

**INVESTOR-STATE ARBITRATION AND
CHINESE INVESTORS
RECENT DEVELOPMENTS IN LIGHT OF THE
DECISION ON JURISDICTION IN THE CASE *MR.
TZA YAP SHUM V. THE REPUBLIC OF PERU***

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ABSTRACT

The People's Republic of China has concluded a great number of bilateral investment treaties [BITs]. Recently, China has also modernized many of its older BITs. This development is described as the shift from the first to the second generation of Chinese BITs. However, it is still a relevant question whether Chinese BITs offer adequate protection for Chinese companies investing overseas. Mr. Tza Yap Shum v. The Republic of Peru, which is the first case brought by a Chinese (Hong Kong) investor against a foreign State under a Chinese BIT, may serve to illustrate some of the problems, including the availability of sufficiently broadly worded arbitration clauses, availability of satisfactory substantive standards of protection, possibility to rely on other treaties by way of most favoured nation-clauses, protection of indirect investments, as well as issues relating to the territorial application of Chinese BITs. Finally, challenge and enforcement of arbitral awards faced by Chinese investors will also be addressed.

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