

CHAPTER - 1

GENERAL PRINCIPLES AND DEFINITIONS



Section A. General Principles

Article 1: General Scope and Framework

The Contracting Parties acknowledge that the Belt and Road Initiative (“BRI”) provides a good framework for strengthening economic cooperation and development with clearly defined goals, guiding principles and areas of priorities. It is a major step forward for building a sense of community among the participating countries in the BRI.

According to the “Vision and Actions on Jointly Building Silk Road Economic Belt and 21st-Century Maritime Silk Road”, as published in 2015, the general key characteristics of the BRI includes the promotion of shared development and prosperity, peace and friendship through enhancing mutual understanding, trust and exchange.

Article 2: Sovereignty

The BRI is based on the principle of the sovereign equality of all Contracting Parties.

Article 3: Good Faith and Pacta Sunt Servanda

This Agreement is binding upon the Contracting Parties. All Contracting Parties shall act and discharge their obligations of this Agreement in good faith to enjoy the

benefits of the BRI.

Article 4: Sustainable Development

The Contracting Parties commit to incorporate principle of sustainable development including the UN Sustainable Development Goals in all BRI.

The Contracting Parties ensure BRI projects as defined herein are comprehensive enough to result in increased efficiency and effectiveness and promote sustainable development with poverty reduction and social inclusivity.

Article 5: Rule of Law

The Contracting Parties are committed to implement BRI projects including infrastructure development, finance, investment, intellectual property rights and other related aspects of the BRI projects following rule of law.

Article 6: Non-Discrimination

The Contracting Parties shall apply the rules and procedures relating to BRI projects in a non-discriminatory or non-arbitrary manner and based on market principles.

Article 7: Treatment

The Contracting Parties shall treat each other including their investments, businesses and people on the basis of fairness, objectivity, and accord Most-Favoured Nation Treatment, National Treatment and fair and equitable treatment.

The Contracting Parties shall protect rights of labour and provide safety and security to labour involved in carrying out of BRI projects in their respective territories.

Article 8: Transparency and Anti-Corruption

The Contracting Parties agree to commit to Transparency principle in general.

All information on policies, laws, regulations, administrative rulings, licensing, certification, qualification and registration requirements, technical regulations, standards, guidelines, procedures and practices and other relevant matters relating to BRI projects shall be made available by the Contracting Parties to all interested parties, consistently and in a timely manner, at no cost or at a reasonable cost.

The Contracting Parties affirm to resolve to eliminate bribery and corruption in BRI projects.

The Contracting Parties recognise the need to build integrity within both public and private sectors and each sector has complementary responsibilities in this regard.

Article 9: Due Process

The Contracting Parties shall respect all legal rights that are owed to a person and shall accord due process including access to adequate appeal procedure in accordance with the applicable laws of the respective Contracting Parties.

Article 10: Mutual Respect and Trust

The Contracting Parties agree that the BRI should be pursued in the spirit of mutual respect and trust premised on the understanding that the participating countries in the BRI are at different stages of development, have different perspectives, different capabilities and different priorities.

Article 11: Mutual Benefits

The Contracting Parties agree that the BRI must promote a balanced program that is responsive to the interests and needs of its participating countries; all must benefit to a similar and substantial degree.

The Contracting Parties agree that BRI projects must focus on result rather than form, and achievement rather than policy.

Article 12: Regional Solidarity

The Contracting Parties recognise that the maintenance of close and growing relationships among the participating countries in the BRI is crucial to all and therefore friendship and regional solidarity must link and bind the participating countries in the BRI together.

Article 13: Cooperation between Government and Stakeholders

The Contracting Parties agree that the progressive initiation, design and implementation of projects must be pursued by close cooperation among government authorities and businesses and stakeholders.

Article 14: Standardisation of Business Practices and Ethics

The Contracting Parties ensure that all BRI projects must be implemented on the basis of international best practices. Any disparity in terms of business practices and ethics should be addressed through standardised approaches.

Article 15: Communications, Cooperation and Consultations

The Contracting Parties shall endeavour to facilitate and promote effective mechanisms for exchanges with the business and trading community and investors including opportunities for consultation when formulating, implementing and reviewing rules and procedures relating to BRI projects.

The Contracting Parties shall endeavour to engage the business sector and community-based organisations even more effectively, both in terms of providing easier access to official information on implementation and by obtaining timely feedback on policies or measures being proposed, particularly when they have a project facilitation goal.

The Contracting Parties must involve participation of all actors including Civil societies, non-government organizations, Business Sector, Public Sector and Academia when formulating, implementing and reviewing rules and procedures relating to BRI projects.

Article 16: Simplification and Efficiency of Rules

The Contracting Parties shall strive to simplify the rules and procedures relating to BRI projects by fostering responsive regulatory practices, in order to reduce burdensome, restrictive or unnecessary measures.

Article 17: Consistency and Predictability of Rules

The Contracting Parties shall endeavour to apply rules and procedures relating to BRI projects in a consistent, predictable and uniform manner, so as to minimise uncertainty. Rules and procedures shall be applied in a non-discretionary manner and shall provide clear and precise procedural guidance to the appropriate authorities with standard policies and operating procedures.

Article 18: Harmonisation and Mutual Recognition of Rules

While maintaining the right to regulate or set rules to pursue legitimate objectives such as the protection of health, safety or public morals and the conservation of exhaustible natural resources, the Contracting Parties agree that the regulations, rules and procedures relating to BRI projects shall be harmonised subject to domestic regulation on the basis of international standards and facilitated through mutual recognition, where appropriate.

Article 19: Modernisation and Use of New Technology

The Contracting Parties shall, review and update, if necessary, the rules and procedures relating to BRI projects, including new information and new business practices, and based on the adoption, where appropriate, of modern techniques and new technology.

The Contracting Parties are committed to promote Digital Trade, Cyber Security and respect Intellectual Property Rights.

Article 20: Amicable and Peaceful Resolution of Dispute

The Contracting Parties shall resolve all disputes related to BRI projects in an amicable and peaceful manner so that peace, security and justice in the Belt and Road countries or region are not endangered.

Section B. Definitions

Article 21: General Definitions

For the purposes of this Agreement, unless otherwise provided:

“BRI projects” mean the projects that are initiated and developed in connection with or as measures for the implementation of the BRI.

“GATS” means the General Agreement on Trade in Services, contained in Annex 1B to the WTO Agreement;

“IMF” means the International Monetary Fund;

“IMF Articles of Agreement” means the Articles of Agreement of the International Monetary Fund adopted at Bretton Woods on 22 July 1944;

“Personal information” means any information relating to an identified or identifiable natural person;

“WCO” shall mean the World Customs Organization established in 1952.

“TRIPS Agreement” means the Agreement on Trade-Related Aspects of Intellectual Property Rights, contained in Annex 1C to the WTO Agreement.

“UNCITRAL” means the United Nations Commission on International Trade Law.

“WTO Agreement” means the Marrakesh Agreement Establishing the World Trade Organization, done on April 15, 1994.

第一章 總則和定義

第一部分 總則

第一條 總體範圍與框架

各締約方認識到，「一帶一路」倡議以明確的目標、指導原則和優先發展領域為加強經濟合作與發展提供了良好框架。此為構建「一帶一路」倡議參與國的共同體意識邁出了重要的一步。

根據 2015 年發佈的《推動共建絲綢之路經濟帶和 21 世紀海上絲綢之路的願景與行動》，「一帶一路」倡議的一般關鍵性特徵包括通過增進相互理解、信任與交流，推動共同發展繁榮，促進和平友誼。

第二條 主權

「一帶一路」倡議以所有締約方主權平等原則為基礎。

第三條 誠實信用和有約必守

本協議對各締約方均有約束力。所有締約各方應秉承誠實信用的原則行事和履行在本協定下的義務，以享受「一帶一路」倡議的建設成果。

第四條 可持續發展

各締約方承諾將包括聯合國可持續發展目標在內的可持續發展原則納入

「一帶一路」倡議的各個項目。

各締約方確保本協定下「一帶一路」項目足夠全面以提高效率和效果，並通過減少貧困和提高社會包容性促進可持續發展。

第五條 法治

各締約方致力於依法實施「一帶一路」項目，包括基礎設施建設、金融、投資、知識產權及其他與「一帶一路」項目相關的領域。

第六條 非歧視

各締約方應基於市場原則，以非歧視、非任意的方式實施與「一帶一路」項目相關的規則與程序。

第七條 待遇

各締約方應公正、客觀地對待其他締約方，包括其投資、企業和國民，並給予其最惠國待遇、國民待遇與公平公正待遇。

各締約方應在其領土內保護勞工權利，並為實施「一帶一路」項目的勞工提供安全保障。

第八條 透明度和反腐敗

各締約方同意普遍遵循透明度原則。

各締約方應持續地、及時地，以無償或收取合理費用的方式向各利益相關方提供所有與「一帶一路」項目有關的政策、法律、法規、行政裁定、許可、認證、資質和註冊要求、技術法規、標準、指南、程序和慣例及其他相關事項的信息。

各締約方確認，決心消除「一帶一路」項目中的賄賂和腐敗。

各締約方認識到，在公共部門和私人部門都需加強廉潔建設，且各部門就此方面有互助義務。

第九條 正當程序

各締約方應尊重當事人所享有的一切合法權利，並應根據締約方各自應當

適用的法律為當事人提供正當程序，包括進入上訴程序的權利。

第十條 相互尊重和信任

各締約方同意，在理解「一帶一路」參與國處於不同發展階段、具有不同視角、不同實力和不同優先事項的基礎上，秉承相互尊重、相互信任的精神，推進「一帶一路」倡議。

第十一條 互利

各締約方同意，「一帶一路」倡議須促成一個符合各參與國利益和需求的平衡方案，所有參與國須獲得類似且實質性的利益。

各締約方同意，「一帶一路」項目須重成果而非形式，重成就而非政策。

第十二條 區域團結

各締約方認識到，保持「一帶一路」倡議參與國間密切和持續發展的關係對所有參與國均至關重要。因此，參與國間須維持友好關係和加強地區團結。

第十三條 政府和利益相關方的合作

各締約方同意，「一帶一路」項目的逐步啓動、設計和實施須通過政府機構、企業和利益相關方之間的密切合作來推進。

第十四條 商業慣例和道德規範的標準化

各締約方確保「一帶一路」項目在國際最佳實踐的基礎上實施。任何有關商業慣例和道德規範方面的差異應通過標準化的方式予以解決。

第十五條 溝通、合作和磋商

各締約方應努力推動建立與商貿界及投資者之間有效的交流機制，包括在制定、實施和審議有關「一帶一路」項目的規則和程序時，為各方提供磋商的機會。

各締約方應努力讓工商界及社區組織更有效地參與其中，包括使其更為便捷地獲得項目實施的官方信息，以及使其及時獲得其所提議的政策或措施的反

饋意見，特別是當此類措施旨在促進項目時。

各締約方須在制定、實施和審議與「一帶一路」項目有關的規則和程序時，讓包括民間團體、非政府組織、工商界、公共部門和學術界在內的所有主體參與其中。

第十六條 規則的簡化和效率

各締約方應努力通過推進回應性監管措施，簡化與「一帶一路」項目相關的規則和程序，以減少繁瑣、限制性或不必要的措施。

第十七條 規則的一致性和可預見性

各締約方應努力以一致、可預見和統一的方式適用與「一帶一路」項目相關的規則和程序，最大程度地減少不確定性。規則和程序應以非歧視的方式適用，並通過標準政策和操作流程向有關當局提供清晰、準確的程序指引。

第十八條 規則的協調和互認

在維護監管權或制定規則權以追求正當目標時，如保護健康、安全或公共道德以及保護可用盡自然資源等，各締約方同意與「一帶一路」項目相關的法規、規則和程序應以國際標準為基礎與國內法規相協調，並在適當的情況下通過互認予以便利。

第十九條 現代化和新技術的使用

各締約方應在必要時審議和更新與「一帶一路」項目相關的規則和程序，包括新信息和新商業慣例，並在適當情況下基於所採用的現代技術和新科技進行審議和更新。

各締約方致力於促進數字貿易、網絡安全和尊重知識產權。

第二十條 友好與和平解決爭議

各締約方應以友好、和平的方式解決與「一帶一路」項目相關的一切爭議，以確保「一帶一路」國家或地區的和平、安全和正義不受危及。

第二部分 一般定義

第二十一條 一般定義

就本協定而言，除非本協定另有規定：

「一帶一路」項目是指與「一帶一路」倡議相關或為實施「一帶一路」倡議而啓動和開發的項目；

「GATS」是指《世界貿易組織協定》附件 1B 包含的《服務貿易總協定》；

「IMF」是指國際貨幣基金組織；

「《國際貨幣基金組織協定》」是指 1944 年 7 月 22 日在布雷頓森林通過的《國際貨幣基金組織協定》；

「個人信息」是指用於識別或可用於識別自然人的任何信息；

「WCO」應指 1952 年成立的世界海關組織；

「TRIPS 協定」是指《世界貿易組織協定》附件 1C 包含的《與貿易有關的知識產權協定》；

「UNCITRAL」是指聯合國貿易法委員會；

「WTO 協定」是指於 1994 年 4 月 15 日簽訂的《馬拉喀什建立世界貿易組織協定》。