Chinese Multilateralism in the AIIB

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ABSTRACT

The Asian Infrastructure Investment Bank (AIIB, or the Bank) marks the first endeavor of Asian developing countries as initiators, with China at the center, in multilateral development financing. The glamour of the AIIB lies in multilateralism—the underlying principle based on which it is institutionalized. Chinese multilateralism for the AIIB is different from American multilateralism, which is embedded in the Bretton Woods institutions and has enabled the USA as a hegemon to strengthen its leadership in the world economy. China is not a hegemon; and most importantly, it has no will to counter the existing world order through the establishment of the AIIB. Rather, the Bank has positioned itself in a complementary role in international development financing. Meanwhile, Chinese multilateralism aims to improve global governance, tilting toward balance in favor of those underrepresented. The AIIB meets both the needs of China’s domestic reforms, and the world’s expectation of a responsible stakeholder and contributor. It fulfills multilateralism in both its constitutional charter and standards.

I. INTRODUCTION

Transport and communication, two major factors causing globalization, have vastly reduced both the time and cost of moving goods, services and even ideas throughout the world.1

John H. Jackson

Multilateralism matters.

John G. Ruggie

The Asian Infrastructure Investment Bank (AIIB, or the Bank) marks the first endeavor of Asian developing countries as initiators, with China at the center, in

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multilateral development financing. The Bank had 57 Prospective Founding Members (PFMs) on the date of its establishment on 25 December 2015, while over 20 more economies have been lining up to join in. Thus, the Bank will most likely be larger in terms of membership compared to the Japan-led Asian Development Bank (AsDB), which was built half a century ago and currently has 67 members. Canada’s decision to apply for AIIB membership on 31 August 2016, just ahead of the G20 Leaders’ Hangzhou Summit, is an acknowledgement of the AIIB’s ever-increasing clout, as its operations unfold. So far, the USA and Japan are the only two major Western powers that are reluctant to join the Bank. The glamour of the AIIB lies in multilateralism—the underlying principle on which it is institutionalized.

Multilateralism is an institutional form that coordinates relations among three or more states on the basis of ‘generalized’ principles of conduct—that is, principles which specify appropriate conduct for a class of actions, without regard to the particularistic interests of the parties or the strategic exigencies that may exist in any specific occurrence, as defined by political scientist John G. Ruggie. Multilateralism has two corollaries, i.e. indivisibility, and expectation of diffuse reciprocity.

Multilateralism is an effective way of mobilizing support in international institutional developments. It not only allows small economies to have their voices heard, but also imposes disciplines and international responsibility on big powers. By legalizing international arrangements, multilateralism makes international democracy possible, fostering an ideal international system with transparency, predictability, and sustainability.

The AIIB’s modus operandi—lean, clean, and green—serves as the cornerstone principle for the Bank. AIIB President Jin Liqun defines the three words as follows: lean, with a small efficient management team and highly skilled staff; clean, an ethical organization with zero tolerance for corruption; and green, an institution that is built on respect for the environment. It is the commitment of the AIIB membership to ‘lean, clean and green’ that makes the arrangement of infrastructure financing an indivisible whole. And such arrangement generates among AIIB membership expectation of ‘diffuse reciprocity’—that is, the arrangement expects to yield a rough equivalence of benefits among AIIB membership in the aggregate and over time.

4 See AsDB membership at http://www.adb.org/about/members (visited 28 March 2016)
7 Ibid.
II. WHY CHINA PIVOTS TO MULTILATERALISM: HISTORICAL SURVEY

China initiated the idea of the AIIB in 2013, and has since led the development of the Bank. The first line of speculation or rumor was that the AIIB would be a mere instrument of China’s diplomatic policy. The question is why China has chosen to yield decision-making power to multilateralism, instead of exercising monopoly in bilateral aid.

China was used to offering bilateral aid, which has the advantages of giving donors more control over where the money goes and how the money is spent, and may also garner more goodwill from the recipient country. The pivot to multilateralism is essentially because of lessons of history. In waves of historical efforts to design the international order, multilateralism was a key for those successful ones, while lacking multilateralism doomed the fate of those failures.

A. Successful multilateralism: the creation of Bretton Woods system after World War II

The first, and the most salient, multilateral effort in international economy after World War II was the creation of the Bretton Woods system. The postwar international institution design was at the hands of two world powers, the ailing UK and the rising USA. Both powers were eager to take the lead in designing the postwar developments. They both had advantages. The UK negotiating team, led by Lord John M. Keynes, the greatest economist of the 20th century, had ‘all the brains’, while the US team, led by chief negotiator Harry D. White, had ‘the money bags’.

White developed a deep belief in multilateralism, after he managed to resolve an Anglo-American dispute over the exchange rate between the dollar and the pound sterling during the interwar period, by advocating a Tripartite Agreement among the UK, the USA, and France. The Agreement effectively limited the size of the French franc devaluation and thereby the size of the pound devaluation, realizing currency stability that benefited international trade. The experience had reinforced White’s belief in the benefit of multilateral agreement over bilateral negotiations with the British. The idea came to have great importance when White encountered Lord Keynes later in negotiating postwar economic order.

Keynes, defender of the British Empire, resisted multilateralism because he wanted to preserve Britain’s special status through its central role in the Empire and its bilateral relationship with the USA. Therefore, he preferred a postwar world structure...
centered on an agreement between two founder States, the UK and the USA; the management and voting power should permanently lie with the two States, and the headquarters would be in London. In contrast, White believed that a bilateral loan to the UK would not help significantly with the UK’s problem. Instead, a multilateral arrangement in international trade and monetary affairs would provide the favorable conditions necessary for expanding world trade and investment, and would be of real help. For this reason, White considered the International Monetary Fund (IMF) and the World Bank a far more effective alternative to bilateral aid to the UK. After all, the USA had the brain for maximizing the benefits of its ‘money bags’ by developing the Bretton Woods institutions, and the UK’s proposal was outmoded. This case demonstrates the success of multilateralism embedded in the White proposals.

B. Failed multilateralism: the proposal of Asian Monetary Fund in 1997

Japan’s proposal about the Asian Monetary Fund (AMF) during the 1997 Asian financial crisis turned out to be failed multilateralism, a meaningful lesson worth studying for avoiding future failures. When the crisis hit the region in 1997, the IMF came to rescue with huge amounts of money, but upon stringent conditions that turned out to be part of the crisis countries’ problem rather than part of the solution. Asian People grew resentful of the IMF program. At the Thai support meeting in August 1997 Japan acted as a regional leader at the expense of the USA and the IMF, offering 100 billion US dollars to help create the AMF, an Asian version of the IMF, after mobilizing endorsement from Asian economies. The AMF plan was to prepare rescue funds in advance of a crisis, instead of raising them after the crisis had struck. However, Japan’s campaign for the AMF encountered stringent oppositions from the USA and the IMF, and it was effectively demised later that year.

On the surface, the failure of the AMF was due to the USA’s concerns that the AMF would replace the IMF, an effective means for the USA to control Asian countries’ domestic reforms by enforcing conditionality in IMF lending policy. However, if we look deeper into the AMF proposal, Japan itself was to be blamed first. Japan initiated the AMF simply out of self-interest. Japanese banks were heavily

16 Perhaps a true and more fundamental reason behind White’s negotiating stance was the American public’s disapproving sentiment against maintenance of the UK’s imperialist position by means of postwar Anglo-American cooperation. See Henry Kissinger, Diplomacy (New York: Simon & Schuster Paperbacks, 1994), at 420–21.
18 IMF pushed the borrowing countries to carry out ‘structural reforms’, including higher interest rates, cutbacks in government spending, increases in taxes, and additional political and economic changes. Those conditions only brought down the East Asian economy further. Joseph E. Stiglitz, Globalization and Its Discontents (New York: W.W.Norton & Company, Inc. Norton, 2002) at 95–98.
19 According to Lipscy’s work, the Asian economies originally in support of the AMF plan were China, Hong Kong, Japan, South Korea, Australia, Indonesia, Malaysia, Singapore, Thailand, and the Philippines. Phillip Lipscy, ‘Japan’s Asian Monetary Fund Proposal’, Stanford Journal of East Asian Affairs, at 95. But my interview with Professor Zhang Zhiixiang, then China’s Executive Director at the IMF with personal involvement in the process, indicates that China was against the AMF proposal from the beginning. Stanford Journal of East Asian Affairs 3 (Spring 2003): 93–104.
exposed to East Asian economies, with which Japan had the closest trade and investment ties. Accordingly, Japan’s campaign efforts were narrowly focused on its neighbors, and did not reach out to other regions beyond. This narrow-mindedness is a sharp contrast to the open approach Japan took in establishing the AsDB in 1960s, as well as to the approach China took in establishing the AIIB lately.21 The AMF plan ultimately lost support of important powers like Australia, who stepped back after the USA took carrot-and-stick measures.22 The lesson in this case is that Japan failed to maneuver and maximize multilateral effects, offering the USA an opportunity to kill the AMF in embryo. After all, Japan was not well prepared, hastily putting up a half-baked plan.

C. Unsustainable elements in the existing world order

‘The AIIB offers an opportunity to strengthen the very international economic system that the US created and sustained’, the US banker Robert B. Zoellick said.23 Indeed, the existing international economic system has long contributed to the world peace and development, and still works today; the AIIB commits itself to complementing the existing system.24 Meanwhile, this does not mean that the US-dominated international institutions are perfect and no change is needed. Rather, the AIIB is entitled to correct and improve the unsustainable elements of the existing world order, since US veto power and the path-dependence culture in the existing institutions make such change difficult, if not unlikely, from within.25

The existing institutions have been criticized for inconsistent lending policy. The IMF bailed out Mexico generously under the guidance of the USA during the Mexico financial crisis in 1994.26 Its vigorous bailouts of some European nations during the 2009 euro-zone crisis were all the more impressive.27 But in a disappointing contrast, the IMF extended harsh conditionality on Thailand and other Southeast Asian countries during the 1997 Asian financial crisis.28

21 Both the AsDB and the AIIB reiterated during establishment that they had no intention to counter or replace the existing international order; instead, they intended to complement the existing world order. They believe in open regionalism, and have their membership open to the world.
22 Lipscy, above n 19, at 96.
23 Robert B. Zoellick, ‘Shunning Beijing’s Infrastructure Bank was a Mistake for the US’, Financial Time, 7 June 2015.
24 The AIIB AOA provides in the preamble that the AIIB ‘will complement the existing multilateral development banks . . .’
25 Chinese foreign minister Wang Yi stated in a press conference during the Lianghui of 2016, China’s annual plenary sessions of legislature and political consultation, that China has faith in the existing international institutions. ‘We are not trying to build a rival system’, Wang said, ‘on the contrary, we are trying to play a bigger role in the existing international order’. Xinhua Insight: Foreign Minister Sets Out China’s Diplomatic Stall, http://news.xinhuanet.com/english/2016-03/08/c_135168617.htm (visited 9 March 2016)
26 The USA organized the bailout for Mexico, because the US trade and social stability hinged upon Mexico, which is a North American Free Trade Agreement member and a neighboring country to the USA.
In a famous picture snapped in 1998, IMF managing director was standing with a stern face and crossed arms over the seated and humiliated president of Indonesia, who was forced, in effect, to turn over economic sovereignty of his country to the IMF in return for the aid his country needed. In the same crisis, South Korean economic officials had been scared to disagree openly when the IMF pushed excessive fiscal stringency in Korea, which they knew would be disastrous. They feared that the IMF could not only cut off its own funds, but also discourage private investment by telling the market of the doubts the IMF had about Korea’s economy. It is a one-sided negotiation in which the IMF dictates to the borrowing country. A similar situation exists with the World Bank.

All the above observations are attributable to the fact that developing countries have long been underrepresented in international institutions. They have little or no means to be heard, or to participate in decision-making of those institutions. Professor Daniel Bradlow called these countries ‘IMF consumer states’, as opposed to ‘IMF supplier states’ which dominate decision-making in the IMF. Meanwhile, developing countries have been calling for a bigger say in the institutions in terms of voting power, director seats, and staff recruitment. For example, the IMF’s 2010 quota and governance reform—which was said to be the most important change in IMF governance in favor of emerging members—had long been in gridlock in US Congress. With relentless pressure from the G20, the reform was only able to take effect lately, delayed for three consecutive years. The G20 will keep working on IMF quota and governance reforms, catering to developing countries’ needs.

29 Stiglitz, above n 18, at 41.
30 Ibid, at 42.
31 See section IV(C) in this article.
33 Some scholars may call this a Revolutionary approach in international law, advocating the radical reform of the organs and the boards of the IMF and the World Bank where weighted voting favors Western States. The Revolutionary approach is simply more concerned with changing the unjust system. Nigel D. White, The Law of International Organizations, 2nd ed. (Manchester: Manchester, 2005), at 40.
35 The USA has veto power over the amendment of IMF AOA, which is required for implementation of the 2010 quota and governance reform. Available at http://www.imf.org/external/np/sec/misc/consents.htm (visited 29 March 2016).
36 The G20 Leaders had explicitly urged the USA to help implement the reform in their communiqués consecutively for years.
37 The reform was supposed to take effect no later than 2012, but was delayed until January 2016 to take effect.
38 G20 Leaders’ Communiqué Hangzhou Summit (4–5 September 2016) states in para 17 as follows, we welcome the entry into effect of the 2010 IMF quota and governance reform and are working towards the completion of the 15th General Review of Quotas, including a new quota formula, by the 2017 Annual Meetings. We reaffirm that any realignment under the 15th review in quota shares is expected to result in increased shares for dynamic economies in line with their relative positions in the world economy, and hence likely in the share of emerging market and developing countries as a whole. We are committed to protecting the voice and representation of the poorest members.

The work is carried out by G20 International Financial Architecture Working Group.
China uses two parallel means toward global economic governance. One is to initiate new public goods, like AIIB, and One Belt, One Road (OBOR); the other is to push the reforms in traditional international organizations that the USA created and sustained. We call it ‘walk with two legs; the legs do not walk by themselves, they help each other. Here are two latest examples.

One is the US Congress’ agreement on the IMF’s 2010 quota reforms, as mentioned above. The establishment of the AIIB had helped the landing of the reforms, since the USA became concerned that it might be left alone in the international community if inaction remained. A second example is that China initiated the establishment of the Global Infrastructure Connectivity Alliance at the 2016 G20 Leaders’ Hangzhou Summit. The Alliance should be an alliance of all multilateral development banks (MDBs), among other stakeholders, marking the first such endeavor to improve global interconnectedness since the end of World War II. The Secretariat of the Alliance will be placed with the World Bank, a token of respect for and betterment of the existing world order. Those are two examples showing us how China walks its two legs toward balanced global economic governance.

III. CHINESE MULTILATERALISM IN THE AGENDA OF THE AIIB
Chinese President Xi Jinping has called for a new type of international relations that is characterized by a win–win cooperation spirit and an interest in creating a community of shared future for mankind. This vision represents a new phase of China’s long-held diplomatic strategy—‘not to boast, not to claim to lead, but to extend China’s influence as it modernizes the society and the economy’, developed by

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39 Regarding OBOR and its relationship with AIIB, see my discussion under section III(B).
40 It may be no coincidence that the US Congress approved the IMF’s 2010 quota reforms almost immediately after the AIIB was established on 25 December 2015.
41 G20 Leaders’ Communiqué Hangzhou Summit (4–5 September 2016) states in para 39 as follows, We note that infrastructure connectivity is key to achieving sustainable development and shared prosperity. We endorse the Global Infrastructure Connectivity Alliance launched this year to enhance the synergy and cooperation among various infrastructure connectivity programs in a holistic way. We ask the WBG to serve as the Secretariat of the Alliance, working closely with the Global Infrastructure Hub (GIH), OECD, other MDBs, and interested G20 members to support its activities.
42 There are six MDBs in the world, i.e. the World Bank, the Inter-American Development Bank (IDB), the European Bank for Reconstruction and Development (EBRD), the African Development Bank (AfDB), AsDB, and the AIIB.
45 Some international leaders hold similar observations, see the Wall Street Journal’s interview with Singapore’s Prime Minister Lee Hsien Loong at http://www.wsj.com/articles/lee-hsien-loongs-american-exceptionalism-1459464855?tesla=y (visited 3 April 2016).
46 The original Chinese is ‘TaoGuangYangHui, YouSuoZuoWei (韬光养晦，有所作为). The English translation refers to Dr Henry Kissinger’s remark in World Order, ‘not to boast—lest foreign countries become disquieted—not to claim to lead but to extend China’s influence by modernizing both the society and the economy’. Henry A. Kissinger, World Order (New York: Penguin Books, 2015), at
President Xi’s predecessor Deng Xiaoping. According to Xi, the global governance system is built and shared by the world, and should not be monopolized by a single country. The AIIB echoes the view to improve global governance.

Indeed during the opening ceremony of the AIIB on 16 January 2016, President Xi expressed hope that the Bank will be a new platform to help foster a community of shared future for mankind. It is less the fact of Chinese multilateralism that accounts for the establishment of the AIIB than it is the fact of Chinese multilateralism. To determine why this particular institutional agenda is pursued, we need both to examine China’s international situation and to delve into its domestic realm.

A. China seeks to project its experience in infrastructure building into the international arena

Infrastructure building lays a solid ground for China’s success in reform and opening-up. China started building infrastructure on a large scale by borrowing from Japan and the World Bank in early 1980s. For that period there were concerns even among Chinese that China might not be able to repay the debt, because it had a small foreign reserve of 5 billion US dollars, compared to 3.3 trillion US dollars today, and the repayment must be made in dollar, not in Renminbi. The concerns were effectively relieved, as foreign investment and export revenue increased, following infrastructure development. The newly built infrastructure has vastly reduced both the time and cost of moving goods, services, and even ideas. Plus favorable foreign investment policies, foreign investment soured, products were manufactured and exported, and the world brand ‘Made in China’ gradually emerged. The nation’s foreign reserve increased as export revenue skyrocketed to the world’s largest, and foreign loan repayment was no problem anymore.

Not only Chinese economy benefits, Chinese people’s living standards have also benefited from the nation’s infrastructure-driven development experience. The nationwide campaign of high-speed railway is exemplary. At an average speed of 300 km/h, the standard 9-hour drive in the past from Beijing to Taiyuan, the capital city of Shanxi Province, has been shortened to 3 hours. It means millions of peasant-workers working in big cities in China can return to their hometown for a family-reunion at weekend, rather than having to wait as before until the lunar New Year for a once-a-year reunion.

227, which the author believes to be a more appropriate translation than another version made by the Pentagon—‘hide our capacities and bide our time’.

49 Li Lanqing, Breakthrough (TuWei, in Chinese) (Beijing: Central Literature Press 2008), at 277–316.
51 China has been famous for its efficient foreign investment policies, such as Special Economic Zone.
52 A vivid description of taking a bullet train during the lunar New Year in China is available at Julie Makinen, ‘Ushering in the Year of the Monkey at 180 mph on China’s Bullet Train’, Los Angeles Times, 23 February 2016.
Statistics show that infrastructure investment needs in Asia for the period of 2010–20 are estimated to be 8 trillion US dollars.\(^5\) There is a large chunk of it has yet to be met, on top of 10–20 billion dollars the World Bank and the AsDB are able to commit each year.\(^4\) The AIIB should dedicate to this cause by ‘mobiliz[ing] much needed additional resources from inside and outside Asia’.\(^3\)

The Bank will finance infrastructure in a broad sense. Its investment will not stick to traditional infrastructure sectors; it will reach out to any needed infrastructure project, as long as it is conducive to a better life for Asian people.\(^6\) In particular, the AIIB expects to prioritize Internet-based information infrastructure\(^7\) for the following reasons. First, as a new investment sector, information infrastructure is no less urgent than roads, bridges, and dams for developing countries if they want to catch up in the digital economy of the 21st century. Second, Internet will help to upgrade traditional, physical infrastructure that MDBs have always worked on. Third, the Bank, conceived for the 21st century, needs to embrace the Internet-based system in order to keep management efficient, operations client-responsive, and projects measurable.

B. China seeks to deepen domestic reforms by building a compatible international order

It is observed that a country’s rigorous commitment to opening-up is most effective for cracking obstacles in domestic reform. This was first acknowledged at the establishment of the Bretton Woods system after World War II. The USA in initiating the system held a belief that the long-term maintenance and success of domestic reform programs required such an international order.\(^8\) An even stellar example was China’s entry into the World Trade Organization (WTO) in 2001. The rule-based WTO culture, centered upon the principles of transparency and non-discrimination, was new to the Chinese people, and has since had an enlightening and everlasting impact on Chinese social, economic, and institutional development.

The AIIB expects to produce a similar impact on Chinese domestic reforms. The Bank aims to be a top-notch multilateral institution, and commits to the best practice and high standards that have been respected by the World Bank and other existing MDBs, with necessary adaption for purposes of being feasible. China seeks to bind itself to an open and high-standard international institutional framework to produce sufficient impetus for domestic reforms.


\(^{4}\) The huge infrastructure-financing gap in Asia implies that the relationship between the AIIB and other MDBs will be supplementary rather than rivalry.

\(^{3}\) AIIB AOA, preamble.

\(^{6}\) The AIIB AOA describes the Bank’s purpose as to ‘foster sustainable economic development, create wealth and improve infrastructure connectivity in Asia by investing in infrastructure and other productive sectors . . . .’ AIIB AOA Article 1. The preamble of AIIB AOA is similarly worded, such as ‘ . . . to sustain growth and promote economic and social development of the economies in Asia . . . ; ‘ . . . promoting economic growth and sustaining social development for the people in Asia . . . .’


\(^{8}\) Ruggie, above n 6, at 592.
In the context of China-proposed Belt and Road Initiative, also OBOR, the AIIB expects to facilitate international production capacity cooperation while meeting Asian infrastructure investment demands. The AIIB will finance an OBOR project only if commitments for high standards are made. In other words, if a Chinese company wants to win the bid for an AIIB-financed project, it must conform to the high standards that apply to all phases of the project. Against the backdrop that China is striving to climb up the value chain by reforming its heavily polluting industries, it will benefit by compelling the company to carry out comprehensive transformation and upgrading in terms of technology, management, and so forth. In other words, maintaining high standards will reinforce China’s economic and trade upgrading campaign, and is in China’s own interests. Chinese companies with a competitive edge in industries such as railways, electricity, telecommunication, construction, e-commerce, equipment, and machinery should be pioneers to make the changes happen.

The AIIB’s modus operandi—lean, clean, green—may have even broader enlightenments for Chinese governmental and economic reforms. In particular, the leanness requirement should be inspiring for reducing bureaucracy and red tape that has not been rare for Chinese government; the cleanness requirement may be a good reference for the country’s ongoing anti-corruption campaign; and the greenness requirement goes hand in hand with a new governance philosophy in the Chinese society that ‘clean water and green mountain are no less valuable than GDP development’, replacing the traditional craze for gross domestic product (GDP) at the expense of environment.

IV. MULTILATERALISM IN THE LAW OF THE AIIB

Multilateralism is well observed in the law of the AIIB. On decision-making, consensus is exemplary for the principle of multilateralism, which contributed to the establishment of the AIIB, and consensus expects to be a priority still in the Bank’s operations after it opens up business. On corporate governance, multilateralism exists widely in the fact that the Bank has a nonresident director system, operates inclusively on important matters, and prioritizes developing countries’ interests. On environmental and social standards (ESSs), all stakeholders including borrowing countries expect to have their voice heard, duly participating in the preparation and implementation phases of AIIB-funded projects.

59 The Belt and Road Initiative is positioned as China’s top economic diplomatic framework in a bid to enhance regional connectivity both within and between Asia, Europe, Africa and other regions. Available at http://english.gov.cn/beltAndRoad/ (visited 29 March 2016).
60 On the relationship between the OBOR and the AIIB, a basic point is that the AIIB fund is open to OBOR projects, and AIIB-funded projects are open to qualified enterprises from all over the world, including enterprises from China, for bidding.
61 This paragraph is heavily borrowed from Gu Bin, ‘High standards would suit AIIB’s lofty goals’, Global Times, 3 July 2015.
62 I would discuss multilateralism in the law of the AIIB from three perspectives, i.e. decision-making, corporate governance, and ESSs. Although decision-making is traditionally a concept within corporate governance, I would separately and firstly talk about decision-making because of its importance.
A. Multilateralism in the decision-making of the AIIB

1. Consensus-seeking in the AIIB

China has shown mastery of multilateralism in drawing countries to join the Bank, since 22 Asian countries gathered in Beijing to sign Memorandum of Understanding (MOU) to establish the Bank in October 2014.\(^63\) Consensus seeking is an exemplary use of multilateralism leading up to the establishment of the AIIB.

Consensus was exhibited at four important development phases for the AIIB. The first phase was the signing of the MOU in 2014. The second was the announcement by the UK to seek to join the AIIB in March 2015, which in effect triggered the follow-up of more G7 countries to join,\(^64\) and enabled AIIB membership to be meaningful in a global sense. The third one was 29 June 2015, when the AIIB’s 57 PFMs gathered in Beijing at the Signing Ceremony of the Bank’s Articles of Agreement (AOA), and 50 PFMs signed the AOA on that occasion.\(^65\) The fourth phase was the formal establishment of the AIIB on 25 December 2015.\(^66\) Important issues at all these phases were decided by consensus.\(^67\)

Consensus means decision-making without a vote and without formal objection by any party involved.\(^68\) Consensus is popular both in a voting and non-voting decision-making system.\(^69\) When majority voting is required, members may prefer to co-operate and make concessions in reaching consensus, in order to avoid the risk of being out-voted in a majority decision. And such concessions leading to consensus can be more easily defended at home than the alternative being out-voted.\(^70\) Consensus gives greater legitimacy to the decision adopted, and guarantees the implementation of the decision.\(^71\)

That explains why consensus is popular among all three pillars of global economic governance—the IMF, the World Bank, and the WTO. These organizations seek consensus in decision-making wherever possible despite the formal provisions of majoritarianism in the treaties.\(^72\) In other words, their norm in practice is not always

\(^{64}\) G7 comprises the USA, Japan, Canada, the UK, Germany, France, and Italy. Except USA, Japan, and Canada, all the other G7 countries are the PFMs of the AIIB.
\(^{65}\) The remaining seven PFMs finished signing the AOA by 31 December 2015, the latest date for signing by a PFM. See AIIB AOA Article 57 ‘Signature and Deposit’.
\(^{66}\) The AOA entered into force on 25 December 2015, when instruments of ratification had been deposited by 17 Signatories with initial capital subscriptions totaling 50.1% of the shares allocated. See AIIB AOA Article 59 ‘Enter into Force’.
\(^{68}\) Non-voting comprises two types, i.e. consensus and unanimity.
\(^{70}\) Critics argue that the content of the decision may be watered down and become somewhat vacuous but used to justify opposing opinions.
\(^{71}\) White, above n 33, at 133–34.
consistent with their labels, whereby the IMF and the World Bank have a label of ‘one-dollar-one-vote’ and the WTO ‘one-Member-one-vote’.73

However, people may turn to voting when consensus is impossible for decision-making within international organizations.74 This is well illustrated in decision-making of the AIIB. Increase in Bank membership and complication of members’ interests made a consensus hard to reach. In response, where a consensus failed, a 75% affirmative vote by headcount applied.75 Such qualification to consensus decision-making contributed to the rapid progress of the AIIB.76

It is common for international organizations to link the right to vote with the payment of contributions. The more capital a member puts up, the more votes it typically has. There is a direct relationship between money and votes in the IMF and the World Bank. Voting itself may be roughly categorized into capital count, headcount,77 and a mixture of both.78 For example, the World Bank and the IMF generally take the capital count approach,79 the WTO takes headcount,80 and the AsDB prefers a mixture.81 The AIIB, like the AsDB, takes a mixture of headcount and capital count.82 In particular, the AIIB creatively designs a three-class voting system,83 i.e. a simple majority for most matters, a ‘Super Majority’ for important matters,84

73 It is rare for the doctrine of sovereign equality to apply to the financing of an organization, while it is natural for the structure and vote to be skewed toward those Member States putting up the most capital.
74 For example, the WTO continues its predecessor’s 50-year practice of decision-making by consensus. Only decisions that cannot be reached by consensus will be made by voting. Article IX (1) Marrakesh Agreement Establishing the World Trade Organization. However, there is an evolution from consensus to voting in the history of decision-making within international organizations. White, above n 33, at 131.
75 Lou Jiwei (Chinese Financial Minister), above 67.
76 It avoids the main disadvantage of consensus decision-making, i.e. time-consuming. It took about 800 days to get the AIIB established, starting October 2013 when Chinese President Xi Jinping and Premier Li Keqiang announced the AIIB initiative during their respective visits to Southeast Asian countries, through December 2015 when the AIIB AOA took effect.
77 Simply put, capital count means decision-making based on majority of capital shares, and headcount means decision-making based on majority of members in an organization.
78 This mixture category is termed as ‘double-majority voting’.
79 For example, when new country members join an international organization, or to increase representation in the Board of Directors of smaller less developed member countries, the organization may need to decide to increase the number of directors as appropriate. It requires a four-fifths majority of the total voting power of the World Bank’s Board of Governors to make such decision. Similarly, it requires an 85% majority of the total voting power for the IMF’s Board of Governors to make the decision. The voting power corresponds to capital shares. International Bank for Reconstruction and Development (IBRD) AOA, Article V, Section 4(b); IMF AOA, Article XII, Section 3(b).
80 For example, decisions to accept a new member requires a two-thirds majority of the WTO Members. Marrakesh Agreement Establishing the WTO, Article XII (2).
81 For example, to decide to increase the number of directors as appropriate requires a vote of a majority of the total number of the AsDB’s Board of Governors, representing not less than two-thirds of the total voting power of the members. Agreement Establishing the AsDB, Article 30.1(ii).
82 For example, to decide to increase the number of directors as appropriate requires a Super Majority, i.e. a two-thirds majority of the total number of the AIIB’s Board of Governors, representing not less than three-fourths of the total voting power of the members. AIIB AOA, Article 25.2. This does not mean the AIIB and the AsDB apply mixture voting rules on all decisions; instead, it is a majority of the votes cast, representing capital count, that applies to most decisions of the two banks. AIIB AOA Article 28.2 (i), Agreement Establishing the AsDB Article 33.2, 33.3.
83 AIIB AOA Article 28.2.
84 AIIB AOA Article 28.2 (ii) provides that ‘A Super Majority vote of the Board of Governors shall require an affirmative vote of two-thirds of the total number of Governors, representing not less than three-
2. China’s veto power in the AIIB

China commits to a fair and equitable multilateral institution against a changing international background. The AIIB should respond to the developing world’s quest for a new order, it being an organization that ‘fully reflects the views, voices and values of all its shareholders’. It will make decisions on important matters by seeking consensus first.

Meanwhile, China subscribes 30.34% of the AIIB’s authorized capital of 100 billion US dollars minus unallocated capital of 1.8486 billion US dollars, and possesses 26.06% of the Bank’s total voting power. Undeniably, China has de facto veto power over important issues, like decisions on the size of the Board of Directors, the election of the President, the amendment of the AOA, all requiring a Super Majority vote. A few points need to be clarified on China’s veto power.

First, the Bank adopts a GDP-based share formula to decide a member’s capital subscription. According to this formula, GDP is the only benchmark to decide a

fourths of the total voting power of the members. The ‘Super Majority’ rule applies to such decisions as the size of the Board of Directors, the election of the President, the amendment of the AOA, etc.

AIIB AOA Article 16.8. Other decisions that apply the ‘Special Majority’ rule include ‘other types of financing’ (AIIB AOA Article 11.2.), ‘share issuance price in special circumstances’ (Article 7.1), etc. AIIB AOA Article 28.2 (iii) provides that ‘A Special Majority vote of the Board of Governors shall require an affirmative vote of a majority of the total number of Governors, representing not less than a majority of the total voting power of the members.’


AIIB Rules of Procedure of the Board of Governors Section 9(a) provides that ‘Except as otherwise expressly provided in the Articles of Agreement, all matters before the Board shall be decided by a majority of the voting power of the votes cast. At any meeting the Chairman may ascertain the sense of the meeting in lieu of a formal vote but a formal vote shall be taken whenever requested by any Governor.’ Similarly, AIIB Rules of Procedure of the Board of Directors Section 5(a) provides that ‘The Chairman shall ordinarily ascertain and announce to the meeting the sense of the meeting with regard to any matter and the Board shall be deemed to have acted in accordance with the announcement by the Chairman without the necessity of taking a formal vote.’

AIIB AOA Schedule A. The top five members in terms of capital share are China, India (8.52%), Russia (6.66%), Germany (4.58%), and Republic of Korea (3.77%). Available at http://news.xinhuanet.com/fortune/2015-06/30/c_127964509.htm (visited 26 March 2016).

It is noted that a table on the AIIB official website indicates a different set of percentages for China (33.3308% in terms of capital subscription, 28.6992% in terms of voting power, as of 5 December 2016). My calculation indicates China’s weight relating to all 57 founding signatories (i.e. PFM’s), while the AIIB calculation indicates China’s weight relating to those signatories (which numbered 49 as of 5 December 2016) actually having completed the membership process. Since there are eight founding signatories having yet completed the membership process, and more of whom expect to finish that process in the coming days (the Philippines ratified the AIIB’s AOA on 5 December 2016, which has yet been updated in the AIIB table), those percentages for China in the table on the AIIB official website will diminish. Available at http://euweb.aiib.org/html/aboutus/governance/MoB/?show=1 (visited 21 December 2016).

A Super Majority vote is an affirmative vote of two-thirds of the total number of governors, representing not less than three-fourths of the total voting power of the members.

AIIB AOA Explanatory Notes regarding Article 5, para 4.
member’s capital share to be subscribed in the Bank, which is different from other institutions. The IMF, for example, has a quota formula comprising a weighted average of GDP (weight of 50%), openness (30%), economic variability (15%), and international reserves (5%). The AIIB formula is pro-development, since developing countries including China generally perform better in GDP than by other measures.

Second, the Bank allocates 75% of its capital shares to regional and 25% to non-regional members. This is to retain the Asian character of the institution which is mainly meant to serve the Asian region’s connectivity. Founding members of the Bank are eligible for subscriptions to the Bank’s capital stock of USD 100 billion. Thereupon, non-regional members are allocated a portion of share stock based on their respective GDPs in proportion to the GDP of all non-regional members that in total hold no more than 25% of the Bank’s capital stock. Regional members, in turn, share with China and other regional members 75% of the Bank’s capital stock. China remains the largest shareholder in relation to other founding members. For those countries that missed the chance to be founding members, the situation is less favorable if they would like to become members of the Bank, since only a small unallocated capital stock is available for subscription by new members.

Third, China has no intention to seek veto power. At the initiation of the AIIB in 2014, China declared that it was ready to put up 50% of the Bank’s authorized capital only to make things happen. Afterwards, as more countries applied to join the Bank, it became unnecessary for China to commit that much capital. China is open to further dilute its share votes as more members expect to join in the future.

92 It is to note that GDP share is indicative only for non-regional members. AIIB AOA Explanatory Notes regarding Article 5, para 4.
94 AIIB AOA Article 5. Regional members shall be those members in the geographical regions and composition classified as Asia and Oceania by the United Nations, and all other members shall be non-regional. AIIB AOA Articles 1(2) and 3(1)(a).
95 AIIB AOA Explanatory Notes regarding Article 5, paras 2 and 3.
96 The current geographical regions and composition classified as Asia and Oceania by the United Nations can be found at http://unstats.un.org/unsd/methods/m49/m49regin.htm, Explanatory Notes of AIIB AOA.
97 While the Board of Governors by a Super Majority vote may decide the percentage of capital stock held by regional members be reduced below 75%, there should be a minimum of 70% regional shareholding. AIIB AOA Article 5, and Explanatory Notes regarding Article 5, paras 2 and 3.
98 According to World Bank statistics of 2014, which is the latest available, the top five economies in terms of GDP are the USA (17.4 trillion USD), China (10.4 trillion USD), Japan (4.6 trillion USD), Germany (3.9 trillion USD), and the UK (3.0 trillion USD). Available at http://data.worldbank.org/data-catalog/GDP-ranking-table (visited 23 March 2016).
99 The AIIB’s unallocated capital stock is USD 1.615 billion for regional members, and USD 233.6 million for non-regional members. Until the next capital increase for the Bank, the unallocated share for regional members is similar to the share of such founding members as Thailand, while the unallocated share for non-regional members is even smaller than the share of such founding members as Denmark or Egypt. AIIB AOA, Schedule A.
This stands in stark contrast with the US’s cling to power in the IMF by having such language inserted in the IMF AOA as ‘an eighty-five percent majority of the total voting power shall be required for any change in quotas; and the quota of a member shall not be changed until the member has consented’. This type of language ensures the US’s dominant position in the IMF. There is no similar language in the AIIB AOA, manifesting China’s sincerity in not seeking veto power in the Bank.

**B. Multilateralism in the governance of the AIIB**

1. The Bank has a nonresident director system

MDBs are conceptualized as resource-dependent organizations, mainly running on the financial contributions of their members. The shareholders’ interests, represented by directors, are not always consistent with the banks. Sometimes shareholder activism may even clash management who has a natural tendency to pursue multilateralism and organizational autonomy.

The relationship between directors and management regarding loan approval presents problems. The Board of Directors approves each financing. In practice, however, the Board heavily depends on the services of bank staff for loan approval, because the small Board has been overwhelmed by the volume and complexity of loan operations. At this point the Board is reduced as a rubber stamp of staff decisions. This loan approval process readily exposes an issue of accountability: who should be held responsible if the loan goes sour, the Board or management?

The AIIB has a nonresident director system, drawing upon the above lessons learned from traditional MDBs. It means the Bank’s 12 directors need not to...

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102 IMF AOA Article III, Section 2(c)(d).
103 The USA has around 16.7% of voting power in the IMF.
104 This section is heavily borrowed from Gu Bin, ‘AIIB’s Innovations Set it Aside from Multilateral Banking Peers’, *Global Times*, 25 January 2016.
105 The directors of the MDBs attend the Board meetings, and vote on behalf of the governments that appoint or elect them. This role played by the Board is termed ‘political counterweight’. The Brookings Institution, ‘Executive Boards in International Organizations: Lessons for Strengthening IMF Governance’, IEO Background Paper (BP/08/08, 2008), at 9.
106 It is to note that shareholder activism varies considerably across the banks and over time. Sarah Babb, *Behind the Development Banks* (Chicago: The University of Chicago Press, 2009), at 230.
109 AIIB AOA Article 27.1 provides that ‘The Board of Directors shall function on a non-resident basis except as otherwise decided by the Board of Governors by a Super Majority vote as provided in Article 28.’ It has been a standard practice for a multilateral development bank to have a resident board of directors. The AIIB draws on the nonresidential experience from the European Investment Bank (EIB), whose ‘Board of Directors shall meet not less than six times per year and shall decide, on each occasion, the date of its next meeting’. Rules of Procedure of the European Investment Bank, Article 11.1.
110 Directors, not management in traditional MDBs, decide day-to-day operations such as loans and grants. It is inconsistent with basic cooperate principle, and may well induce efficiency and accountability problems. President Jin once confirmed that thanks for the lesson learned from traditional MDBs that the AIIB decided to adopt a nonresident board of directors.

reside in the headquarters in Beijing; instead, they may stay in their home countries to vote and decide important matters.\textsuperscript{111} And, it is optimal to delegate authority to approve daily financings to management.\textsuperscript{112} This will not only delineate responsibility and increase efficiency; it will be helpful for management to make decisions within its capacity impartially by considering economic factors only, rather than being unduly interfered by directors, as it has been the case in other MDBs with resident directors.\textsuperscript{113}

Since the MDBs are based on agreements for which funds must be regularly appropriated, the clash between the US government and congress often paralyses the MDBs where the USA acts as a lead shareholder. The congress’ resistance to appropriate funds due for these banks gives the US government leverage in its negotiations with other shareholders and the banks’ management.\textsuperscript{114} This will not be the case with the AIIB, where China as the lead shareholder features generally high cooperativeness between its legislature and executive branch.

2. The Bank operates in an inclusive manner on important matters
The AIIB aims to be a top-notch institution, and opens to the world on important matters such as senior management appointment and staff recruitment. The Bank’s senior management comprises the President, the Vice-Presidents, and the General Counsel. The requirement that the AIIB elect president through an open, transparent, and merit-based process\textsuperscript{115} marks the first time for such criteria of president (s)election\textsuperscript{116} to be written in an MDB constitutional

\textsuperscript{111} AIIB By-Laws Section 2(b) provides that ‘Said Rules of Procedure shall provide, inter alia, for regular meetings of the Board of Directors at least quarterly, for special and electronic meetings, and for voting without meeting, as provided in Article 27 of the Articles of Agreement.’ In correspondence, AIIB Rules of Procedure of the Board of Directors Section 3(b) provides that ‘Pursuant to Section 2 (b) of the By-Laws, the Board shall hold regular meetings at least quarterly in each year. The Board may be called into session at any time by the President on his own initiative. The President shall call the Board at any time at the written request of any three (3) Directors.’

\textsuperscript{112} The Board currently approves all financings, including its first batch of four projects approved at the AIIB’s first annual meeting June 2016. ‘The Board is expected to consider (in late 2016) a delegation of authority to the President to approve certain Financings and subsequent changes related to them.’ AIIB Operational Policy on Financing (January 2016) para 3.5.1, footnote 17.

\textsuperscript{113} Take project procurement as an example: US government instructs its executive directors in each MDB to ‘make business development and exports one of their highest priorities within the MDBs’. Since those directors reside in the Bank, they are, compared with nonresident directors, in a better position to maneuver the procurement procedure and maximize business interest of their own nationality. United States Congress House Committee on Banking, Multilateral Development Bank Procurement (London: Forgotten Books, 2015), at 41.

\textsuperscript{114} Babb, above n 106, at 233.

\textsuperscript{115} AIIB AOA Article 29.1 provides that ‘The Board of Governors, through an open, transparent and merit-based process, shall elect a president of the Bank by a Super Majority vote as provided in Article 28.’ Article 30.1 provides that ‘One or more Vice-Presidents shall be appointed by the Board of Directors on the recommendation of the President, on the basis of an open, transparent and merit-based process.’ Article 30.3 provides that appointing officers and staff shall be subject to the paramount importance of securing the highest standards of efficiency and technical competence.

\textsuperscript{116} President selection and election are conceptually used differently; in the World Bank and the IMF, president (or managing director in the IMF case) is selected by the Executive Board, while in the AIIB and the AsDB, president is elected by the Board of Governors.
Looking into other MDBs, the presidents’ nationalities seem to be predestined. Some of the World Bank presidents, who have always been American, even lacked professional experience in development.

The AIIB’s other senior staff appointments embody multilateralism as well. All coming from different members, the five Vice-Presidents are Sir Danny Alexander from the UK, Mr Thierry de Longuemar from France, Dr D.J. Pandian from India, Dr Joachim von Amsberg from Germany, and Dr Luky Eko Wuryanto from Indonesia. The General Counsel is Mr Gerard Sanders from New Zealand. Senior management’s nationalities combine regional and non-regional, as well as developed and developing countries.

The AIIB procurement, particularly of the AIIB-funded projects, will be open to bidding from any country, rather than confined to its membership. It levels the playground for provision of goods and services for an AIIB project, and is conducive to the cost, quality, and efficiency of AIIB operations. What is most enlightening is that the open bidding rule not only applies to the ordinary operations of the Bank, but also to its special operations. This contrasts the practice of some other MDBs.

The Bank finances a project with a view to ‘improve infrastructure connectivity in Asia’. Specifically, the Bank invests in Asia and beyond only if the investment is ‘concerned with economic development of the region’. In the context of

117 IBRD AOA is simply silent on technical competence for World Bank president. IBRD AOA Section V(5).
118 Babb, above n 106, at 40.
119 The US nomination of Paul Wolfowitz in 2005 as World Bank president was such a perfect example. Wolfowitz, former US deputy secretary of defense closely involved in the notorious Iraq War in 2003, was forced to resign two years later from the World Bank, due to a scandal involving his girlfriend, as well as his arbitrary and controversial policy approach towards borrowing states. Babb, above n 106, at 225–26.
120 Mr Thierry de Longuemar replaced Dr Kyttack Hong of Republic of Korea, who held the position of Vice President and Chief Risk Officer very briefly. See the AIIB’s statement on Dr Hong’s leave of absence, dated 13 July 2016, https://www.aiib.org/en/news-events/news/2016/20160205_001.html (visited 29 September 2016), and the AIIB’s initial appointment of Dr Hong as Vice President, dated 5 February 2016 http://www.aiib.org/html/2016/NEWS_0205/91.html (visited 13 June 2016).
122 AIIB AOA Article 13.8 provides that ‘The Bank shall place no restriction upon the procurement of goods and services from any country from the proceeds of any financing undertaken in the ordinary or special operations of the Bank.’
123 The EIB experience shows there may be problems with countries requiring local content. Some emerging and developing countries require a certain percentage of local content due to reasons of technological development, etc. Stephany Griffith-Jones et al., ‘The Asian Infrastructure Investment Bank: What Can It Learn From, and Perhaps Teach To, the Multilateral Development Banks?’ Evidence Report No. 179, March 2016, at 19.
124 AIIB AOA Article 13.8. The fund for MDB special operations is from donor finance, vis-à-vis the fund for ordinary operations being from international capital markets. The special fund, therefore, tends to be controlled or influenced by the donor country, which may be well positioned to promote domestic goods and services exports.
125 For example, the AsDB fund, either ordinary or special, ‘shall be used only for procurement in member countries of goods and services produced in member countries [.].’ AsDB AOA Article 14(ix).
126 AIIB AOA Article 1.1.
127 AIIB AOA Article 11.1(a).
globalization and the rise of Asia, it is hard to find a single corner on the planet that is not connected to Asia at all. Therefore, it is logical to conclude that AIIB investment will be global, while emphasizing on Asia. Together with global recruitment and global procurement, a buzzword ‘three global’ takes form. While the AIIB investment focuses on infrastructure projects, it defines infrastructure in a broad sense.128 The AIIB will not be confined in greenfield investment, as with the World Bank;129 its investment scope may reach out to brownfield investment and distressed infrastructural projects, as long as they are conducive to a grand goal of bettering Asian people’s livelihood. The AIIB expects to prioritize Internet-based information infrastructure, which presents a unique advantage for a latecomer in infrastructure financing, as discussed above in section III(A).

3. The Bank prioritizes developing countries’ interests
Developing members’ interests are prioritized in the AIIB. First, the GDP-based share formula is pro-development, since developing countries generally perform better in GDP than by other measures, as discussed above in section IV(A)(2).

Second, developing countries’ voting power is strengthened by a Founding Member votes system.130 Each of AIIB Founding Members, which are mainly Asian developing countries, expect to get 600 votes automatically, an equivalence of 60 million US dollars.131 Founding Member votes, which are unique to MDBs, enable small economies that have difficulty in subscribing capital to effectively participate in the Bank’s activities.

Third, these Founding Members have a privilege to designate the Bank’s director.132 Although unclear how it is implemented, this privilege has contributed to the successful development of the Bank, alongside the innovative system of Founding Member votes.

Finally, a less developed country may pay up to half of its subscription in its own currency,133 while all the other members have to pay their part in internationally convertible currencies.134 This privilege is particularly welcomed by small economies with a limited foreign reserve.

C. Multilateralism in the standards of the AIIB
The standards of the AIIB boast a strong flavor of multilateralism. The AIIB is the first international development bank initiated by Asian emerging and developing countries. AIIB standards are thus different from the standards of other international financial institutions that have been long dominated by developed countries.

128 The AIIB describes its investment areas as ‘infrastructure’ and ‘other productive sectors’, the latter of which themselves are as broad as one can imagine. AIIB AOA Articles 1.1 and 2.
130 A member’s voting power consists of the sum of three types of votes, i.e. basic votes, share votes, and, in the case of a Founding Member, its Founding Member votes. AIIB AOA Article 28.1.
131 AIIB AOA Article 28.1 and Schedule A.
132 AIIB AOA Schedule B(10).
133 A member eligible to borrow from the International Development Association (but not from the IBRD) would be considered a less developed country. AIIB AOA Explanatory Notes regarding Article 6, para 5.
134 AIIB AOA Article 6.2 and 6.5.
The IMF often prescribes and imposes a single, standard solution in lending activities, ignoring the concerns of borrowing countries. Borrowing countries have to commit to the principles under the Washington Consensus, i.e. the three pillar reforms of fiscal austerity, privatization, and market liberalization, in order to access the IMF and World Bank funds, since these institutions are in the driver’s seat. To make things worse, some of the World Bank projects have rendered poor records in respect of the implementation of ESSs, particularly, they have been blamed to cause environmental deterioration, forced migration, low compensation for indigenous people, etc. Above all, some standards are burdensome and irrelevant, making the projects costly and delayed.

The AIIB aimed at addressing the previous concerns in crafting its own standards. The important thing, if there is a single one, is to be responsive to the needs of borrowing countries. The AIIB addresses this issue by embracing both high and feasible standards.

First, high standards are integral in the operations of a top-notch development bank. There used to be concerns over what standards the Bank would apply. Such concerns have substantially been relieved after the AIIB has engaged internationally recognized experts to design its ESSs. The AIIB standards aim high for the following reasons. First, maintaining high standards facilitates the AIIB’s financing needs in the global capital market. Satisfying high standards will help the AIIB earn a good credit rating in the international capital market and borrow at low cost; it in turn enables the AIIB to lend at a favorable rate, maximizing development impact and return. Second, high standards will facilitate cooperation between the AIIB and other MDBs, which generally hold dear high standards in their operations. During recent years, most MDBs have updated their standards, demonstrating a trend of convergence.
Second, AIIB standards must be feasible. They should be in line with the development needs of borrowing countries. For this reason, the AIIB is advised to take an ex-post monitoring approach, which demonstrates a feature of democracy in interaction with borrowing countries, rather than the usual ex-ante ESS requirement. It is open to explore greater flexibility for borrowing countries by relying on the latter’s system for standard compliance, because it will increase speed and lower costs, a highly desirable aim from a borrower’s perspective.

The AIIB released its finalized Environmental and Social Framework dated February 2016. The Framework prioritizes the principle of stakeholder engagement, stating that meaningful consultation is essential for the design and implementation of the Bank project. Meaningful consultation ensures that all parties have a voice in consultation, including national and subnational government, the private sector, non-governmental organizations and people affected by the Project. Borrowing countries are duly heard and respected in AIIB decision-making, in compliance with multilateralism in AIIB standards. It corrects what the World Bank and the IMF had impressed upon people’s mind.

However, implementation of the standards is key. Critics point at poor implementation records of international institutions’ standards, due to their one-size-fits-all approach and neglecting local conditions. Drawing upon the historical lessons, as I argued elsewhere, AIIB standards should emphasize local conditions and context, and operate in a project-specific manner. Their implementation must be assessable in order to avoid window-dressing. Stakeholders,

145 AIIB Environmental and Social Framework stipulates a leading role of the Bank’s Client in successful preparation and implementation of the Bank project, for which the Bank and the Client have complementary but distinct monitoring responsibilities. AIIB, above n 143, at 3–4, 22–23. Both the World Bank and the AsDB appear to adopt a similar approach in their ESS reform processes. Griffith-Jones et al., above n 123, at 20.

146 AIIB, above n 143, at 19–21.


148 AIIB, above n 143, at 4.


150 AIIB Environmental and Social Framework emphasizes implementation, referring to the experience of other MDBs that shows the importance of effective implementation of environmental and social management plans. For example, AIIB ESS 1 ‘Involuntary Resettlement’ requires that implementation of the resettlement plan be closely supervised throughout Project implementation. AIIB, above n 143, at 4, 41.

151 Stiglitz, above n 18, at 47–48. Ironically, both the IMF and the World Bank have such language in their AOA as requiring ‘respect for the domestic social and political policies of members’ in the IMF case, or requiring ‘The Bank and its officers shall not interfere in the political affairs of any member’ in the World Bank case. IMF AOA Article IV(3)(b), IBRD AOA Article IV(10).

152 GU, above n 61.

153 For example, AIIB Environmental and Social Framework prioritizes social development and inclusion consistent with local conditions, and encourages the use of borrowing countries’ environmental and social management system. AIIB, above n 143, at 3, 19.

154 AIIB Environmental and Social Framework defines good international practice as employing ‘the most appropriate technologies in the Project-specific circumstances’. For example, the Framework requires a project-level grievance mechanism. AIIB, above n 143, at 23, 31.

155 For example, AIIB Environmental and Social Framework provides for strict monitoring responsibilities for both the AIIB and its client to get standards implemented. AIIB, above n 143, at 22–23.
including the AIIB and borrowing countries, should be held liable for non-compliance.\(^\text{156}\)

Since the AIIB has only started its first line of projects in June 2016,\(^\text{157}\) it has little practical experience yet. The Framework will be in place for the first three years of the AIIB operations;\(^\text{158}\) it will then be reviewed and revised to reflect the initial operational experiences, as a wise strategy for a new bank should be.

\section*{V. CONCLUSION}

The US-led Bretton Woods institutions still work today. Multilateralism embedded in them has enabled the USA as a hegemon to strengthen its leadership in the world economy. The US’ leadership in other regional development banks further symbolizes triumph of multilateral aid over bilateral aid in international affairs. Multilateral organizations can usefully serve as a scapegoat for imposing and enforcing conditionality that may be politically sensitive to attach to bilateral loans, as well as pooling the resources of several donors.\(^\text{159}\)

\textit{Chinese} multilateralism for the AIIB is different. China is not a hegemon;\(^\text{160}\) and most importantly, it has no will to counter the existing world order through the establishment of the AIIB. Rather, the Bank has positioned itself in a complementary role in international development financing. Meanwhile, \textit{Chinese} multilateralism aims to improve global governance, tilting toward balance in favor of those underrepresented. The AIIB meets both the needs of China’s domestic reforms, and the world’s

\(^\text{156}\) People alleging to be adversely affected by the AIIB failing to fulfill obligations may submit complaints to the Bank’s oversight mechanism, which is currently under development. AIIB, above n 143, at 24. The AIIB may find inspiration from the World Bank’s Inspection Panel, which reviews complaints from groups who feel adversely affected by Bank-funded projects. The Inspection Panel is independent from the Bank management, and may hold the Bank liable for its failure to meet its own ESS. Griffith-Jones et al., above n 123, at 15.

\(^\text{157}\) In an earlier op-ed, AIIB President expected the Bank to fund its first line of projects in the second quarter of 2016. Jin, above n 57. During the first annual meeting in Beijing in June 2016, the AIIB announced its first batch of four projects—in Bangladesh, Indonesia, Pakistan, and Tajikistan—totaling US$509 million in loans. Three of the four projects are co-financed with peer institutions, including the World Bank, the AsDB, and EBRD. Available athttps://www.aiib.org/en/news-events/news/2016/20160625_002.html (visited 5 September 2016).

\(^\text{158}\) AIIB, above n 143, at 2.

\(^\text{159}\) Nelson, above n 12.

\(^\text{160}\) It is important to understand that China is not a hegemon both from traditional cultural and modern perspectives. Traditionally, China was not a missionary society; it sought to induce respect, not conversion. It had never sought to export its political system and values; rather, it had seen others come to it. China thus has expanded not by conquest but by osmosis. This cultural psychology, which is essentially true today, contrasts a hegemon’s intention to seek predominance over other countries. China indeed becomes active on the world scene, echoing worldwide demand as its power grows, and its views and support are now sought almost everywhere. Still, China is ‘largely contained within its own reality’, in contrast to America feeling exceptional and morally obliged to spread its values and political system around the world to such an extent as overthrowing sovereign governments by force. In contrast, China upholds sovereignty and opposes any interference into sovereignty in various names including human rights protection. Kissinger, above n 46, at 213–33.
expectation of a responsible stakeholder and contributor. It fulfills multilateralism in both its constitutional charter and standards. People thus have every incentive to trust, welcome, and encourage China’s continued contribution toward global economic governance with Chinese multilateralism.¹⁶¹

¹⁶¹ At the time of this writing, USA and Japan are the only two major Western powers still reluctant to join the AIIB. But their bidding days may not be far away, partly because ‘The AIIB provides an opportunity to acknowledge and applaud China’s emergence as a builder of multilateral institutions and a contributor to global public goods’, and ‘it poses very little risk to U.S. and Japanese interests, since it enters a crowded, competitive field of multilateral development agencies’. Phillip Y. Lipscy, ‘Who’s Afraid of the AIIB?’ Foreign Affairs, 7 May 2015.