

# HOW EXACTLY DOES CHINA CONSENT TO INVESTOR-STATE ARBITRATION: ON THE FIRST ICSID CASE AGAINST CHINA

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## ABSTRACT

*Ekran Berhad, a Malaysia company, submitted the first ICSID case against China in May 2011. This case is subject to uncertainty with regard to certain jurisdiction issues. The author attempts to examine: (1) the history and evolution of the consent clause in China's BITs; (2) the interpretation and application of the consent clause in China-Malaysia BIT; (3) the effect and impact of China's notification under Article 25(4) of ICSID Convention; (4) whether investors could use the MFN clause to argue for more open access to ICSID arbitration; (5) an outlook of the case of Ekran v. China and its impact on the future of China's BITs practices.*

**KEYWORDS:** *ICSID, international investment arbitration, Expansion of*

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*Jurisdiction, Consent Clause, MFN Clause, Chinese BITs, Ekron v. China, ICSID Convention Article 25(4)*