

**Environment & Sustainability Committee,  
China Committee and Belt and Road Working Group Present**

## **Building a Sustainable Belt and Road Amidst Coronavirus Setbacks**

**Ms Bee Chun Boo**, Partner, Baker & McKenzie

**Mr Simon Leung**, Partner, Baker & McKenzie

**Ms Mini vandePol**, Partner, Baker & McKenzie

**Mr Martin David**, Partner, Baker & McKenzie

**Moderator:**

**Prof. Steve Wong**

Vice Chairman of the Chamber's Environment &  
Sustainability Committee and Chairman of Americas Committee

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# Speaking today



## Investment trends

**Bee Chun Boo**

Partner  
Beijing



## Financing of BRI projects

**Simon Leung**

Partner  
Hong Kong



## Sustainability and greening of BRI

**Martin David**

Partner  
Singapore



## Risk and compliance in BRI projects

**Mini vandePol**

Partner  
Hong Kong



# Baker McKenzie.

## Investment trends



**Bee Chun Boo**  
Partner  
Beijing



# Fresh insights on BRI Beyond 2020



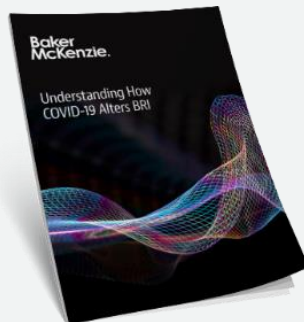
**BRI Beyond 2020:**  
a two part thought leadership report  
with Economist Corporate Network

Review of BRI progress to date, the sectors and regions primed for growth, including emerging digital silk road as well as detailed analysis of common challenges and risks.

Growing importance of sustainability, the need to develop commercially viable partnerships between private and state-owned enterprises and opportunities in Africa, Middle East and South America.

# Fresh insights on BRI Beyond 2020

**Understanding How  
COVID-19 Alters BRI**  
With Silk Road Associates



## Short videos

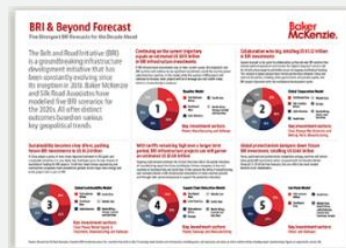
Mini vandePol, Fred Burke and Martin David comment on:

- Video commentaries on BRI projects: partnerships, investment outlook, risk management and sustainability.

**Baker McKenzie BRI Hub**  
[www.bakermckenzie.com/BRI](http://www.bakermckenzie.com/BRI)



**BRI & Beyond Forecast**  
With Silk Road Associates



**Q&A with  
BRI practitioners**

# BRI Trends after COVID-19 Pandemic



## 1. BRI will prioritise global supply chain change

- Chinese manufacturers will build capacity in Southeast Asia
- Chinese state companies will focus on ports, power, and industrial parks



## 2. The rise of the Digital BRI will accelerate

- Chinese technology firms are already profitable in the BRI
- Emergence of the Health Silk Road



## 3. Private funding to play a more important role

- Chinese state funding will face greater capital constraints
- Private funding will focus on more profitable supply chain opportunities



## 4. International collaboration matters more than ever

- Focus on supply chain diversification means greater international collaboration
- Impact of worsening US-China relations

# BRI Trends after COVID-19 Pandemic



## 5. Green investments remain steady

- Sustainability still a strong emphasis in BRI projects
- Focus on gas and renewables sectors



## 6. Protectionism will significantly influence flow of BRI investments

- Deal certainty and security



## 7. Short term difficulty of executing deals

- Business travel curtailed, impacting on-site due diligence
- Local governments and other counterparties puts deals on hold, causing delay and uncertainty.





# Baker McKenzie.

## Financing of BRI projects



**Simon Leung**  
Partner  
Hong Kong



# Main sources of capital

Chinese banks  
(policy banks  
and commercial  
banks)

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Multilaterals,  
national  
development banks  
and export  
credit agencies

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Debt  
capital market

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International  
banks

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Funds

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# Financing trends



## Infrastructure financing on limited recourse

- Still relatively uncommon for financing to be done on pure non-limited basis
- Most projects involve credit support given by PRC sponsors or over PRC assets



## Robust documentation and due diligence

- Use of English law and LMA-styled loan documentation
- CBIRC guidelines issued in 2017 to improve credit risk analysis and strengthen due diligence and post-loan management in cross-border financing transactions
- Now normally for Chinese banks to carry out extensive due diligence against project documents and applicable legal regime(s)



## Collaborations between Chinese and international financiers

- Relaxation of Sinosure cover precondition – Chinese banks no longer need to have a majority loan participation
- International standards of transparency and sustainability
- Local presence, stronger expertise and more extensive experience in emerging markets, e.g. exchange control restrictions

# Financing trends



## Growing prominence of sustainability issues



## Restructuring opportunities

- Project disruptions caused by COVID-19
- Reduced export revenues and weakened local currency
- China recently announced its agreement to suspend debt service payments for certain low-income countries from May to Dec 2020
- New wave of sovereign debt default and restructuring
- Collaborations with other stakeholders (e.g. multilaterals, other bilateral lenders and bondholders) is crucial





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McKenzie.**

# Sustainability and greening of BRI



**Martin David**  
Partner  
Singapore

# Sustainable Belt & Road



Launch of BRI in 2013 was a development initiative



No specific focus on environment, climate change, etc.

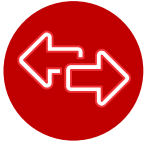


Early projects included many hydrocarbon 'heavy' development



...but it is changing.

# Sustainable Belt & Road



## Shift towards BRI with more of an environmental focus:

- March 2015 - Chinese Governments published
  - "Vision & Actions on Jointly Building Silk Road Economic Belt and 21st Century Maritime Silk Road"
- Xi Jinping in 2016 declared the focus on building a 'green' silk road.



## May 2017 - the formation of the BRI 'International Green Development Coalition'



## Green Investment Principles



# Sustainable Belt & Road



**The challenge is what ultimately drives the 'greening' of the Projects.**

- Policy and principles of the Chinese authorities?
- Local legislation in the Host Country?



**The minimum requirement is compliance with host government's environmental regulations.**

- Many host governments in Asia put affordable power above climate change concerns.
- So what can change this approach?

# Sustainable Belt & Road



## There are several political and economic influences:

- China is getting serious about sustainability (Green Development Coalition and Green Development Principles) but there is a need for greater powers to impose.
- Multilaterals and International financing institution are getting more involved in BRI.
  - The likes of IFC, ADB, AIIB have environment and climate change in their core policies.
  - International financial institutions are expected to be called upon to support BRI financings (the China banks do not have limitless supplies of \$) and they increasingly are climate focused.

# Sustainable Belt & Road



## The future looks promising but it will take time.

- In 2013, a sustainable Belt and Road was not a consideration but in 2020 it is increasingly so.
- Host governments are playing their part as they face pressures to embrace climate change.
- International players and multilateral agencies can bring their influence (and much needed funds) to bear to help the greening of the Belt and Road.







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# **Risk and compliance in BRI projects**



**Mini vandePol**  
Partner  
Hong Kong

# How to effectively manage BRI contract risks and claims



## 1. Pay close attention to the contract terms:

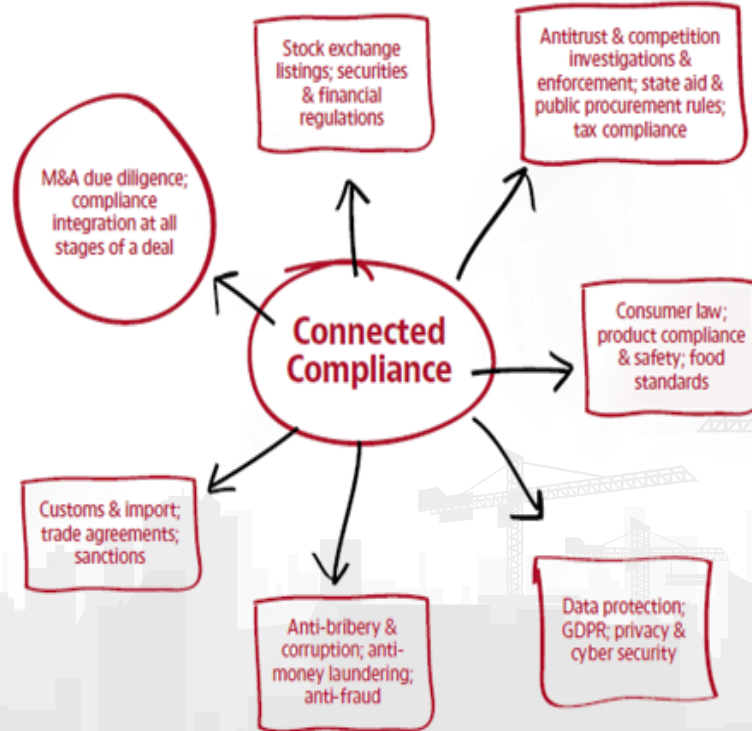
- Risk management and risk allocation provisions
- Clear liability language
- Clear procedure for provision of notices and dispute resolution procedures
  - ✓ Initial negotiation or mediation ?
  - ✓ Arbitration or court litigation ?
  - ✓ Where will the judgment or award be enforced?



## 2. Place value on effective contractual management of issues and claims

# Understanding risks in BRI projects

- China's BRI policy focuses on four key areas: finance, corruption, environment and inclusivity
- Majority of countries involved are ranked as "high risk" for perception of corruption by Transparency International
- Risk areas: government licenses/permits, 3rd party activity, project construction & finance, procurement & supply chain relationships, conflicts of interest, accounting/expense fraud, money laundering



- Intensified local law-making, heightened scrutiny by local regulators, increased global enforcement and cooperation
- Significant (and irreversible) consequences: reduced profitability, legal penalties, criminal sanctions, debarment from funding programs, reputational damage

Enforcement authorities across the globe are placing an increased emphasis on the importance of establishing robust and risk-based corporate compliance programs.

While the precise formulation and detail of the guidance issued varies, there are key themes that are common.

We have distilled those key themes into the following essential elements of corporate compliance.



### Specific highlights:

- Tailored compliance policies and procedures
- Risk-based compliance DD on M&A transactions and post-acquisition integration
- Engagement, screening and monitoring of 3rd party providers
- Educate team on risks
- Effective Whistleblower program



**Q&A**





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