

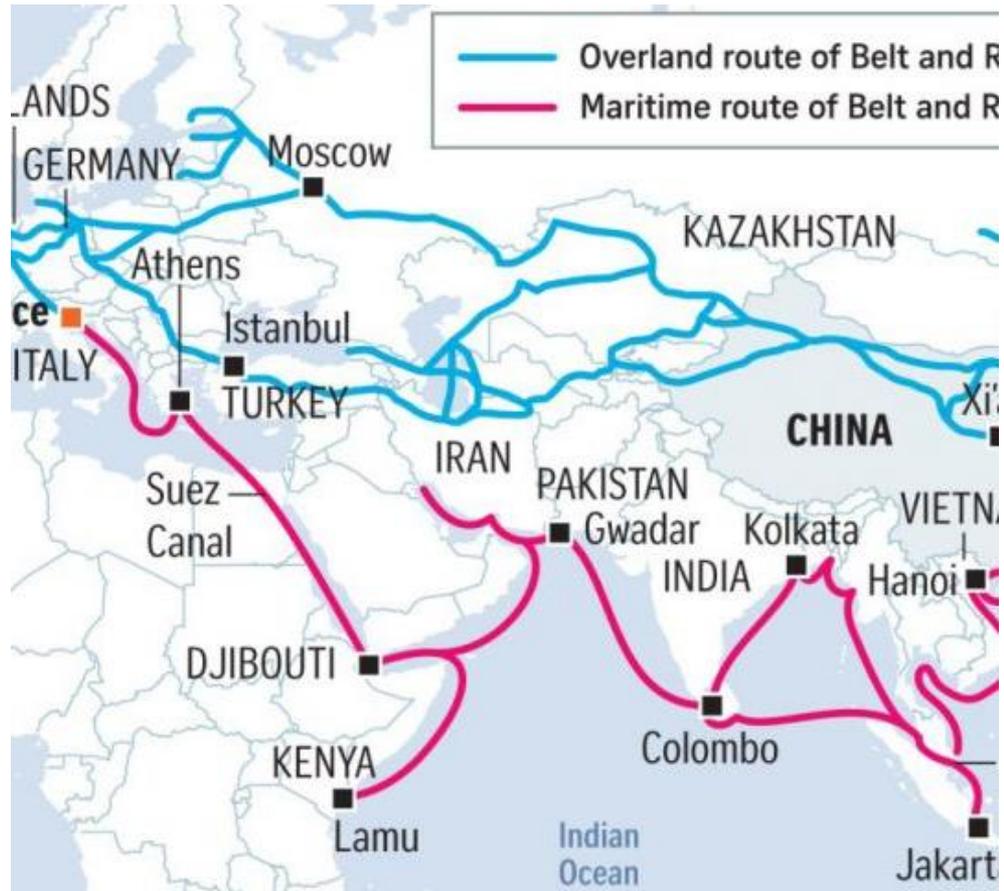


The Belt and Road as a driver of growth in Dispute Resolution

João Ilhão Moreira

24 de March de 2019

- B&R Initiative has been presented as a sort of 'exogenous demand shock' on dispute resolution market.
- There is a lot of excitement around potential increase of disputes of different nature:
 - Investment disputes;
 - commercial disputes;
 - even WTO disputes





- The increased disputes would result from the large number of construction and investment projects;
- Also indirectly due to the increased trade in the region flowing from the more integrated environment;

What is, however, the true size of Belt and Road?

Belt and Road is loosely defined:

- Not a defined set in stone number of participating countries; Further participation does not really necessarily entail any investment;
- Projects are branded as inside or outside the Initiative as political convenient;



- For the purposes of understanding drivers of growth in the dispute resolution of china related disputes following BRI, it is useful to divide BRI flows into:
 - **Construction** – where a chinese company constructs for a third party.
 - **Investment** – where a chinese company acquired an asset abroad.

So far involvement of Chinese companies has been mostly through SOEs in construction

- in dollar value 'Chinese' construction in BRI increased 48% from 2014-2018 compared to previous 4 years

- Investment 81%

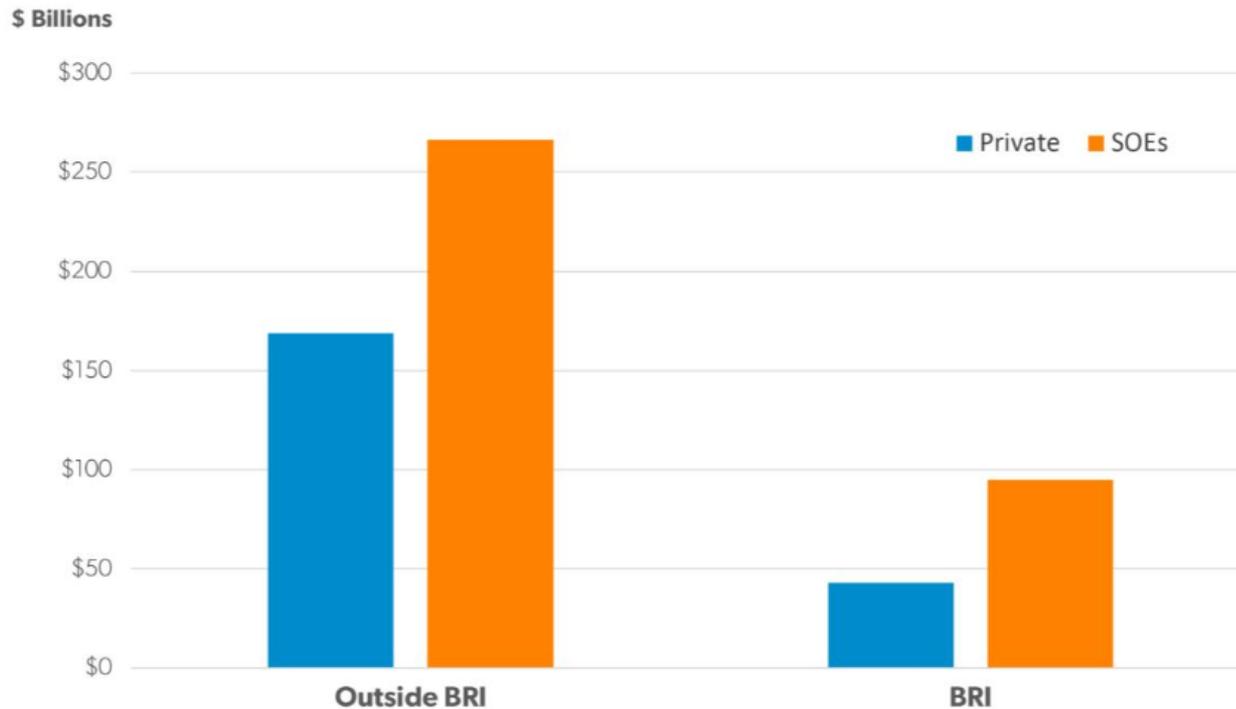
Table 1. Investment and Construction Before and After BRI (\$ Billions)

	Investment	Construction
2010	11.0	36.2
2011	19.1	30.0
2012	16.2	31.1
2013	30.0	43.0
2014	21.5	40.8
2015	41.9	48.6
2016	32.4	69.1
2017	42.0	49.1
Total	214.1	347.9

Source: American Enterprise Institute and Heritage Foundation, Chinese Global Investment Tracker, <http://www.aei.org/china-global-investment-tracker/>.

Chinese foreign investment is mostly directed to countries outside BRI

Figure 2. Investment Inside and Outside the BRI: SOE Versus Private Firms, 2014–17



Source: American Enterprise Institute and Heritage Foundation, Chinese Global Investment Tracker, <http://www.aei.org/china-global-investment-tracker/>.

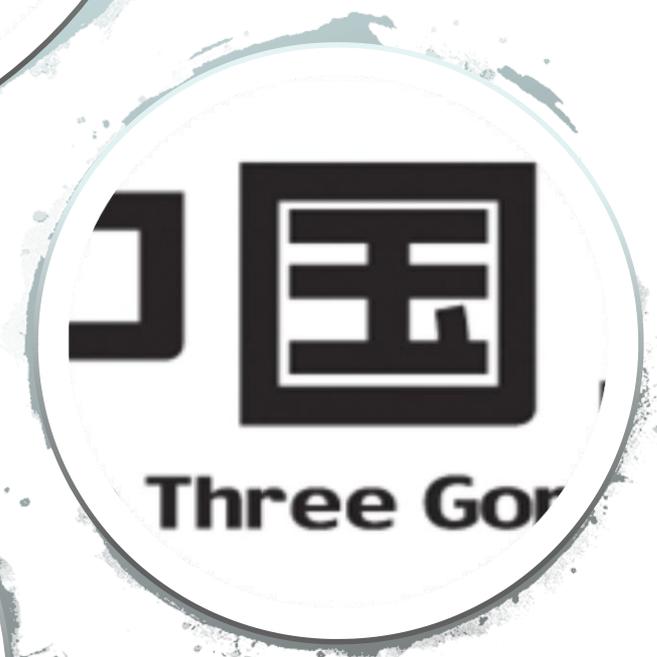
What the numbers show so in regard to investment

Table 2. Private Share of Investment

	BRI	Outside BRI
2014	28%	28%
2015	17%	40%
2016	28%	51%
2017	49%	33%

Source: American Enterprise Institute and Heritage Foundation, Chinese Global Investment Tracker, <http://www.aei.org/china-global-investment-tracker/>.

- The countries where China mostly invest are outside BRI (US, Britain, Switzerland and Australia are the main destinations)
- Investment in BRI countries is still mostly undertaken by SOEs but private share is growing
- In BRI countries a larger % of investment is greenfield vs M&A (40% vs 20% in non BRI countries)



- Most important sector in investment so far has been energy
- Followed by real estate, transportation and logistics.

World Construction by (Billions)

Countries	Amount
Pakistan	25.0
Bangladesh	19.1
Malaysia	14.7
Indonesia	14.4
Egypt	13.3
Russian Federation	11.5

So what can we say about the B&RI:

- While perhaps not has a big as some imagine, it has the **potential to be a boon for dispute resolution.**
 - Most infrastructure construction take place in highly volatile jurisdictions (Pakistan is #1 destination);
 - Many projects are undertaken at razor thin margins by Chinese SOEs;
 - More specifically towards M&A - Chinese government may create incentives for more deals in B&R;



香港國際仲裁中心
Hong Kong International
Arbitration Centre

SITAC
Singapore International Arbitration Centre



ICC INTERNATIONAL
CHAMBER
OF COMMERCE

Arbitral
institutions
have made
moves to tap
into this
market

But also a rather new initiative:



- The China International Commercial Court:

- First International Commercial Court is situated in Shenzhen, Guangdong Province;
- and the Second International Commercial Court in Xi'an, Shaanxi Province