

U.S.-CHINA BILATERAL INVESTMENT TREATY NEGOTIATIONS: CONTEXT, FOCUS, AND IMPLICATIONS

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ABSTRACT

The growing importance of foreign direct investment (FDI) to U.S.-China relations was highlighted when the U.S.-China Strategic Economic Dialogue (SED) in 2008 mandated the negotiations of a bilateral investment treaty (BIT). Intended to further liberalizing investment policies of either country, the U.S.-China BIT-to-be came at a time of soaring economic tensions between the two economic giants amid global financial crisis.

In contrast to the assertive stance of the United States to base the negotiation on the U.S. model BIT, which is most sophisticated and signifies the highest standard for market access and investment protection, the current Chinese investment regime, which is characterized by an industrial policy orientation and case-by-case approval for prospective FDI, would have to undergo a systematic overhaul. In view of the varying interests of two nations, huge investment potential, clash of the two parties' positions, the BIT negotiation is destined to be the most difficult one in history, and might turn out to be a long-lasting diplomatic baffle between the two nations.

If the U.S. model BIT is finally adopted with minor revisions, the BIT could have far-reaching implications for China to avoid damage to the reliability of markets and for the United States to avoid the

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perception of investment protectionism. Moreover, it will serve as an inspiration for, and add the momentum to, institution-building for global investment framework.

KEYWORDS: *Bilateral Investment Treaty, Negotiation, China-U.S. Economic Link, Implications*