

View of the International Law Practice of ADB in Green Finance in “The Belt and Road” Initiative

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Abstract

Against the background of “The Green Belt and Road” initiative the Asian Development Bank (ADB), as an important pillar, is making efforts in legal exploration at various levels, including agreements, frameworks, strategies and projects. This paper reflects the importance of international law in the green finance of “The Belt and Road” initiative, and proposes relevant Institutional solutions to address the challenges in the long term.

Keywords: The Belt and Road, ADB, international law, green finance

1. ADB’s Legal Exploration to Promote “The Green Belt and Road” Initiative

1.1 Practice Green Development and Publish The AIIB Articles of Agreement

Sustainable development is one of the major global development agendas today, and all investments by member countries must be green, as required by the Paris Agreement and the United Nations Sustainable Development Goals (SDGs). Against this background, in 2013 China put forward the initiative to establish the Asian Infrastructure Investment Bank (AIIB), and after many patient communications and exchanges with the countries concerned in its preparation, *The Memorandum of Understanding on the Preparation for the Establishment of the Asian Infrastructure Investment Bank* and *Asian Infrastructure Investment Bank Articles of Agreement* were signed in October 2014 and June 2015, respectively. In December 2015 the AIIB Agreement met the statutory conditions for

entry into force and was declared formally established. The AIIB Agreement stipulate that the Bank shall ensure that each of its operations is conducted in accordance with the Bank’s operational and financial policies, including those addressing environmental and social impact aspects.

In 2016, the ADB began its formal operations, with the principles of “lean”, “clean” and “green”, and is committed to investing in infrastructure and promoting sustainable economic development and regional cooperation in the Asia-Pacific region. In 2017, the United Nations Environment Program (UNEP) and the World Bank jointly released *The Green Finance Roadmap for Sustainable Development*, which provides a basic idea for the development of global green finance. Under the impetus of the Roadmap, the ADB established the Green Finance Cooperation Committee in November 2018 to promote the establishment of a framework for green finance cooperation in

Asia and to build an international platform for green finance cooperation among Asian countries along “The Belt and Road”, thereby achieving the sustainable and healthy development of green finance in Asia.

According to the ISS ESG agency’s rating report on environmental, social and governance (ESG) factors for the ADB, the ADB performs significantly better than the industry as a whole in two indicators on sustainability standards and labor standards and working conditions for financial products and services, slightly less well but overall at a higher level for the industry on the issue of goal-oriented promotion of sustainability, and at a higher level for climate change and related the performance on climate change and related risks is weaker. The joint project group of ICBC and Tsinghua University proposes the core elements applicable to the construction of “The Green Belt and Road” based on the summary of the development experience of governments, international organizations and financial institutions. It also proposes green financial policies to promote the development of “The Green Belt and Road” at three levels: international cooperation, national governments, and financial institutions.

1.2 Pursue Green Credit and Develop The ADB Environmental and Social Framework

The ADB’s current green finance practices focus on green credit, where all projects are conceived, designed and implemented in line with the principles of sustainable development. The ADB believes that environmental policies in credit can help to create constraints on borrowers, prompting them to pay greater attention to environmental risks and impacts and reduce the environmental pollution of their projects. To this end, in September 2015, the ADB published *Environmental and Social Safeguard Framework (ESF) Draft*. This draft went through a two-month stakeholder consultation process and in February 2016 the ADB published the final *Environmental and Social Safeguard Framework*. The text mentions that, taking into account the Paris climate agreement’s goal of controlling global warming by two degrees Celsius and the achievement of country-owned contribution programs, the ADB has set out in the framework the three main objectives proposed to support the Paris agreement and strengthen the global response to climate change, namely climate change mitigation and adaptation and the alignment of financial flows, as well as the

willingness to help clients achieve their country-owned contribution pro forma through financing in the context of sustainable development, which can also be used to support clients in developing long-term strategies for greenhouse gas emissions reduction. The framework document details the environmental and social criteria for project review, the review process, and the rights and obligations of each stakeholder, making it possible for ADB to follow the rules in the area of minimizing local environmental and social impacts of projects.

A further revision of the ADB’s ESF was made in February 2019 and approved by the Board members in May 2021. This revision builds on the ADB’s commitment in 2016 to evaluate the ESF after three years of implementation. It aims to improve the efficiency and results of ADB’s operations by reflecting the experience gained in a relatively short period of time in financing operations and recent trends in development policies and practices. The revision makes five main changes: (1) Strengthening climate change provisions. The revised ESF strengthens climate change provisions, reflecting ADB’s commitment to achieve its climate finance target of 50% of its total approved financing by 2025; (2) Environmental, social and governance (ESG) approach to capital market operations. The revised ESF reflects the new dynamic trend of development finance institutions adopting environmental, social and governance (ESG) approaches to capital market operations. (3) Clarity in document disclosure standards. The revised ESF improves transparency by increasing the deadline for ADB to disclose draft environmental and social documents of its clients. (4) Clearer information is provided on disclosure of environmental and social information, gender equality and disability issues for financial intermediation projects. The revised ESF reinforces ADB’s commitment to gender equality by expanding references to gender throughout the framework. It also emphasizes ADB’s commitment to providing equal opportunities for people with disabilities. (5) Other changes. The revised ESF also highlights protection and safety issues. It strengthens the commitment to biodiversity and ecosystem services.

2020 ADB and Amundi SA launch Climate Change Investment Framework to drive green recovery and transformation in Asia Endorsed by the leading international accreditation body

for green and climate bond markets and the industry thought leader Climate Bonds Initiative. The framework translates the three key objectives of the Paris Agreement into basic metrics, providing investors with a new tool to assess issuers' alignment with climate change mitigation, adaptation and low carbon transition objectives.

1.3 Focus on Green Infrastructure and Launch The Asian Sustainable Energy Strategies

The ADB works with members from around the world to build green infrastructure with sustainability, innovation and connectivity at its core. Along with cross-border connectivity and attracting private capital, sustainability in infrastructure is also the mission of the ADB. In June 2017, the second annual meeting of the ADB Board of Governors was held under the theme of "Sustainable Infrastructure", which seeks to address economic, social and environmental sustainability issues in a balanced and integrated manner. The ADB unveiled its "*Sustainable Energy Strategy for Asia*", which proposes that all energy infrastructure projects approved by the ADB must be consistent with low-carbon principles, promote the achievement of the goals set by the United Nations 2030 Agenda for Sustainable Development and the Paris Agreement. It is also committed to playing an important role in assisting members to develop "environmentally friendly" infrastructure.

In addition, in 2017, ADB plans to implement *The ADB Energy Strategy: Asia Sustainable Energy Plan*. The initial framework for this strategy was finalized after two rounds of public consultation, and a revised results-based monitoring framework was approved by the ADB Board of Directors in April 2018, replacing the initial framework in the Energy Sector Strategy. The objective of the strategy is to provide the framework, principles and business models to guide ADB's engagement in the energy sector, including the development of its project planning and future subsector operations to support its client countries in (1) developing and improving their energy infrastructure; (2) increasing access to energy; (3) facilitating their transition to a less carbon intensive energy mix; and (4) achieving their goals and commitments under these global initiatives.

Third, from 27 August to 21 October 2018, the ADB held a public consultation on the draft

Sustainable Cities Strategy: Financing Solutions for Asian Cities, which was published in final form in December. The ADB recognizes that sustainable urban development requires a balanced blend of many economic, financial, environmental and social factors. The ADB aims to support Asian cities in achieving sustainable development by promoting the goals of green, resilient, efficient, accessible and prosperous. These goals are in line with the ambitions of many Asian cities and broader global goals such as *The Sustainable Development Goals*, *The New Urban Agenda*, *The Paris Climate Change Agreement* and *The Sendai Framework for Disaster Risk Reduction*.

1.4 Conduct Green Finance Exchanges and Participate in International Forums

Under the guidance of the Chinese government's "The Green Belt and Road" Initiative, the ADB has been actively promoting the exchange of experiences on green finance construction among financial institutions along the route. In May 2017, China's Ministry of Environmental Protection, Ministry of Commerce and four other ministries and commissions jointly issued the *Guidance on Promoting the Construction of "The Green Belt and Road"*, which clearly proposes to strengthen the construction of the Green Silk Road and provides a preliminary policy framework on how to implement the Green Silk Road. In December 2017, ADB, the Ministry of Environmental Protection of China and the United Nations Environment Program signed *The Memorandum of Understanding and Cooperation on Building "The Green Belt and Road"*, and ADB took the lead in setting up the International Alliance for Green Investment along "The Belt and Road", to provide a platform for the exchange of green finance policies and standards among countries along the route, and to provide guidelines for green finance practices in each country.

In January 2018, the ADB, together with the European Investment Bank (EIB), the China Green Finance Council (CGFC), the Monetary Authority of Singapore (AS) and other institutions, convened the International Green Investment Sustainability Forum and released a white paper on "*A Common Language for Green Finance along 'The Belt and Road' initiative*", which systematically explains the concept of green finance implementation standards. In May 2018, ADB and the International Finance Corporation (IFC) co-organized a Green Finance Leadership

Workshop in Beijing, which was attended by 150 senior managers from 40 countries, including India, Russia, Bangladesh, Brazil, Kazakhstan, etc. In November 2018, "The Belt and Road" Green Finance Forum was held in London, UK. At "The Belt and Road" Construction and Green Finance Development Forum held in London, the ADB explained systematically the green finance cooperation and green investment in the countries along the route, and also conducted in-depth exchanges with the participating financial institutions on the securitization of green assets and green information disclosure of financial institutions in the countries along the route.

2. Conclusions and Policy Recommendations

To sum up, at the practical level, the ADB has established its own green development philosophy through *The Asian Infrastructure Investment Bank (AIIB) Articles of Agreement*, actively pursued green credit practices through the development of *The ADB Environmental and Social Framework*, ensured the implementation of green infrastructure construction through the launch of *The Asian Sustainable Energy Strategies*, and conduct green finance exchanges through participating in international forums.

Secondly, as reflected by its practice, the ADB is currently facing a shortage of funds to promote "The Green Belt and Road" construction, a lack of uniform environmental protection standards among neighboring parties, and a complex and extremely unstable investment risk situation along the route. In response to the current challenges, this paper argues that, in terms of institutional solutions, there is a need to broaden the capital support mechanism and play a capital-led role, to establish green financial standards and strengthen financial technical assistance and to have a cooperation and dialogue platform and mechanism to strengthen risk assessment and management.

The ADB values the environment and the integration of environmental and operational policies. "Green" is one of the three core values of the ADB. Sustainable infrastructure is one of the ADB's three thematic priorities. More importantly, the ADB is committed to helping its members achieve their nationally determined contributions in line with the Paris Agreement. Although the current practice reveals that there are still shortcomings in the institution's participation in promoting the greening

practices of "The Belt and Road" Initiative, the ADB will be able to make full use of its latecomer advantage, learn from the world's advanced rules, optimize various institutional and institutional arrangements, and actively share the fruits of progress with the majority of developing countries. The ADB will be able to make a greater contribution to the construction of the "The Belt and Road" Initiative.

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