

China's Reform and Opening-Up and Its Move to International Institutions

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1.1 INTRODUCTION

The People's Republic of China (hereafter, 'China') had few exchanges with international institutions in the twenty years following its establishment in 1949. However, the restoration of China's United Nations (UN) membership in 1971 was a turning point.¹ In a process accelerated by implementation of its reform and opening-up policy in the late 1970s, China has integrated into the international community, steadily expanding its relationships with international institutions and playing an ever more important role in shaping modern international law.

As a major power and the largest developing country in the world, China increasingly has a say in international affairs. To an extent, its membership of and active participation in international institutions heightens the legitimacy of these institutions and consolidates their regional and global governance roles. For China and the relevant international institutions, this is a win-win situation. Their interactions not only are an important component of China's foreign engagement but also serve as an indispensable channel through which the international community can get to know China.

From its early days as an 'apprentice' learning how to comply with international law rules, China has reached a stage of active involvement in the formation of rules for the new international order. This chapter examines China's role in shaping and developing international law as it moves to international institutions. These are to be understood in a broad sense, encompassing international organizations as well as China's many initiatives, such as the Forum on China–Africa Cooperation (FOCAC), that characterize its engagement with international institutions. However, the discussion in this chapter focusses on both intergovernmental global and regional organizations as well as other international fora and networks to which China is a party, such as the Group of Twenty (G20) and the Group of Seventy-Seven (G77), given their relevance to international law shaping and making.

Following this introduction, Section 1.2 offers an overview of China's move to international institutions. Section 1.3 looks into distinctive features of China's participation in international institutions in the last few decades. China's establishment of new international institutions in shaping and making international law rules will be further examined in Section 1.4. Section 1.5 discusses China's norm-making role in three major areas in recent years and its contribution to the development of international law. The chapter concludes, in Section 1.6, that China's

¹ UNGA Res 2758 (25 October 1971) UN Doc A/RES/2758(XXVI), www.law.ox.ac.uk/sites/files/oxlaw/oscola_2006_citing_international_law.pdf. For a specific treatment of the issue to commemorate the fiftieth anniversary of China's return to the UN, see, for example, China UN Association, *The Road Together – Commemorating the 50th Anniversary of the People's Republic of China's Resumption of Its Membership in the United Nations* (World Knowledge Press, 2021) (in Chinese).

norm-entrepreneurship role is conducive to development of international law and reform of the international order, allowing for wider participation from all members of the international community.

1.2 AN OVERVIEW OF CHINA'S MOVE TO INTERNATIONAL INSTITUTIONS

International institutions developed quickly after the end of World War II. The Union of International Associations maintains organization profiles of more than 73,000 active and inactive international institutions, including around 5,000 international intergovernmental organizations, with around 1,200 new organizations added each year.² Almost all countries are members of international institutions, which originate mainly from multilateral, regional or bilateral cooperative arrangements.

China is an active member of the United Nations and its specialized agencies, including but not limited to the Food and Agriculture Organization (FAO), the Conference on Trade and Development (UNCTAD), the Educational, Scientific and Cultural Organization (UNESCO), the Office of the High Commissioner for Refugees (UNCHR) and many others.³ In April 2021, China contributed almost USD 350 million to the UN for the year of 2021,⁴ making it the second-largest contributor after the United States. The rise of China's status is particularly evident in UN peacekeeping operations, with China ranking second among all providers of assessed contributions (15.21 per cent) for 1 July 2020–30 June 2021.⁵

China is currently a member of sixty international organizations, eleven of which are regional.⁶ For example, it joined the UN High-Level Political Forum on Sustainable Development in 2013, the Asian Infrastructure Investment Bank (AIIB) in 2016 and the Belt and Road Forum for International Cooperation (BRFIC) in 2017. China also helps fund regional organizations, for example in 2020 contributing USD 1.42 million to Asia-Pacific Economic Cooperation (APEC) forum trade advancement and investment initiatives.⁷

China's institution-building role is a relatively recent development. It took the lead in creating the AIIB and the BRFIC as part of its Belt and Road Initiative (BRI) development strategy.⁸ Meanwhile, Chinese nationals increasingly hold senior positions in a range of UN agencies, including the FAO, the International Telecommunication Union and the International Civil Aviation Organization. Currently, thirty-five Chinese nationals serve as heads of key international organizations and in other top leadership positions in UN principal organs, funds and programmes, specialized agencies, other UN entities and bodies, and international trade and financial institutions.⁹ China's representatives have so far led four of the fifteen UN

² Union of International Associations, 'The Yearbook of International Organizations', <https://uia.org/yearbook>.

³ Mark A. Baker, 'China's Membership in International Organizations', *Chinese Outpost* (n.d.), www.chinese-outpost.com/chinapedia/government-and-politics/membership-in-international-organizations.asp.

⁴ UNGA Committee on Contributions, 'Contributions Received for 2021 for the United Nations Regular Budget' (27 September 2021), www.un.org/en/ga/contributions/honourroll.shtml.

⁵ United Nations Peacekeeping, 'How We Are Funded', <https://peacekeeping.un.org/en/how-we-are-funded>.

⁶ Ministry of Foreign Affairs of the People's Republic of China, 'An Overview of International Organizations and Conferences', www.fmprc.gov.cn/web/wjb_673085/zjzj_673183/gjjjs_674249/gjzzyhygk_674253/.

⁷ APEC, 'China Contributes to Initiatives Advancing Free Trade and Economic Growth' (9 December 2020), www.apec.org/press/news-releases/2020/1209_MOU.

⁸ On the BRI, see further, in this volume, Chapter 2.

⁹ US–China Economic and Security Review Commission, 'PRC Representation in International Organizations' (May 2021), www.uscc.gov/sites/default/files/2021-05/PRC_Representation_in_International_Organizations_May2021.pdf.

specialized agencies,¹⁰ while four Chinese jurists have served and one is currently serving as a judge at the International Court of Justice¹¹ and others on the benches of other international courts or tribunals.

1.3 DISTINCTIVE FEATURES OF CHINA'S MOVE TO INTERNATIONAL INSTITUTIONS

Since the adoption of the reform and opening-up policy, and particularly in the post-Cold War period, China has expanded its participation in international institutions, reaffirming its determination to integrate into the international community. Four distinctive features can be observed in the process of China's move to international institutions: (1) an economic-led approach; (2) diverse forms of participation; (3) participation based on sovereign equality and peaceful coexistence; and (4) an effort to foster transparency in the international order with an emphasis on developing countries.

1.3.1 *Economic-Led Move to International Institutions*

China's participation in international institutions and global governance has been led mainly by economic considerations. Beyond these, it should be noted that peace and security have also played a role over time in China's move to international institutions. The prime example is China's move to the UN, which was mainly driven by peace and security considerations.

China's participation in international institutions was very limited from 1949 until the first few years after the restoration of its UN membership in 1971, when the reform and opening-up policy brought major changes to China's strategy and direction in its participation in international institutions. The move has been a gradual process, initially serving China's urgent need for economic reform while the country tried to familiarize itself with the international institutional system and game rules. At this stage, the direct reason for China's move to international institutions was a need for foreign investment and capital. Deng Xiaoping, the architect of China's reform and opening-up policy, pointed out that 'China must first fulfil its economic modernization, which means that the Chinese economy must shift from the Stalinist model to an independent one relying more on export.'¹² To achieve this, participation in major international economic institutions was vital.

China began by liaising with major international institutions in the trade and economic field, including the UN Development Programme, the World Bank, the International Monetary Fund (IMF) and the General Agreement on Tariffs and Trade (GATT). However, China's integration into the international trade and economic system took much longer than expected. For example, its admission to the World Trade Organization (WTO) in 2001 came only after fifteen years of negotiations. Once achieved, this membership signified a new stage of economic interactions between China and the outside world, leading to full integration into the international trade and economic system.

¹⁰ Paweł Paszak, 'China's Growing Influence in International Organizations', *Warsaw Institute* (14 October 2020), <https://warsawinstitute.org/chinas-growing-influence-international-organizations/>.

¹¹ The five Chinese judges are Hsu Mo (term: 1946–56); Wellington Koo (1957–67); Zhengyu Ni (1985–94); Jiuyong Shi (1994–2006); and Hanqin Xue (2010–30).

¹² Zhuhai Xie, 'The Rise of China and Its Growing Role in International Organizations' (2011) 4(1) *ICCS Journal of Modern Chinese Studies*, 85–96, 87.

The 2008 global financial crisis was another important triggering event for China's participation in international institutions and global governance. Unlike major Western economies, China's economy remained strong throughout the crisis, allowing it to overtake Japan as the second-largest economy in the world in 2010. Many countries relied on China's strong economy in their recovery, sparking its determination to explore and improve global economic governance. With its rapid economic development over the past three decades since the 1990s, China is seen as having the ability to contribute to a greater extent to the shaping of global economic order in the new era,¹³ while the success of this development also speaks for itself in terms of the credibility of China's economic model and policy in the eyes of many developing countries.

In overtaking Japan to become the world's largest foreign exchange reserve country in 2006, China became well placed to provide significant levels of development aid and assistance. Coupled with the sheer size of its internal market and rapidly growing middle class, China has become 'increasingly important for the balance sheet of companies not just in Asia, but also elsewhere in the world'.¹⁴

Economic aid, a relatively less controversial area than politics or the military, is another factor to consider in China's economic-led move to international institutions. While retaining its identity as a developing country, China voluntarily provides economic aid to other developing countries, which can in turn serve its national interests, including national image building.¹⁵ By developing this economic-led model of participation and international cooperation, China has found common ground with other countries, thereby establishing a positive and cooperative global image.

In this globalized world, economic interdependence inevitably creates a spillover effect in other realms, including the political arena. For instance, it leads the international community to realize shared concerns beyond the economic, giving rise to potential 'political consensus-building opportunities'.¹⁶ China's economic-led participation in international institutions offers an excellent ground for its involvement in, and impact on, international decision-making processes in the political arena.

1.3.2 *Diversified Forms of Participation in International Institutions*

China's participation in international institutions is a concrete manifestation of its diplomatic ideology of multilateralism and constitutes an important part of its diplomatic transformation prompted by the reform and opening-up policy. International institutions were no more than platforms for power struggles between superpowers during the Cold War period; China has since deepened its understanding of the role of international institutions in facilitating and promoting its domestic economic reform. During the process of balancing power and interest among international institutions of a different nature, influence and scale, China has developed a flexible, diversified means of participation in international institutions.

The UN, as the most representative and influential international intergovernmental organization, plays an indispensable governance role in the maintenance of world peace, the

¹³ Jinghan Zeng, 'Chinese Views of Global Economic Governance' (2019) 40(3) *Third World Quarterly*, 578–94, 579.

¹⁴ Stephen Olson and Clyde Prestowitz, *The Evolving Role of China in International Institutions*, report prepared for the US–China Economic and Security Review Commission (Washington, DC: Economic Strategy Institute, January 2011), 5, www.uscc.gov/sites/default/files/Research/TheEvolvingRoleofChinainInternationalInstitutions.pdf.

¹⁵ Denghua Zhang, *A Cautious New Approach: China's Growing Trilateral Aid Cooperation* (Canberra, ACT: Australian National University Press, 2020), 62.

¹⁶ Jaewoo Choo, 'Ideas Matter: China's Peaceful Rise' (2009) 7(3–4) *Asia Europe Journal*, 389–404, 400.

promotion of economic development and the protection of human rights. Many important international conflicts and responses to global crises are dealt with under the UN framework. It is thus natural that China's participation in international institutions began with the UN.

One of five permanent members of the UN Security Council since 1945, China has special status within the UN system. While this status has not changed since China resumed its UN membership, the country has greatly expanded its national power and influence over international affairs in the last two or three decades. It has made use of its unique position within the UN framework to defend national interests, shape its international image and develop its multilateral diplomacy. While some countries claim that China disrupts the decision-making of international institutions, especially that of the Security Council, China has repeatedly declared its firm support for multilateralism. Most recently, at the 74th Session of the United Nations General Assembly (UNGA) it stated that 'China continues to uphold multilateralism and takes an active part in reforming and improving global governance', and that it stands for 'the international system built around the United Nations, the international order underpinned by international law, and the multilateral trading system centred around the World Trade Organization'.¹⁷

Increasingly, China has shown a tendency to participate in projects that do not impact it directly, becoming involved in a wide range of issues including managerial or organizational issues within institutions such as the Asian Development Bank (ADB).¹⁸ While membership is the major means by which China engages with international institutions, as a latecomer, it has also taken a flexible, pragmatic approach to this involvement, which takes two main forms.

The first is observer status provided by international institutions for non-member states, other international governmental and non-governmental organizations, and even individuals. An observer state does not have the right to speak and vote in the meetings of international institutions, but such a status can provide excellent opportunities for the exchange of views on certain issues. For example, China was granted observer status in the South Asian Association for Regional Cooperation in 2006 and attended its summit in 2007. The grant of this status was considered a breakthrough for China's multilateral diplomacy in the South Asian region and signified a new stage in China's development of relationships with South Asian countries through the multilateral, institutional approach.

Observer status can also be a prelude to membership of an international institution. Before China's formal admission to the WTO, it applied for GATT observer status in 1982 and the same for the WTO in 1995. This status provided China with the opportunity to become familiar with WTO rules and operation and an informal channel for communication with WTO members, enabling consensus on issues of common interest. After six years of negotiations, China formally joined the WTO in 2001.

The second form of China's international involvement is through the launch, co-launch or joining of forums for dialogue and exchange on issues of common interest. Not all such forums belong to international institutions. For example, the first Ministerial Conference of FOCAC held in Beijing in October 2000 set up a collective dialogue mechanism for regular consultations between China and African countries.¹⁹ In 2004, China and the Arab League co-launched the China–Arab States Cooperation Forum (CASCF) to promote cooperation and advance peace

¹⁷ Ministry of Foreign Affairs of the People's Republic of China, 'China and the United Nations: Position Paper of the People's Republic of China for the 74th Session of the United Nations General Assembly' (18 September 2019), www.fmprc.gov.cn/mfa_eng/wjdt_665385/2649_665393/t1698812.shtml.

¹⁸ Olson and Prestowitz, *supra* note 14, at 9.

¹⁹ Forum on China–Africa Cooperation (FOCAC), 'FOCAC Mechanisms', www.focac.org/eng/ltj_3/ltjz/.

and development.²⁰ In the same year, the China–Caribbean Economic and Trade Cooperation Forum, proposed by China, was established.²¹ This was followed by the launch of the China–Pacific Island Countries Economic Development and Cooperation Forum in 2006, again upon the initiative of the Chinese government.²² These forums, while not officially international institutions, provide an excellent platform and a flexible channel through which China can exchange views, cooperate with other nations on a wide range of issues and achieve common development. Some have become institutionalized through regular meetings. This special type of international institution includes the Group of Eight Industrialized Nations (G8),²³ the G20,²⁴ the G77²⁵ and APEC.²⁶

1.3.3 *Participation Based on Sovereign Equality and Peaceful Coexistence*

The fundamental principles of China's foreign policy are succinctly expressed as 'the Five Principles of Peaceful Coexistence: mutual respect for sovereignty and territorial integrity, mutual non-aggression, non-interference in each other's internal affairs, equality and mutual benefit, and peaceful coexistence'.²⁷ The doctrine of peaceful coexistence has its origins in the former Soviet Union, which acknowledged 'the existence of societies antagonistic to the Soviet regime without regarding the destruction of these societies as the immediate goal of the Soviet state'.²⁸ The People's Republic of China, after its establishment in 1949, developed the doctrine into its Five Principles of Peaceful Coexistence, which were formally inscribed in the Conference Declarations at the Bandung Conference of Asian and African Countries in April 1955 and have been reiterated on various occasions as the core of China's foreign policy.²⁹

China's emphasis on peaceful coexistence and its peaceful rise also has historical and cultural roots that differ from British or American schools of thoughts on international society and governance. Specifically, the concepts of *he* (和) and *shi* (势) manifest in China's approach to foreign relations. *He* means essential harmony or assumption of 'no conflict' between oppositions, as well as resolution of contradiction through complementary interaction. China's diplomacy in the four decades since initiation of its reform and opening-up policy vividly exemplifies

²⁰ China–Arab States Cooperation Forum (CASCF), 'What Is the China–Arab States Cooperation Forum?' (May 2016), www.bricspolicycenter.org/en/forum-de-cooperacao-china-paises-arabes/.

²¹ Caribbean Council, 'China and the Caribbean: Background Paper for the Advisory Committee of the Caribbean Council' (12 November 2012), www.caribbean-council.org/wp-content/uploads/2014/02/China-and-the-Caribbean-Advisory-Committee-Background-article.pdf.

²² Xinhua, 'China, Pacific Island Countries Hold 3rd Economic Development and Cooperation Forum', *Xinhuanet* (21 October 2019), www.xinhuanet.com/english/2019-10/21/c_138490687.htm.

²³ The forum aims to foster consensus on global issues such as economic growth and crisis management, global security, energy and terrorism. For further information, see www.cfr.org/background/group-eight-g8-industrialized-nations.

²⁴ The G20 is a platform for international economic cooperation concerned with financial and socio-economic issues. For further information, see <https://g20.org/en/about/Pages/whatis.aspx>.

²⁵ The G77 is now the largest intergovernmental organization of developing countries in the United Nations. It promotes members' collective interests in relation to major international economic issues and strengthens cooperation among developing countries. For further information, see www.g77.org/doc/.

²⁶ For further information on APEC, a forum concerned with trade and economic issues for twenty-one economies in the Asia-Pacific region, see www.apec.org/About-Us/About-APEC.

²⁷ Asia for Educators, Columbia University, 'Principles of China's Foreign Policy', *Asia for Educators* (2021), http://afe.easia.columbia.edu/special/china_1950_forpo1_principles.htm.

²⁸ Warren Lerner, 'The Historical Origins of the Soviet Doctrine of Peaceful Coexistence' (1964) 29 *Law and Contemporary Problems*, 865–70, 865.

²⁹ Ministry of Foreign Affairs of the People's Republic of China, 'China's Initiation of the Five Principles of Peaceful Co-Existence', <https://bit.ly/44K6dVC>.

its adoption of the 'no-enemy assumption' and the 'middle-course approach'.³⁰ This is in line with the Confucian practice of harmony through model behaviour or exemplary action, which 'forms a force field that commands authority'.³¹ Such moral authority or normative power radiates outwards, having an impact even on those beyond the range of its sanctioning authority.³² *Shi* refers to an overall situation or general tendency/direction. According to *shi*, the state should act and interact in a way that fully takes into account the trend or direction of change in the world. Such a process should be 'contextually minded and process-oriented'.³³ These cultural elements, combined with China's history as a victim of colonization and imperialism, naturally lead to adoption of peaceful coexistence as the core theme for China's foreign policy and strong orientation towards sovereign equality.³⁴

China's emphasis on peaceful development and a harmonious world order serves a strategic purpose. It creates a stable external environment that facilitates the resolution of internal socio-economic problems. The two are interrelated; many foreign policies resonate with domestic policies. The process of China's peaceful development, in particular its economic development, relies much on the combination of three internal and external elements: 'unifying Chinese domestic development and opening to the outside world; relating China's development to that of the world; and integrating Chinese people's fundamental interests with the common concerns of the world's people'.³⁵ Thus, China's foreign policies are highly sensitive to domestic pressures, principles and policies, which heavily influence its attitude towards international law.³⁶

While continuing to tout the virtue of diversity in the international community, China emphasizes the importance of common development to reduce pressure on its compliance with international norms on the one hand, and on the other to reassure the international society of the benefits of its peaceful rise and development.³⁷ It is thus argued that concepts such as 'peaceful rise/development', 'harmonious world' and 'mutual benefit and common win' advocated by the Chinese government reflect the need for better coordination or correlation between domestic and foreign policies³⁸ to maintain a stable external environment conducive to China's internal economic development and enhancement of its international status. Accordingly, China perceives an interrelation between 'peace' and 'development'; the causal linkage between the two constitutes the core theme of China's peaceful rise theory.³⁹ Only with 'peace' could China rapidly develop its economy, so emphasizing the notion of peaceful coexistence has been necessary to facilitate economic growth. Further, emphasis on peaceful coexistence and

³⁰ Yaqing Qin, 'International Society as a Process: Institutions, Identities, and China's Peaceful Rise' (2010) 3(2) *Chinese Journal of International Politics*, 129–53, 147.

³¹ Jeremy Paltiel, 'Constructing Global Order with Chinese Characteristics' (2011) 4(4) *Chinese Journal of International Politics*, 375–403, 394; Emilian Kavalski, 'The Struggle for Recognition of Normative Powers: Normative Power Europe and Normative Power China in Context' (2013) 48(2) *Cooperation and Conflict*, 247–67, 256.

³² Paltiel, *supra* note 31, at 392.

³³ Qin, *supra* note 30, at 148.

³⁴ Ann Kent, 'China's Participation in International Organisations' in Yongjian Zhang and Greg Austin (eds.), *Power and Responsibility in Chinese Foreign Policy*, 132–66 (Canberra, ACT: Australian National University Press, 2013), 139.

³⁵ Choo, *supra* note 16, at 397.

³⁶ Ann Kent, 'China's International Socialization: The Role of International Organizations' (2002) 8(3) *Global Governance*, 343–64, 347.

³⁷ Feng Zhang, 'Rethinking China's Grand Strategy: Beijing's Evolving National Interests and Strategic Ideas in the Reform Era' (2012) 49(3) *International Politics*, 318–45, 333.

³⁸ Jisi Wang and Lu Sun, 'From "War and Revolution" to "Peace and Development": 60 Years of Chinese Diplomacy and International Study' in Weimin Zhao and Junling Guo (eds.), *Vision of Peking University: An Account of 60 Years of Academic Vicissitudes in the New China*, 257–315 (Beijing: Peking University Press, 2010), 303, 333.

³⁹ Choo, *supra* note 16, at 395.

dialogue, rather than domination, commands respect and enhances China's position of leadership, increasing China's norm-making powers within international institutions.

By actively participating in international institutions, China can promote its policy of peaceful coexistence to the world and neutralize 'China threat' perceptions and theories. China announced its 'building a harmonious world' concept at the 60th Session of the UN in September 2005,⁴⁰ and in 2010 the former Chinese minister of commerce highlighted that 'providing foreign aid and honouring its global obligations is an important way for China to present its image as a responsible great power and make its contribution to building a harmonious world visible'.⁴¹ This has been further demonstrated through promotion of a 'community of shared future of mankind',⁴² emphasizing the importance of cooperation and coexistence. Through cooperation via the platforms provided by various international institutions, China can effectively demonstrate its commitment to peace and overcome the threat perception,⁴³ as the international community is better able to perceive and predict China's views regarding the exercise of power. This added transparency afforded by China's increasing integration helps to dissipate 'misperception or misunderstanding associated with negative aspects of China's rise'.⁴⁴

1.3.4 *Transparent International Order with Emphasis on Developing Countries*

China's move to international institutions aims for a fair and transparent international order with particular attention paid to the interests of developing countries, a focus reflecting China's self-perception as a leader respecting all powers. From China's perspective, 'respect for others', encouraging expectations of reciprocity, is the cardinal virtue of China's normative power.⁴⁵ This is exactly how multilateralism functions. While major international institutions were initiated and jointly established by developed countries, more and more developing countries have voluntarily joined these institutions with the aim of constraining the caprice of certain of their members and maintaining a relatively fair and transparent global order.

China attaches great importance to equal participation in decision-making processes within international institutions, in particular for developing countries. Some scholars have proposed two criteria for determining the existence of a democratic mechanism. First is the paramount importance of 'the presence of a consultative mechanism, formal or informal, between the big powers', while the second concerns 'whether the interests of developing countries at large are taken into consideration in the decision-making process'.⁴⁶ Since developed countries are in a strong position within the current power structure of the major international institutions, there is a need to reform the current international order to take special account of the interests of developing countries and develop a fairer and more reasonable world economic and political framework. Since restoration of its UN membership, China has actively supported

⁴⁰ Jintao Hu, 'Promoting Common Development and Achieving Shared Prosperity', *People's Daily* (15 September 2005), 3.

⁴¹ Deming Chen, 'Working Hard to Promote Chinese Foreign Aid' (2010) 19 *Qiu Shi*, 42–44, 42. See also Zhang, *supra* note 15, at 59.

⁴² See further in this volume, Chapter 3.

⁴³ Xie, *supra* note 12, at 90.

⁴⁴ Choo, *supra* note 16, at 393.

⁴⁵ Kavalski, *supra* note 31, at 253.

⁴⁶ Qingjiang Kong, 'China in the WTO and Beyond: China's Approach to International Institutions' (2014) 88 *Tulane Law Review*, 959–80, 968.

this proposition. In a position paper on UN reforms, China pointed out that these should take into account:

the national conditions and real needs of developing countries, and focus on poverty reduction, infrastructure development, food security, capacity building and other major concerns of developing countries and on building an open world economy. Developed countries should live up to their Official Development Assistance (ODA) commitments on time and in full to effectively support developing countries in realizing sustainable development.⁴⁷

China focusses on the interests of developing countries since these may ultimately affect how other countries deal with issues related to China. Its efforts to promote a global governance regime benefiting developing countries are closely related to its own economic growth and concerns over sovereignty in view of its past history as a target of imperialism.⁴⁸ As a developing country itself, China shares similar experiences in history and has common interests with other developing countries. For this reason, a cornerstone of China's diplomacy is to consolidate and strengthen friendly cooperation with developing countries.

In constructing its international institutional network, China has focussed particularly on cooperation with neighbouring countries. For example, China held a summit in November 2021 commemorating the thirtieth anniversary of the establishment of the China–ASEAN (Association of Southeast Asian Nations) dialogue relationship; in January 2022 China celebrated the thirtieth anniversary of the establishment of diplomatic relations with the five Central Asian countries (Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan). Politically, these are China's primary base for safeguarding its sovereign rights and interests and playing its international role. Economically, neighbouring countries are China's important partners in opening up and developing economic cooperation. When it comes to national security, neighbouring areas are an ideal external safety buffer. In view of the diversity of cultures, ethnicities, religious beliefs, social systems and levels of development in the region, China needs to build a peaceful and friendly neighbouring environment from a strategic perspective.

1.4 CHINA'S MORE RECENT INITIATIVES IN THE ESTABLISHMENT OF NEW INTERNATIONAL INSTITUTIONS

On the one hand, China is participating in existing international institutions to marshal international support and show that it respects the existing international norms and order, which includes both acceptance of the norms in attitude and compliance with the norms in action.⁴⁹ On the other hand, China is creating new institutions to deal with its frustrations with existing institutions and to further its own interests, as well as to respond to new issues and challenges arising in the new era. The two purposes go hand-in-hand and do not necessarily conflict with each other.

While adapting to the current international legal order and promoting reforms within the current system, the role of China, as the second largest economy in the world, has shifted. No longer a passive follower of norms, it has become proactive in establishing a secondary-level rule

⁴⁷ Ministry of Foreign Affairs, 'China and the United Nations', *supra* note 17.

⁴⁸ Jeffrey W. Legro, 'What China Will Want: The Future Intentions of a Rising Power' (2007) 5(3) *Perspectives on Politics*, 515–34, 517. See also Evan S. Medeiros and M. Taylor Fravel, 'China's New Diplomacy' (2003) 82(6) *Foreign Affairs*, 22–35, 22; David Shambaugh, 'China Engages Asia: Reshaping the Regional Order' (2005) 29(3) *International Security*, 64–99, 64.

⁴⁹ Peter J. Katzenstein (ed.), *The Culture of National Security: Norms and Identity in World Politics* (New York: Columbia University Press, 1996), 5.

system.⁵⁰ The argument for this two-way strategy is ‘to get both hands ready’.⁵¹ This is best exemplified by establishment of the AIIB in 2015.⁵² While pushing for reforms within the IMF, China in the meantime established the AIIB as a regional-level institution meant to play a dominant role in shaping the regional financial order.⁵³

China’s move to international institutions brings challenges to the traditional institutional financial frameworks in relation to three elements:

the global system’s capacity to absorb the substantial increase in the supply of Chinese savings; the adequacy of the global financial safety net to incorporate China and the increase in financial integration and capital flows that have been associated with its rise; the framework for investment financing, with China creating institutions in response to the immense unmet demand for development finance.⁵⁴

China has been increasingly supportive of the IMF and its various activities, sending a clear message to international society that China accepts existing norms. Participation in international institutions also provides China with excellent opportunities to gain practical knowledge and experience in international negotiations, conflict resolution and multilateral diplomacy, and ‘to adopt the norms, values, attitudes and behaviours accepted and practiced by the system’.⁵⁵

This does not mean that China is fully satisfied with the existing international financial order, its overall governance structure or China’s role within it. China’s stance is not to overthrow this financial order but ‘to reform it responsibly from within’.⁵⁶ China has put forward proposals on how to reform the current IMF governance structure and improve representation of developing countries within it. This is interpreted as a two-step process: China needs, first, to be perceived as a responsible international power and to gain the legitimacy needed for further action through accepting and upholding existing norms;⁵⁷ then, upon obtaining sufficient legitimate normative power, China can set its preferred agenda and persuade other members to integrate the proposed norms and values.⁵⁸ It has thus been argued that China’s constructive engagement in international institutions heightens China’s credibility and strengthens its influence and ability to achieve its objectives from a tactical point of view.⁵⁹

As discussed earlier, while placing itself in a major position in the IMF and UN mechanisms, China has also explored alternative platforms for international cooperation. China’s establishment of the AIIB was mainly driven by its disappointment with the stalled reforms of the Bretton Woods institutions. While the AIIB could potentially serve as a competitor to the IMF and the

⁵⁰ Jinghan Zeng, *supra* note 13, at 586.

⁵¹ See further Zhongying Pang and Ruiping Wang, ‘Global Governance: China’s Strategy’ (2013) 4 *China International Studies*, 57–68, 58.

⁵² The AIIB, headquartered in Beijing, is a multilateral development bank with 103 approved members worldwide. For further information, see www.aiib.org/en/about-aiib/index.html.

⁵³ Jinghan Zeng, *supra* note 13, at 586. On international financial law see further, in this volume, Chapter 23.

⁵⁴ Peter Drysdale, Adam Triggs and Jiao Wang, ‘China’s New Role in the International Financial Architecture’ (2017) 12 (2) *Asian Economic Policy Review*, 258–77, 260.

⁵⁵ Alastair Iain Johnston, ‘Treating International Institutions as Social Environments’ (2001) 45 *International Studies Quarterly*, 487–515, 495.

⁵⁶ Shaun Breslin, ‘China and the Global Order: Signaling Threat or Friendship’ (2013) 89 *International Affairs*, 615–34, 617.

⁵⁷ Hedley Bull, *The Anarchical Society: A Study of Order in World Politics, Fourth Edition* (New York: Macmillan, 2012), 196.

⁵⁸ Lina Benabdallah, ‘Contesting the International Order by Integrating It: The Case of China’s Belt and Road Initiative’ (2019) 40(1) *Third World Quarterly*, 92–108, 93.

⁵⁹ Olson and Prestowitz, *supra* note 14, at 4.

ADB, it could also prompt the IMF to speed up its reform process. This would be a clear example of China's 'voice and exit' strategy.⁶⁰

Consequently, China's approach to its move to international institutions has been mixed. It has worked closely with established powers and other developing countries in reforming existing international institutions, and also created new institutions that are arguably in direct competition with existing institutions. This approach serves China's goal of protecting its own national interests and those of developing countries in order to achieve a fairer and more reasonable international political and economic order.

In 2001, China established the Shanghai Cooperation Organization (SCO),⁶¹ upgrading the previous Shanghai Five mechanism⁶² to strengthen regional cooperation, make more effective use of emerging possibilities and address new challenges and threats common to the member states.⁶³ As the first intergovernmental organization named after a Chinese city, the SCO has symbolic significance in the process of China's move to international institutions. The SCO functions as an effective platform for China to work with Russia and other Central Asian members in settling border disputes and collectively dealing with cross-border terrorism and other non-traditional security issues.⁶⁴ When regional peace, stability and security are threatened, the member states immediately hold consultations and respond collectively to these emergencies.⁶⁵ Under the framework of the SCO, China has established a close but non-aligned partnership with other member states, signifying the evolution of China's diplomacy from a traditional bilateral model to a new multilateral model.⁶⁶

To sum up, China's trend of movement to international institutions presents the following distinctive features. First, China's initiatives in the establishment of new international institutions focus on regional integration through multilateral means. Second, China has continued its long-time diplomatic policy of non-aligned partnership. Third, China respects diversity and upholds openness within this new institutional framework.

1.5 CHINA'S ROLE IN INTERNATIONAL NORM-SHAPING AND NORM-MAKING

Increasingly frequent interactions between China and international institutions have provided China with sufficient opportunities to grasp the game rules of international frameworks. This is a process of internalizing international law rules within China, and it leads to shared

⁶⁰ Chien-Huei Wu, 'Global Economic Governance in the Wake of the Asian Infrastructure Investment Bank: Is China Remaking Bretton Woods?' (2018) 19(3) *Journal of World Investment & Trade*, 542–69, 568.

⁶¹ The Shanghai Cooperation Organization, 'About SCO', http://eng.sectsc.org/about_sco/. The SCO has eight members: the Republic of India, the Republic of Kazakhstan, the People's Republic of China, the Kyrgyz Republic, the Islamic Republic of Pakistan, the Russian Federation, the Republic of Tajikistan and the Republic of Uzbekistan.

⁶² The mechanism consists of five states, namely China, Kazakhstan, Kyrgyzstan, Russia and Tajikistan. This platform was used for the resolution of border demarcation and demilitarization and possible economic cooperation. See Bates Gill, 'Shanghai Five: An Attempt to Counter U.S. Influence in Asia?', *Brookings* (4 May 2001), www.brookings.edu/opinions/shanghai-five-an-attempt-to-counter-u-s-influence-in-asia/.

⁶³ Declaration on the Establishment of the Shanghai Cooperation Organization, <https://bit.ly/475fkCr>.

⁶⁴ Non-traditional security issues include trade in illicit drugs, and environmental and water threats. See further Niklas Swanstrom, 'Traditional and Non-traditional Security Threats in Central Asia: Connecting the New and the Old' (2010) 8(2) *China and Eurasia Forum Quarterly*, 35–51, 35.

⁶⁵ Marcel de Haas, *Russia's Foreign Security Policy in the 21st Century: Putin, Medvedev and Beyond* (London: Routledge, 2010), 44.

⁶⁶ For a more specific treatment of these issues, see in this volume Chapter 11.

understandings among members in the international community.⁶⁷ To a certain extent, in its early stages this internalization followed a pattern of mimicking, social influence and persuasion, or a mixture of all three.⁶⁸ In recent years, as we have discussed, China has become a proactive norm-maker, proposing Chinese solutions and shaping new norms in line with the interests of China and other developing countries. The emergence, development, decline and possible replacement of relevant international norms is a natural process that involves various factors. Generally speaking, China has played an important role in international norm-making in three major areas, which will be discussed in the rest of this section.

The norm-making process is a process of enhancement by a state of its soft power in the international arena. China's move to international institutions has been successful across a wide range of areas in international security, politics, economy and environment, and China's ideology, proposals and positions have increasingly attracted attention from all corners of the world. The norm-making process is also one of struggling with existing norms that are mostly generated by developed countries.

1.5.1 *Sovereignty and Non-intervention*

China's emphasis on sovereignty and non-intervention in the context of 'internal peace and security' serves a strategic purpose. China's hope is to actively shape a norm of non-intervention within international institutions. This will ultimately benefit its own interests, through non-intervention on the issue of Taiwan⁶⁹ and human rights issues,⁷⁰ for instance.⁷¹

A typical example of non-intervention is China's stance on Darfur. In response to civil war in this southern region of Sudan, China sought to promote a return to more traditional forms of peacekeeping, as opposed to emerging interpretations of the norm of intervention, by balancing the need to respect Sudan's sovereignty and the requirement for Sudan to consent to an international intervention.⁷² China's official stance, argued to reflect 'a non-aligned perspective privileging state sovereignty',⁷³ is believed to be relevant to its pursuit of its own core security interest, in particular on the issue of Taiwan, by "normatively" insulating itself from the eventuality of outside intervention in the future'.⁷⁴ The issue of human rights is another key sovereignty arena. China, following the traditional concept of sovereignty,⁷⁵ holds that human rights issues occurring within the confines of national borders should not be a matter for foreign interference.⁷⁶ In other words, human rights are considered primarily a domestic affair.⁷⁷

⁶⁷ Jeffrey T. Checkel, 'Norms, Institutions, and National Identity in Contemporary Europe' (1999) 43(1) *International Studies Quarterly*, 83–114, 88.

⁶⁸ Alastair Iain Johnston, *Social States: China in International Institutions, 1980–2000* (Princeton, NJ: Princeton University Press, 2008), 197, 198. As argued, China made an effort to mimic the languages, concepts and routines of the international arms control regime; in consideration of social influence and its international image, China accepted limits on its nuclear weapons programme; through participation in various forums and dialogues, China was persuaded to adopt cooperative security strategies.

⁶⁹ Kent, *supra* note 36, at 141.

⁷⁰ Katherine Morton, 'China and the Future of International Norms', *ASPI Strategic Policy Forum* (22 June 2011), 1.

⁷¹ For a more specific treatment of these issues, see, in this volume, Chapter 10.

⁷² Nicola P. Contessi, 'Multilateralism, Intervention and Norm Contestation: China's Stance on Darfur in the UN Security Council' (2010) 41(3) *Security Dialogue*, 323–44, 323.

⁷³ Gerrit Kurtz and Philipp Rotmann, 'The Evolution of Norms of Protection: Major Powers Debate the Responsibility to Protect' (2016) 30(1) *Global Security*, 1–18, 10.

⁷⁴ Contessi, *supra* note 72, at 337.

⁷⁵ Stephen D. Krasner, 'Compromising Westphalia' (Winter, 1995–6) 20(3) *International Security*, 115–51, 122.

⁷⁶ Ayse Kaya, 'The EU's China Problem: A Battle Over Norms' (2014) 51(2) *International Politics*, 214–33.

⁷⁷ For a more specific treatment of these issues, see Chapter 4 in this volume.

There is a growing concern among some states, especially Western states, that China, as its state power rapidly grows, will take advantage of international institutions out of geopolitical consideration and thus jeopardize the value and function of international institutions. China's increasingly active involvement with international peace and security issues is its attempt to mitigate the 'China threat' theory by demonstrating its willingness to adhere to principles of peaceful rise and coexistence. China has actively participated in UN peacekeeping operations and ranks number one in terms of contribution of peacekeeping personnel among the five permanent UN Security Council members.⁷⁸ China's participation is demonstrated 'not only in its strong support for the UN peacekeeping operations and relevant affairs, but also in its evolving doctrine on UN peacekeeping'.⁷⁹ It also presents to the outside world China's commitment, as a responsible state, to being 'cooperative and supportive of multilateral operations designed to improve security abroad', which has no doubt contributed to the development of China's soft power and mitigated the 'China threat'.⁸⁰

1.5.2 *International Economic and Trade Development*

International economic institutions, represented by the World Bank, the IMF, the WTO and APEC, are major forums for engagement, with China's vividly demonstrated by its increasingly active role within the WTO. Not only does China 'passively' make use of the WTO dispute settlement mechanism but it also actively brings cases and complaints against those who fail to honour WTO trade commitments. In the first few years of membership, China took a cautious attitude towards use of the WTO dispute settlement mechanism, gaining first-hand experience by joining as a third party in almost every dispute settlement panel established from 2003 to 2006 and then filing cases from September 2008. China brought at least four cases⁸¹ to the WTO mechanism during 2008–10 with the aim of changing or softening the potential negative impacts of existing trade rules through interpretation, especially the provisions in China's Accession Protocol regarding its WTO commitments.⁸² The percentage of disputes with China as complainant has risen in the last few years as China is using the WTO dispute settlement mechanism to advance its legitimate interests.⁸³

Apart from norm-making through the WTO dispute settlement mechanism,⁸⁴ China has made effective use of the WTO as a negotiating forum for new norms that are favourable to

⁷⁸ United Nations Peacekeeping, 'Ranking of Military and Police Contributions to UN Operations' (31 August 2017), www.un.org/en/peacekeeping/contributors/2017/aug17_2.pdf.

⁷⁹ Yin He, 'China Rising and Its Changing Policy on UN Peacekeeping' in Cedric de Coning and Mateja Peter (eds.), *United Nations Peace Operations in a Changing Global Order*, 253–76 (Cham: Palgrave Macmillan, 2019), 260.

⁸⁰ Marc Lanteigne, 'Red and Blue: China's Evolving United Nations Peacekeeping Policies and Soft Power Development' in Chiyuki Aoi and Yee-Kuang Heng (eds.), *Asia Pacific Nations in International Peace Support and Stability Operations*, 113–40 (Cham: Palgrave Macmillan, 2014), 117, 118.

⁸¹ The four cases are: (1) United States – Definitive Anti-Dumping and Countervailing Duties on Certain Products from China, DS379, Request for Consultations received 19 September 2008; (2) European Communities – Definitive Anti-Dumping Measures on Certain Iron or Steel Fasteners from China, DS397, Request for Consultations received 31 July 2009; (3) United States – Measures Affecting Imports of Certain Passenger Vehicle and Light Truck Tyres from China, DS399, Request for Consultations received 14 September 2009; (4) European Union – Anti-Dumping Measures on Certain Footwear from China, DS405, Request for Consultations received 4 February 2010.

⁸² Henry Gao, 'China in the WTO Dispute Settlement System: From Passive Rule-Taker to Active Rule-Maker' in Ricardo Melendez-Ortiz, Christopher Bellmann and Shuaihua Cheng (eds.), *A Decade in the WTO: Implications for China and Global Trade Governance, ICTSD Programme on Global Economic Policy and Institutions*, 17–21 (Geneva: International Centre for Trade and Sustainable Development, 2011), 19.

⁸³ On international trade law, see further, in this volume, Chapter 20.

⁸⁴ On international dispute settlement, see further Chapter 24 in this volume.

China and other developing countries.⁸⁵ On the one hand, China's spectacular economic development in the past four decades has better placed it to translate its strategic vision into practice and exert more impact on the international economic order. On the other hand, the international leadership vacuum and uncertainty created by the retreat of the United States from important international institutions have provided China with an excellent opportunity to fit into the role in defence of economic globalization. The promotion of norm-making and reform through various platforms, such as the World Economic Forum in Davos, Switzerland and the Boao Forum for Asia in Hainan, China, has proven an effective way of dealing with international economic governance and the vulnerabilities of the existing international economic regime.⁸⁶

To sum up, China's initial reluctance to make use of the WTO dispute settlement mechanism was owing to its lack of capacity and to normative concerns about reputational loss. Lack of legal, financial and human resources, and concerns over reputation cost were particularly acute at this stage.⁸⁷ Over time, however, a learning and socialization process has led to an attitudinal shift in China's normative orientation regarding the use of the WTO dispute settlement procedure. Since then, China has been one of the largest 'customers' of the Dispute Settlement Body (DSB), both as a complainant and as a defendant. The paralyzing of the WTO Appellate Body (AB) by the United States has significantly affected the effective operation of the WTO dispute settlement mechanism, which China believes to have adversely affected the interests of the WTO members. Apart from becoming part of the WTO multi-party interim appeal arrangement (MPIA), China has also called for WTO reforms in four areas: (1) resolving the crucial and urgent issues threatening the existence of the WTO; (2) increasing the WTO's relevance in global economic governance; (3) improving the operational efficiency of the WTO; and (4) enhancing the inclusiveness of the multilateral trading system.⁸⁸ The socialization process that prompted the evolution of China's behaviour suggests that social and normative (dis)incentives may sometimes be more effective than material (dis)incentives in eliciting behavioural change in international institutions.

1.5.3 *International Environmental and Sustainable Development*

China's emphasis on developing nations is motivated not solely by national interest and economic growth but also by its moral views on the allocation of responsibilities between developing and developed nations, for example in the context of environmental protection and sustainable development.⁸⁹

Efforts to reduce carbon emissions exemplify China's dual roles as norm-taker and norm-maker. China, as a firm supporter of emissions reduction and a ratifier of the Kyoto Protocol as early as 2002,⁹⁰ has rejected US proposals for emerging economies' mitigation responsibilities and staunchly advocated maintenance of the Kyoto Protocol's operationalization of 'common but differentiated responsibilities' (CBDR), 'with only developed countries taking on binding

⁸⁵ Chien-Huei Wu, *supra* note 60, at 550.

⁸⁶ James F. Paradise, 'China's Quest for Global Economic Governance Reform' (2019) 24(3) *Journal of Chinese Political Science*, 471–93, 471.

⁸⁷ Xiaojun Li, 'Understanding China's Behavioural Change in the WTO Dispute Settlement System: Power, Capacity, and Normative Constraints in Trade Adjudication' (2012) 52(6) *Asian Survey*, 1111–37, 1125–6.

⁸⁸ WTO, 'China's Proposal on WTO Reform: Communication from China', WT/GC/W/773, 13 May 2019, <https://bit.ly/3PY8bgO>.

⁸⁹ On international environmental law, see further Chapter 16 in this volume.

⁹⁰ Ann Kent, *Beyond Compliance: China, International Organizations, and Global Security* (Palo Alto, CA: Stanford University Press, 2007), 250.

emission reduction commitments'.⁹¹ Developed countries' acquiescence to China's proposals serves as an important indicator of its normative influence.⁹² By insisting on CBDR inclusion in the final version of the Paris Agreement, as opposed to the US position, China has been considered 'a norm entrepreneur',⁹³ advocating for adoption or institutionalization of CBDR as a norm.⁹⁴ China's participation in international environmental protection also serves its national interests, with five major benefits: '(1) attracting foreign economic assistance; (2) building institutional and human capacity; (3) insuring domestic political stability; (4) curbing unsustainable economic growth; and (5) enhancing China's international reputation'.⁹⁵ Ahead of the twenty-seventh session of the Conference of the Parties (COP) of the UN Framework Convention on Climate Change in Glasgow in late 2021, China submitted updated nationally determined contributions (NDCs) to fight climate change with its voluntary emission-cutting pledges, namely, aiming to see its carbon dioxide emissions peak by 2030 and become carbon neutral by 2060.⁹⁶

1.6 CONCLUSION

China's move to international institutions began with resumption of its UN membership in 1971. For a long time, China followed norms in order to present itself as a responsible state, showing a cautious attitude towards the application of international law rules and institutional platforms, largely owing to its lack of capacity and experience. After accumulating sufficient knowledge of and experience in international institutions, China has become more assertive in its application of international law rules. This role, which has involved not only complying with existing rules but also contesting and defending these rules against other members' non-compliance, is well illustrated by China's increasingly confident and skilful use of the WTO dispute settlement mechanism. More importantly, China has transitioned to being a proactive norm-maker and is starting to exert an important influence on the shaping of the international order. Upon mastering the game rules of international institutions, China has tried to advance Chinese solutions to international legal issues, to strengthen its agenda-setting ability in international institutions and to develop new norms in line with its interests as well as those of most developing countries.

Nevertheless, in the process of international norm-making and norm-shaping, China needs to be open-minded, not constrained by the traditional mindset of absolute oppositions between developing and developed countries. It should seriously study the norms of developed countries and endorse, instead of blindly refuting, those that are in line with the medium- to long-term interests of major countries. In the new era where developing countries are increasingly divided

⁹¹ Makers Jinnah, 'Takers, Shakers, Shapers: Emerging Economies and Normative Engagement in Climate Governance' (2017) 23(2) *Global Governance: A Review of Multilateralism and International Organizations*, 285–306, at 293.

⁹² See further Cinnamon P. Carlane and J. D. Colavecchio, 'Balancing Equity and Effectiveness: The Paris Agreement & The Future of International Climate Change Law' (2019) 27 *New York University Environmental Law Journal*, 107–82, at 150–1.

⁹³ Jinnah, *supra* note 91, at 303.

⁹⁴ Martha Finnemore and Kathryn Sikkink, 'International Norm Dynamics and Political Change' (1998) 52(4) *International Organization*, 887–917, at 893.

⁹⁵ Jerry McBeath and Bo Wang, 'China's Environmental Diplomacy' (2008) 15(1) *American Journal of Chinese Studies*, 1–16, at 6.

⁹⁶ On climate change, see further Chapter 17 in this volume; 'China Submits Updated Climate Pledges to UN Ahead of Glasgow Talks', *Reuters* (29 October 2021), www.reuters.com/business/cop/china-submits-updated-climate-pledges-united-nations-2021-10-28/.

and diversified, it is not possible or feasible to propose new norms from the perspective of all developing countries in all situations. Hence, the international community should transcend the barriers of the traditional camps and political differences and shape new international norms and promote international governance based on policy-oriented common interests. In this regard, the AIIB is an excellent example in including both developed and developing economies, both Asian and European, as its founding members. In this globalized world, multilateral cooperation, instead of unilateral action, is the only viable way to realize the common goals of international society – peace and development, prosperity and inclusiveness. Accession to existing international institutions or establishment of new institutions does not change the essence of multilateralism. As the experience of China over the last fifty years illustrates, the roles of international norm-taker and international norm-maker are not mutually exclusive but instead are mutually self-reinforcing.