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Study on the international protection mechanism of environmental justice under the “One Belt, One Road” initiative ——Based on the perspective of law and economics

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Study on the international protection mechanism of environmental justice under the “One Belt, One Road” initiative

——Based on the perspective of law and economics

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Abstract. Since ancient times, "Silk Road" has been the important trade route linking Asia, Europe and Africa. In 2013, President Xi Jinping proposed a new strategy for building the "New Silk Road Economic Belt" and "21st Century Maritime Silk Road" on the ancient Silk Road. Together, they are also called "One Belt, One Road." Its establishment aims at deepening the economic cooperation between our country and its neighboring countries and neighboring regions, including language, culture and religion. Since the "One Belt, One Road" economic belt involves as many as 64 countries in the country, the legal provisions, the status quo of the environment and the political factors are numerous and difficult to adjust. After collecting the data of important countries along the economic belt, this paper analyzes and contrasts them. Then it studies the existing international protection mechanism, sums up the challenge of establishing the international protection mechanism and feasible suggestions to promote the healthy and steady development of "One Belt, One Road" economic belt. At the same time all countries are developing their economies, how to reduce environmental pollution and maintain ecological balance are the primary issues in the development of "One Belt, One Road" economic belt.

1. Introduction

With the global economic downturn, the coordinated development of all countries' economies has become a hot issue today. The "One Belt, One Road" economic belt, as the major economic and trade form of the Asia-Europe non-sector, has drawn wide attention from all countries in the world. Justice is an important tool for the rule and administration of the country. Environmental justice, as a part of it, also fulfills the function of harmonious coexistence between man and nature and development of economy. From an economic point of view, it is of great importance to formulate and implement an effective environmental judicial mechanism in "One Belt, One Road" economic zone and to reveal the important laws governing environmental justice and economic development so as to effectively solve the environmental problems caused by economic development.

2. The role of “One Belt, One Road” economic belt in promoting export

The growth of trade between the two countries is mainly due to the reduction of trade costs and the expansion of market demand. The reduction of trade cost will help more enterprises to enter the international market, and the increase of market demand in the other country or region will also expand



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the scale of enterprises' exports. Although most countries along "One Belt, One Road" are at different stages of development, most of them need to rely on external capital flows and capacity cooperation to promote their economic adjustment and economic development. China, as the leading party, has huge foreign exchange reserves. Thus the foreign infrastructure investment and construction capacity is strong.

At the initial stage, the expected risk reduction promoted the export of domestic enterprises. Since the end of 2013, China's export credit insurance companies have also taken a number of measures to orient the national export credit insurance policies and resources to the key areas of cooperation of "One Belt, One Road". The key countries of short-term export credit insurance and key industry differentiation support measures are established to protect the export of enterprises.

The reduction of trade barriers and the construction of infrastructure reduce the cost of trade. In addition to the obvious trade costs such as tariffs, regional differences in culture, institutions, laws and local infrastructure will affect trade costs. "One Belt, One Road" focuses on resolving investment and trade facilitation issues and eliminating investment and trade barriers. For example, in April 2015, the top ten customs chiefs along the Silk Road Economic Belt signed the "Silk Road Economic Belt Customs Cooperation Agreement" to build regional customs clearance supervision and control integration. In the process of carrying out initiative, the construction of infrastructure in export destination countries will also promote China's exports to countries along "One Belt, One Road". In November 2015, for example, 2281 acres of land in the Gwadar Free Trade Zone, which is particularly strategic for China, was officially transferred from Pakistan to China. Gwadar Port, the third largest deep-water port in Pakistan, can be used as the entrepot trade of East Asian countries and the sea outlet of the landlocked countries in Central Asia, and it can also effectively link the western region of China with the Central Asian region.

3. The importance of international environmental protection

The establishment of "One Belt, One Road" economic belt has brought economic growth in the trade for all the participating countries, especially toward such a socialist country as China. However, its impact on the environment should not be underestimated. Take the environment of China, the leader of "One Belt, One Road" economic belt as an example.

China's rapid economic development is mainly based on a high degree of resource consumption. International Energy Agency's coal consumption in China is 38% of the global total. China is also the world's largest importer of logs and tropical timber. However, in the course of trade, China merely acts as a "processing factory" that processes energy in China and then exports it to other parts of the world, leaving the waste-processing greenhouse gas in China. Many environmentalists point out that China's awareness of environmental protection is too late. A study published by the National Academy of Sciences found that air pollution in northern China will reduce people's average life expectancy of 5.5 years. In addition, China's air contains other destructive substances, which in the near future are likely to have a significant impact on the world. China's greenhouse gas emissions account for about 10% of global emissions in 1990, and so far it is close to 30%. Since 2000, the domestic carbon dioxide emissions per unit of the world's emissions accounted for two-thirds. Such a situation is very difficult for China to change. While actively saving energy and reducing emissions in the United States and Europe, China's carbon emissions still exceed 500 tons.

However, for the report of the American Academy of Sciences, China believes that China's greenhouse gas emissions are not enough to affect the world. Along with the rapid economic growth, China's environmental protection and emission reduction measures have developed even faster. China's investment in environmentally-friendly energy such as wind and solar energy is not comparable to any other country in the world [1].

However, it is undeniable that the environmental problems in our country are historically similar. Take the example of figure 1 for the number of bad days of air in Beijing, Shanghai, Chongqing and Japan in the past 40 years. As can be seen from figure 1, most of the Chinese cities except Japan, the largest city in China, polluted no more than Japan in the 1960s. And by the 1990s, the air quality in the

three cities was basically absent. After entering the new century, the number of days of bad weather in China has increased markedly. The highest peak in Beijing is comparable to that of Japan in 1970. On the contrary, the bad days of Japan have been declining year by year because of the "soot rules" formulated by Japan in the mid-20th century; subsequently, the "Basic Law on Control of Environmental Pollution" was promulgated. At the end of the 20th century, Japan promulgated the "Action Plan for Agenda 21" in the hope of building an environment-friendly system in the 21st century. After 2000, the number of bad days in our country started to decline because the government has realized the environmental problems caused by economic development and given relevant measures [2].

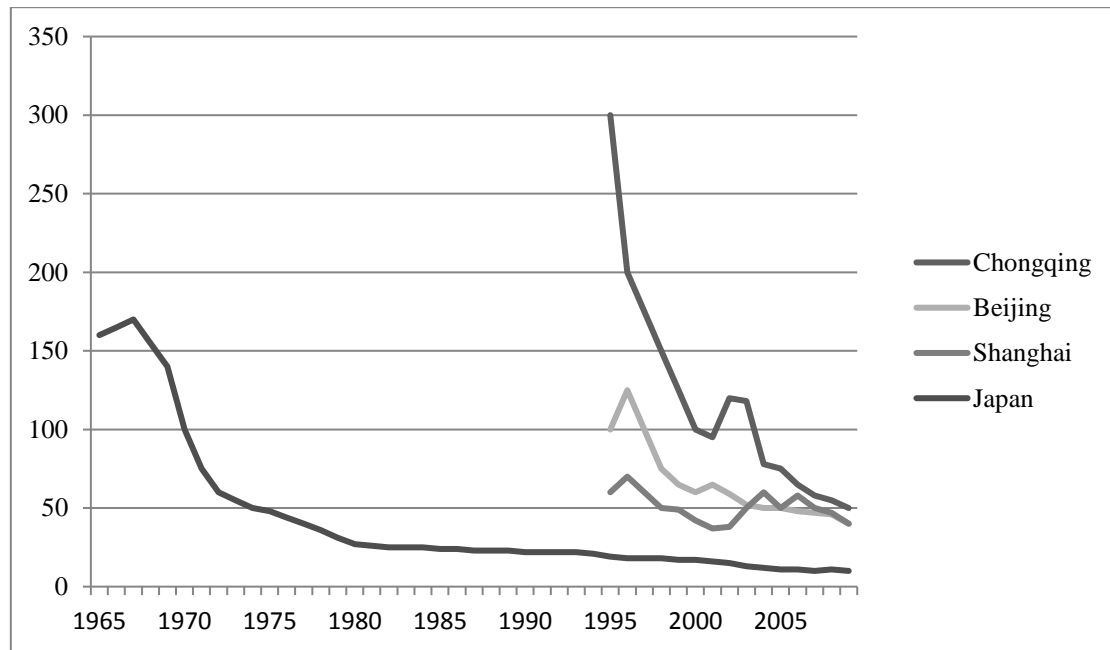


Figure 1. Bad weather days (1965~2005).

Source: World Bank <http://data.worldbank.org/>

In order to improve its environment while developing its economy, China began to focus on reducing its carbon emissions per unit of GDP. As shown in figure 2 below:

The carbon emissions per unit of GDP in the United States and the world are basically the same, while the curves in Germany and Japan also roughly overlap. Only China has surpassed the other four countries in these two decades. As a result, the Chinese government decided in 2005 to reduce its emissions by 20% over the next five years and to reduce carbon emissions by 40% -45% by 2020. Most of the carbon energy that is reduced will be realized by over 1,000 state-owned enterprises in China. These companies will contract with the government to agree on efficiency goals, comply with new building codes and install environmental control equipment. The program has now expanded to 10,000 companies.

In addition to legislative and governmental measures that are effective in reducing environmental damage, the international conventions on the terms and conditions also have an immediate impact. In December 1997, a Kyoto Protocol was approved in Kyoto, Japan, for the benefit of all mankind and was signed by 84 countries. The purpose of this agreement is to control the amount of greenhouse gases in the atmosphere and to prevent further deterioration of the global climate. Although there are some problems in the implementation of this agreement, leading to the withdrawal of the United States and Canada, but on the whole, the "Kyoto Protocol" has been better implemented, participating countries did make substantive actions on energy saving and emission reduction. The greenhouse gas emissions of the developed countries are weakened, while the emissions of some developing countries are well

controlled.

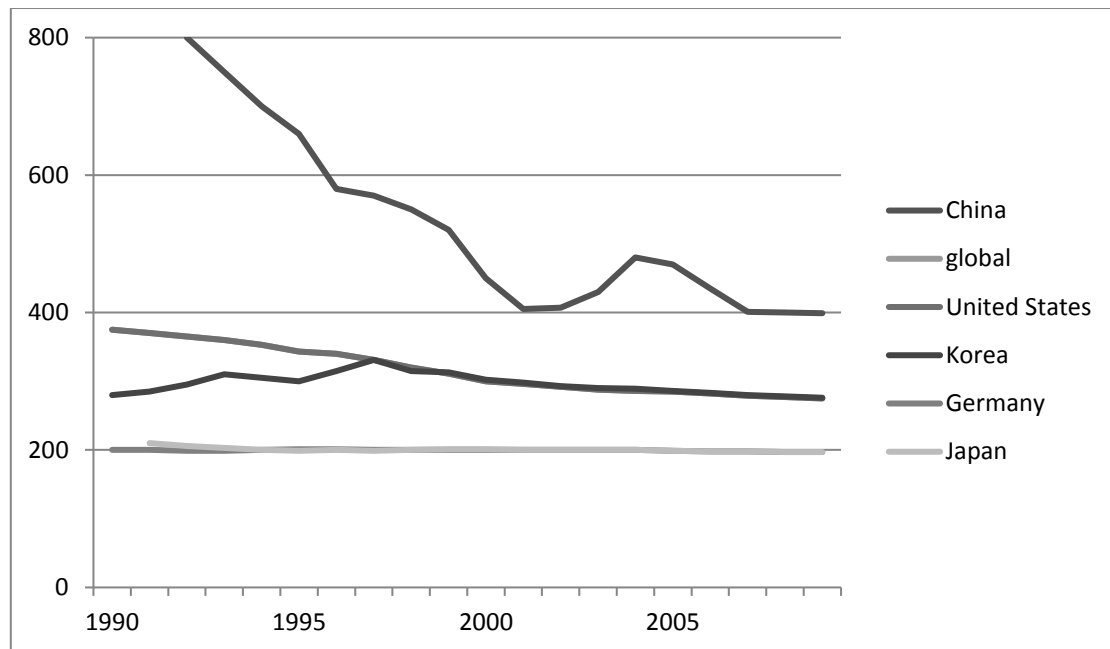


Figure 2. Carbon emissions per unit of GDP (1990~2005).

Source: World Bank <http://data.worldbank.org/>

It can be seen from this that domestic and international protection measures can effectively reduce environmental damage. Therefore, establishing an international environmental protection mechanism is necessary.

4. Environmental justice: The form of international protection mechanism

The previous chapter shows the importance and necessity of establishing an international protection mechanism. So what exactly is the international protection mechanism? There are many definitions for it. The earliest "international mechanism" in international issues is John Ruggie. He believes that the mechanism of international cooperation is "a series of plans, expectations, rules and financial obligations accepted by some countries." The most widely accepted is Stephen Krasner's definition, which he believes requires transparency in addition to a series of plans, expectations, rules and financial obligations. Combining the above two definitions, an international mechanism is a kind of "a series of rules and regulations, regulations, expectations and plans openly formulated among nations." Then in the specific environment to the international protection mechanism, it can be defined as: a series of codes of conduct and expectations vision of countries to address global environmental issues.

Beginning in the 19th century, the international protection mechanism of environmental justice boarded the international arena. In the mid-twentieth century, it developed rapidly and began to occupy a prominent position at various important international conferences. Environmental protection laws, intergovernmental cooperation and the establishment of non-governmental organizations are the more commonly used forms of judicial protection. In the following, some countries along "One Belt, One Road" will be taken as an example to explain the status quo of the development of the mechanism.

5. Environmental protection law

"One Belt, One Road" economic belt is a long route across three major sectors in Europe, Asia and Africa, with 64 countries directly involved. The economic development of all countries along the line is uneven. Each country has its own legal system, legal procedures and judicial system. Some countries, such as Italy, adopt the civil law system, while Pakistan, Singapore and other countries belong to

common law systems. Therefore, this article selects only some representative countries to elaborate and compare the specific content of its environmental law.

China and Russia are neighboring countries and have much enlightenment on China in the formulation and implementation of laws. The current law on the protection of the environment in China was adopted and started to be implemented by the Seventh National People's Congress in 1989. Its main purpose is to prevent pollution, improve the living environment, protect the health of others and promote the development of socialist modernization. Environmental Protection Law stipulates that "the environmental protection plan formulated by the state must be incorporated into the plan for national economic and social development and the state adopts economic and technical policies and measures conducive to environmental protection so that environmental protection work is carried out in line with economic construction and social development Coordinated development" [3].

In 2001, Russia revised the new Environmental Law "Environmental Protection Law" based on the 1991 Natural Conservation Law. During these 10 years, Russia experienced political changes such as disintegration and the Cold War and suffered nuclear contamination that shocked the world. Therefore, the Russian government repaired the Environmental Protection Law with a more comprehensive and advanced concept. Although the environmental protection laws of China and Russia are both statutory and applicable, the clauses are very similar. However, Russia's "Environmental Protection Law" provides more specific and more detailed classification. The third chapter fully emphasizes the role and obligation of citizens in the entire environmental protection. The "Law of Environmental Protection" in our country has the following characteristics: prevention and control of heavy pollution, protection of light natural resources; heavy government power, light government obligations; heavy responsibility of citizens for environmental protection and light environmental protection for citizens. The main reason for the difference between the environmental laws of China and Russia is that the two countries have different national conditions. Compared with China, Russia has more land and a lot of natural resources. Coupled with the early development of Russia, it surpassed China in politics, military affairs and culture. Therefore, Russia's "Environmental Protection Law" has a great reference to China and the socialist countries in "One Belt, One Road".

As a late joining country in the "One Belt, One Road" economy, India's environmental protection law also has great reference and guidance. China and India, both developing countries, have many similarities in economic development and social conditions [4,5].

In the early hours of December 3, 1984, the most serious chemical accident in Bhopal, India, took place. Cyanide leaks have occurred in a pesticide factory near a slum and have caused serious consequences, killing hundreds of thousands. However, this tragedy is not over. It brings permanent damage to local children, with high prevalence and mortality rates associated with those children for the rest of their lives. After the Bhopal incident, the environmental problems brought tremendous pressure on the Indian government. In May 1986, the Indian Federal Parliament passed the first comprehensive environmental law, the Environmental Protection Act, which is also India's current law on environmental protection. In addition, the Indian government promulgated many independent environmental laws in the future, such as the protection of water and wildlife.

India's "Environmental Protection Law," the specific content of a total of 26, divided into six categories, including the scope of the law, the federal government's powers and obligations, subsidiary administrative legislation, individuals and businesses and obligations and their legal responsibilities, institutional arrangements for law enforcement, and judicial enforcement. As can be seen from these six categories, the federal government plays a greater role and responsibility in environmental governance in India. The Environmental Protection Act is a typical piece of authorized legislation that gives the federal government the power to take all necessary or appropriate measures to prevent pollution and improve the environment. Despite environmental protection laws, India remains one of the most polluting countries in the world. There are two reasons for this: (1) Random drafting of the subsidiary law. (2) There is a great conflict between the internal conflicts of the federal government and those who make laws. Indigenous institutions that cannot move will seriously affect the implementation of the law, so India's environmental law has a powerful warning role in the legal development of all countries [6].

Although only the environmental protection laws of the two countries have been analyzed above, it clearly shows that it is difficult to integrate environmental protection mechanisms in countries along the "One Belt, One Road" economic belt. The political, economic, cultural and historical needs of all countries need to be taken into account.

6. Intergovernmental cooperation

There are two main types of cooperation among governments: the conclusion of international treaties and the establishment of intergovernmental organizations. Over the past three decades, there have been over 500 international environmental treaties and more and more contracting parties to the treaty. Take the following eight examples of the number of participating international environmental treaties as an example:

Table 1. Part of the number of States parties to international environmental treaties.

United Nations Convention on Biological Diversity	Kyoto Protocol	Vienna Convention for the Protection of the Ozone Layer	United Nations Convention to Combat Desertification	United Nations Convention on the Law of the Sea	United Nations Framework Convention on Climate Change	Basel Convention
188	183	174	191	147	192	162

Source: Global Environment Outlook Yearbook 2006

<http://www.un.org/chinese/esa/environment/outlook2006/conclusions.htm>

As can be seen from table 1, most of the countries in the world are actively participating in the formulation of international environmental treaties, and all the acceding countries have received good results from the treaties. Take the "Kyoto Protocol" as an example. Since the conclusion of the Kyoto Protocol, the emission reduction targets of various countries have been continuously strengthened. China took the lead in setting the goal of reducing 20% of its greenhouse gas emissions by 2020. Subsequently, the United States also promised to reduce its emissions by 17%. The EU said it reduced its emissions by more than 20% from 1990 levels.

In addition to the treaty, there are numerous international governmental organizations, such as the World Environment Organization, the International Association of Energy Conservation and Environmental Protection, and so on. China-ASEAN Environmental Protection Cooperation Center is the most important international environmental protection mechanism in the "One Belt, One Road" economy. It was established in 2010 with a total of 10 countries from China and ASEAN to participate in the building of a conservation-friendly and friendly East Asia joint effort [7,8].

7. Non-governmental organizations

In recent years, non-governmental organizations and other non-governmental organizations have made greater contributions to international environmental protection. More well-known NGOs include Greenpeace, the Wildlife Conservation Foundation and many more. According to statistics, the number of non-governmental organizations in the world has reached several million. Currently there are more than 10,000 non-governmental organizations registered with the UN Economic and Social Council. These organizations participate in the decision-making process of the international environmental protection mechanism through various channels, such as lobbying, propaganda and so on. The Rio Declaration on Environment and Development and Agenda 21 were concluded after having heard the opinions and suggestions of a wide range of non-governmental environmental organizations. Such international protection mechanisms as NGOs have become the mainstream of environmental protection in today's society. Due to their large number, governments of all countries have to pay attention to these organizations.

7.1. The challenges and difficulties of establishing an environmental judicial protection mechanism along One Belt, One Road

7.1.1. International environmental law meets obstacles. "One Belt, One Road" economic belt involves the greatest impediment to the establishment of an international environmental protection mechanism as much as possible. Owing to the differences in history and culture, economic development and religious beliefs in various countries, there is a great obstacle to the establishment of a unified law, although as early as 2010, China has set up a "China-ASEAN Environmental Protection Cooperation Center" as an important mechanism platform for environmental cooperation between China and ASEAN. It will integrate cross-border environmental pollution, environmental education and public participation, environment-friendly technologies, ASEAN city life quality standards, the sustainable use of the marine environment and other environmental priorities included in the field of cooperation. However, such organizations involve only some countries. In addition, at the political level, each country's environmental protection laws are tailor-made according to their own national conditions and have their own personal attributes. One law can accommodate one country and cannot be applied to other countries. And even though the international environmental protection law is promulgated, some countries may neglect them in order to be able to maintain the interests of their own countries. In general, the binding force of law is much harder than that of every country [9].

7.1.2. The destination country is ecologically sensitive. "One Belt, One Road" economic belt runs across three parts of Asia, Africa and Europe. The ecological environment varies from place to place and the ecological environment in some areas is extremely sensitive. For example, the land-based Silk Road will pass through areas such as the Pamirs that have weak ecological conditions. Once the ecological development in these areas is carried out, it will easily cause irreversible damage to the local ecology. Due to the current uneven distribution of enterprises overseas, countries can easily trigger environmental and social problems, resulting in irreversible and permanent economic losses.

Second, cross-border pollution is now the biggest problem facing China and other countries, especially in dealing with transboundary air pollution and international river pollution. Since cross-border pollution is often entangled with issues such as national resource development and utilization, it is complicated to handle.

Therefore, all countries should consider the environmental rationality of site selection and alignment in the cooperation and development of the economy of all places, and should take measures to prevent ecological damage and make compensation. In fact, the enterprises in various countries and even the government lack corresponding international experience in such issues.

7.1.3. Non-governmental organizations are struggling. Non-government environmental organizations play a decisive role in the international protection of the environment. However, the development of NGOs in the "One Belt, One Road" economic zone is full of challenges. Because most of the developing countries are along the route, some NGOs are late in construction and do not have the financial and government support comparable to the developed western countries. In developing countries, where everyone still focuses solely on the issue of food and clothing for the individual, few people have cast their eyes on the construction of NGOs. Therefore, non-governmental NGOs lack sufficient driving force for service delivery [10].

7.2. Suggestions on the reform of environmental judicial system

7.2.1. Strengthen intergovernmental cooperation among all nations. Since "One Belt, One Road" covers a large number of countries and populations, and the gross domestic product of each country together accounts for about 30% of the global total, it must be planned at the government level. It is necessary to unify the thinking of all countries, formulate a scientific and clear plan, and steadily advance it step by step. In fact, since September 2013, Chinese leaders have successively visited over a

dozen countries along "One Belt, One Road" and laid a good foundation for the progress of the "One Belt, One Road Initiative." The proposed docking projects such as "China-New Zealand Economic Corridor", "New Eurasian Continental Bridge Economic Corridor", and "China-Turkey Earth Economic Corridor" also provide diverse cooperation between China and other countries in infrastructure construction, economic and trade cooperation, etc. As a friendly and peaceful country, our government should make full use of the economic corridors that have been established above and fully lobby other countries along the line. Although different countries have different systems, countries that can promote similar government systems sign environmental laws, divide 65 countries into different regional points, and finally link up points to form a regional environmental protection mechanism [11].

7.2.2. Implement effective ecological compensation. In order to protect the ecological environment and promote the harmony between man and nature, the interests of all stakeholders established among the economic policies is the ecological compensation mechanism. The "One Belt, One Road" economic belt is bound to involve the complicated domestic and international interest relations. Environmental pollution in many countries is so severe because they do not use effective methods of governance. Governance environment requires not only advanced technology, but also to invest some money. When a country's environmental governance expenditures increase, or even approaching its trade profits, some companies may give up their investment in environmental governance. At this time, some economic policies are needed, and the ecological compensation mechanism is the best choice. When the ecology is accidentally damaged, some areas are not developed to enough degree to independently restore their original ecology; while the more profitable areas are fully able to afford the restoration costs. Through the ecological compensation system, the beneficiaries can make compensation for the affected areas and reduce the environmental damage [12].

The specific system of ecological compensation system includes: fiscal transfer payment policy, ecological taxation policy and ecological compensation fund system. "One Belt, One Road" participating countries should sign multilateral treaties to put the system into effect [13].

7.2.3. Promote the internationalization of non-governmental organizations. As a public affair, environmental protection is changing the main body of its functions. From the traditional government-related departments to the common management of the public, the role of non-governmental organizations (NGOs) as environmental protection agencies is constantly increasing. The development of non-governmental organizations can effectively solve the social and environmental problems brought about by coordinating the development of overseas projects. Because non-governmental organizations have such characteristics as non-profit, fairness, impartiality and voluntariness, they make them more persuasive and friendly to the people, and facilitate the exchange between different interest groups and social groups in different countries along the line so as to create a win-win situation. The most important role of these NGO organizations is to replace the government, monitor the overseas investment and development of other countries along the line effectively and justly, and help them fulfill their environmental responsibility and reduce environmental pollution [14][15]. In addition, NGOs also play a role of link. NGOs among different countries can exchange their own experiences with each other, further enrich the ideas of ecological civilization put forward by China and other countries along the line and deepen domestic environmental protection work.

The U.S. Environmental Protection Association's entry into China is a good example that can be borrowed by countries along the route. In 1980, the United States successfully solved the acid rain problem by relying on the "total control and emissions trading" proposed by its Environmental Protection Association. After that, the Environmental Protection Agency of the United States introduced it into China during its exchange in China and succeeded in helping China to solve part of the emission of sulfur dioxide and laid a good foundation for energy saving and emission reduction in the future. In China, there are also many non-governmental environmental protection organizations, such as the China International Civil Society Organization for Promoting Cooperation. It helps to solve the environmental problems in remote areas of our country and has established good cooperative relations with foreign

organizations so as to provide support services for the investment of various countries in China [16].

8. Conclusion

Through the above analysis from the perspective of environmental protection and economics, we can see that the international protection mechanism of environmental justice is not mature enough compared with the more mature mechanisms of international cooperation in criminal justice, such as extradition, and the specific procedures of enforcement are based on their own relevant Environmental law regulations; at the same time the establishment of relevant international mechanisms is also difficult. However, with the globalization of the world, it is believed that establishing an effective international environmental protection mechanism in all countries in the near future is an inevitable choice for realizing the sustainable development of mankind.

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