

# OPENING PRE-ESTABLISHMENT NATIONAL TREATMENT IN INTERNATIONAL INVESTMENT AGREEMENTS: AN EMERGING “NEW NORMAL” IN CHINA?

*Qianwen Zhang*\*

## ABSTRACT

*Pre-establishment national treatment with a negative list is gradually becoming the “new normal” in Chinese international investment law. The history of China’s approach to national treatment in Chinese international investment agreements (IIAs) can be divided into three stages: First, China’s almost complete rejection of national treatment in the 1980s and 1990s; second, its conditional acknowledgment of post-establishment national treatment from 2000-2013; and third, its adoption of pre-establishment national treatment with a negative list after 2013. Each of the stages accords with China’s internal investment development, as well as its role in the international economy. The recent shift towards pre-establishment national treatment is reflected in both China’s domestic investment system reform and its evolving approach to IIAs: Namely, that China is adapting to prevailing international*

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\* Qianwen Zhang is a Ph.D. candidate of international law in Sichuan University School of Law, China. Qianwen received her LL.B in Xiamen University, and was awarded a B.A in economics in Xiamen University. She received her LL.M degree in McGill University, and a master of law in Xiamen University Law School. From September 2010 to September 2011, Qianwen was an associate fellowship in the Centre for International Sustainable Development Law. Qianwen has been working for Chengdu Municipal Development and Reform Commission since 2012. Her research interests include international investment law, dispute resolution and laws of territorial dispute. Much gratitude is extended to an anonymous reviewer for very insightful advice; and for Vita Yi-Ju Wu, Kyle Yu-Kai Chen, Chi Huang, Henry Wang and Yan-Di for their excellent technical assistance. The author can be reached at: cdzqw@hotmail.com.

*investment law standards. This shift is having a profound influence on China's legislative and administrative reforms. Ultimately, the implied liberal doctrine may bring both cooperative opportunities and challenges for both China and its investment and trade partners.*

**KEYWORDS:** *International Investment Agreements, National Treatment, pre-establishment, post-establishment*