

STATEMENT OF THE INTERNATIONAL DEVELOPMENT LAW ORGANIZATION

FORUM ON THE BELT AND ROAD LEGAL COOPERATION

July 2, 2018

Beijing

Delivered by Irene Khan, Director-General, IDLO

Check against delivery

Excellencies, distinguished delegates, ladies and gentlemen,

I am honored to participate in the Forum on Belt and Road Legal Cooperation and would like to thank the Ministry of Foreign Affairs of China and the China Law Society for inviting the International Development Law Organization (IDLO) to this event.

As the only intergovernmental organization exclusively devoted to advancing the rule of law and development, we believe this Forum is very timely and topical.

IDLO is proud of its partnership with China which has been a Member of IDLO since 1989. Our interaction with China goes even further back. The very first event organized by IDLO outside its headquarters in Rome was a training event for Chinese legal experts in Beijing in 1986.

Guided by our core values of respecting all legal systems, promoting local ownership and developing context specific solutions, we work in countries around the world to strengthen legal and judicial capacity, provide technical legal assistance and advance legal and policy reforms to support peace, justice, sustainable development and economic opportunity.

The Belt and Road Initiative (BRI) has the potential to improve the lives of billions of people. Through its programs and resources, BRI can also make a significant contribution to the United Nations 2030 Agenda for Sustainable Development. The two international initiatives are complementary. Both are informed by a shared philosophy anchored in the purposes and principles of the United Nations, and committed to international peace and development. The 2030 Agenda explicitly acknowledges the rule of law as a target of sustainable development.

At a time when the international rule-based systems governing trade and commerce are coming under attack from protectionist and unilateralist impulses, we believe the principles of international rule of law are key to safeguarding multilateralism and facilitating international cooperation to promote trade, investment and sustainable development, and eradicate poverty and support inclusive and peaceful societies. BRI can both contribute to strengthening international rule of law and benefit from it.

International rule of law is based on purposes and principles of the UN Charter, universally applicable rules and the equal democratic participation of all states in the rule making process. As such it is an essential pillar of international peace and cooperation.

International rule of law is critical to economic growth and sustainable development because it provides a shared legal framework for cooperation among jurisdictions with different national legal systems and traditions. By harmonizing rules and facilitating cooperation it eases economic cooperation and encourages win-win results.

To give one example, a key priority of the BRI is to promote and expedite trade between China and participating countries. A study jointly carried out by UN-ESCAP and the Islamic Development Bank found that it typically takes 35 days to export fabrics from China to Kyrgyzstan and the process involves over 20 trade procedures carried out by more than 20 different actors.

The Trade Facilitation Agreement, which entered into force in 2017 and has been ratified by China, Kyrgyzstan and 134 other WTO members, will help to address this issue by providing an enforceable set of rules which will expedite the movement, release, and clearance of goods at the domestic level. The WTO estimates that it could reduce trade costs by an average of 14% worldwide, with the poorest countries benefitting the most.

China played a vital role in the successful negotiations of the TFA. It was among the first group of WTO members to ratify the TFA. China will also contribute USD 1 million to help developing and least-developed countries implement the Agreement.

This is just one example of how international rule of law can facilitate win-win results that advance key BRI priorities, strengthen legal and regulatory frameworks in participating countries, build trust and contribute to sustainable development throughout the region.

Alignment of BRI with existing international standards on project finance, including in areas such as procurement, sustainable financing, transparency and reporting, social and environmental accountability – to which many of the stakeholders have already signed up - will help to further increase the level of trust and confidence among partners and encourage new actors including partner countries, investors and private enterprises to participate.

When BRI partners uphold international rules they strengthen the continued importance of rule-based multilateral cooperation.

As an organization that supports governments to strengthen institutions and reform laws, let me underline the vital relationship between international and national rule of law systems, and how BRI can strengthen that link.

Predictable, stable national legal environments are important for creating confidence among governments, businesses and communities to work with each other. They need to feel assured that there are fair, well-defined mechanisms to resolve disputes, proper rules and standards to govern operations and a degree of protection for investments and physical and intellectual property.

The World Bank's Doing Business Index shows that there is a direct correlation between a country's legal system and its economic competitiveness.

The BRI includes countries with diverse cultural, linguistic and legal traditions, at different stages in their political and economic development. Their legal needs vary enormously, as does their legal and judicial capacity.

Some countries may be hampered from fully realizing the benefits of BRI because their legal frameworks are not suitable for large international investment and development projects.

Dispute resolution is an area of potential concern. Many participating countries do not have neither sufficient institutional knowledge nor capacity nor resources to adjudicate or arbitrate complicated disputes.

A significant number of BRI partners have prioritized the improvement of their economic and commercial legal frameworks to create a more conducive environment for investment.

An important contribution that BRI can make to international rule of law is to support some of the participating countries which have weak legal systems to strengthen their capacity and institutions in ways that are nationally owned and context sensitive ways.

As an international organization specialized in legal capacity development and institution-building, IDLO is ready to play its role in such endeavors. For more than thirty years, from countries as varied as Kenya and Kyrgyzstan, Mongolia and Mali, IDLO has supported countries to build their capacity and carry out much needed institutional, legal and regulatory reforms, examine and introduce alternate dispute resolution mechanisms.

Another important way in which BRI can both benefit from and contribute to international rule of law is by enabling greater coordination among the large and diverse group of BRI partners through dialogue and learning on legal and related policy issues.

Increased policy dialogue between governments, businesses and other stakeholders can help to develop consensual solutions to perceived problems.

Through such dialogue BRI can help advance the development of more equitable models of multilateral cooperation that give a greater prominence to the voices of developing countries and strive to create fairer rules for trade, investment and intellectual property and for addressing climate change.

IDLO has a long history of cooperation with national and international legal communities, working both top down with institutions, and bottom up with the private sector, civil society and communities to advance knowledge, build bridges and find mutually beneficial solutions. For instance we have contributed to regional judicial cooperation in Central Asia and supported the East Africa Chief Justices Forum. We have also built alternate dispute mechanisms in Mongolia.

We are ready to contribute our expertise and convening power to help organize multi-stakeholder consultations and conferences to enhance policy dialogue on legal cooperation and advance greater understanding and buy-in among diverse partners of BRI.

Let me conclude by underlining that the principles of international rule of law, together with BRI's three "golden principles" of extensive consultation, joint contribution and shared benefits, can greatly enhance equitable treatment, transparency and mutual accountability among the BRI partners, and create a new and dynamic framework for international cooperation.

IDLO stands ready to support the BRI, and to open a new chapter in our long and fruitful history of partnership with China and other participating countries. Thank you.

The International Development Law Organization (IDLO) enables governments and empowers people to reform laws and strengthen institutions to promote peace, justice, sustainable development and economic opportunity.