

Article

CHINA'S ROLE IN THE DEVELOPMENT OF INTERNATIONAL INVESTMENT LAW—FROM BYSTANDER TO PARTICIPANT

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ABSTRACT

China has made a remarkable transition from being a virtual non-participant in the world order in the aftermath of the Cultural Revolution to being an active and vocal champion of globalization and liberalization of international investment rules. In recent years, it has moved on from its favoured conservative bilateral approach to investment protection to a much more assertive stance in multilateral fora. In both inbound and outbound investment, however, China's policy-makers are facing new challenges. China's disciplined approach in strictly controlling the scope of its investment agreements in order to synchronize the agreements with the development of investment strategies now serves to restrict the availability of investment protections for Chinese outbound investment pursuant to its current bilateral treaties. At the same time, its focus in treaty negotiations on better opportunities and a higher degree of protection for its investors appears to have been side-tracked by the need to deal with the size and scope of its Belt and Road initiative. A range of major domestic initiatives has

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resulted in significant changes to investment law and new approaches to cross-border dispute resolution. These many different concurrent initiatives raise questions as to the direction, substance and internal consistency of China's international and national objectives in relation to investment.

This paper discusses the development both of China's role as a participant in the shaping of international investment law and dispute resolution and of its domestic strategy in relation to investment and investment disputes. It concludes that China is working within the existing framework of international investment law, but with an eye to Chinese interests and objectives. It remains to be seen whether and when China's commitment to multilateralism, multilateral judicial cooperation and internationalization will be reflected at the domestic level through ratification of important private international law conventions and amendments of Chinese law.

KEYWORDS: *China, international investment, international investment law, bilateral treaties, bilateral investment treaties, BITs, free trade agreements, FTAs, investor state dispute settlement, ISDS, investor state arbitration, international arbitration, Belt and Road, G20, investment facilitation*