of Protecting China's Overseas Interests in the Construction of the "Belt and Road"

When Chinese citizens and enterprises go abroad to work and live overseas, their personal and property risks are exposed to various systemic risks brought by the external environment. Especially when there are huge differences in economic and social development and complex political and social issues in countries along the Belt and Road, the risks and challenges we face are more prominent. Political risks will have various uncertain effects on the investment and operation of foreign enterprises, and will have unpredictable negative impacts on the interests of foreign enterprises in the local area [10]. Compared with other risks, security risks are often difficult to predict, and the damage

and losses caused are also huge, and it is often difficult to remedy or seek compensation afterwards. Security risks include terrorism, religious conflicts, etc. The security risks in countries along the Belt and Road are also very different due to their different national conditions. In countries along the Belt and Road, the legal systems of the countries are different, and there are great differences in legal values, legal application and litigation rules. These differences will bring obstacles to enterprises entering different countries to carry out cooperation, and the risks generated will increase. There are great differences between countries in the process of rule of law and the level of rule of law, which brings difficulties and uncertainties to the promotion of the construction of the Belt and Road to more countries and at a deeper level. When trade disputes arise, there are often different opinions on the dispute resolution mechanism, and questions about the applicable law and whether it is in line with international standards continue to arise, because these issues have not been fully sorted out in theory and practice, which brings troubles to the protection of corporate interests. In the process of "going out", Chinese companies often lack relevant experience and have shortcomings in cooperating with local trade unions, which lays hidden dangers for the steady operation and management of enterprises in the local area, and also brings troubles to the protection of their own interests.

4. Research on the protection of overseas interests of the "Belt and Road" based on bilateral treaties

Many bilateral treaties are first signed by two countries, and then, through practice and promotion and their influence and role in international cooperation, more countries are attracted to participate, and then bilateral treaties with the same rules are formed, which have actually evolved into some kind of substantive multilateral treaties, and are also the process of generating international customary rules and international customary law. In this sense, there is a certain transformation relationship between bilateral treaties and international customary law, but the two also have a certain counter-effect.

4.1 The Function of Bilateral Treaties in Global Cooperation

The formation of the "treaty contract theory" is to adapt to the actual needs of practical development and is a historical choice. With the increase in bilateral treaties, the "treaty contract theory" has been more widely spread, promoting the further improvement and maturity of bilateral treaties in terms of effectiveness basis and performance procedures, and providing effective legal tools for sovereign states to participate in international practice and handle international affairs. From the perspective of multilateral treaty practice, the negotiation and coordination costs of multilateral treaties are very high and time-consuming, often accompanied by endless bargaining and bargaining. The final treaty is often difficult to go deep into the rights and obligations in specific and practical areas, which affects the role of the treaty. The theoretical doctrines borrowed in the development of international treaties are all from the field of private law. International law has completed logical deduction and theoretical improvement through analogy and shaping of private law, which echoes the reality that international law has no entity institution to rely on. From the perspective of the intention of the contracting parties, whether bilateral or multilateral, the starting point of the conclusion of a treaty is the "intention formation" of a single country. Therefore, the conclusion of a treaty also involves the issue of connection with domestic law. Only after completing the "intention formation" at the domestic law level can it be possible to transform it into the "common expression of intention" at the international contracting level. Achieving a contracting result through a common expression of intention is a typical international legal act.

As an important form of treaty, bilateral treaties are also legal tools with a profound theoretical basis and international consensus in historical practice. They present new contemporary value and unique role in the era of globalization, and play a positive role in promoting international cooperation and improving multilateral mechanisms. Against the backdrop of rapid globalization, the emergence of global issues and the exploration of global governance models have promoted multilateral treaties to become an important legal means in the process of adapting to new changes. Multilateral treaties play

a prominent role in promoting the legal operation of international organizations and promoting international exchanges and cooperation in multiple fields. Against this background, industry standards and professional norms are unified worldwide, driving new developments in international cooperation.

4.2 The Effectiveness of China's Signing of Bilateral Treaties to Promote the Construction of the "Belt and Road"

The Belt and Road Initiative has obvious regional characteristics in terms of history and geography, but the countries along the route vary greatly in terms of development level, political system, legal customs, etc., and it is difficult to apply unified multilateral legal regulations. At the same time, the Belt and Road Initiative itself is open, and promotes deepening cooperation based on the principle of joint consultation and joint construction. Its cooperation is personalized and diversified, so it also reflects strong inclusiveness. As far as foreign investment is concerned, the host country's system, environment and various risks often affect investment decisions and investment success or failure. Among them, the political relationship between the home country of investment and the host country has a great impact on investment. If there is a political conflict between the countries, the risk of the investment enterprise will increase sharply, and the host country is also very likely to pass the cost of the conflict on to the home country's enterprises, and retaliate by implementing more stringent regulations, market access, taxation, and even nationalization and expropriation. If the relationship between the home country and the host country is friendly and normal, by signing bilateral treaties, enhancing political mutual trust and improving the protection of relevant investments, it will provide better protection for corporate investment and overseas interests.

5. Conclusion

The Belt and Road Initiative has been proposed for nearly a decade and is now facing a tough test. There are still noises about the construction of the Belt and Road Initiative in the international community, and various misunderstandings are heard constantly. Various smearing remarks such as the Chinese version of the "Marshall Plan" and "neo-colonialism" are everywhere. The world today is facing a major change that has not been seen in a century. The impact of the COVID-19 epidemic is still continuing. Various power struggles and conflicts are becoming more prominent. The geopolitical competition and interest competition between Eastern and Western countries around the Asia-Pacific region are becoming increasingly apparent. This is undoubtedly a "big test" for the development of the Belt and Road Initiative in the past decade. Under this situation, the task of protecting China's overseas interests is more arduous. Once the regime changes and the political situation in the countries along the route is unstable, the interests of Chinese citizens and enterprises in the local area will face huge threats or suffer losses. Bilateral treaties create rights and obligations under international law for the contracting parties and have legal binding force. To truly prevent risks and effectively protect China's overseas interests in the construction of the Belt and Road Initiative, it is not only necessary to have the guarantee of mechanisms such as law enforcement and security cooperation, but also requires relevant domestic departments to actively cooperate with the implementation of the treaty in accordance with the division of responsibilities. At present, our mechanisms and means to deal with this threat are not perfect.

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