

Road Initiative' Califold By 1493542 Shachish and Thiernalional By Ute Resolution in the Context of the 'Belt and

**More Information** 

## INDEX

Abs-Shawcross Draft, 102-3 Afghanistan BRI and, 2, 13, 69-70 trade with China, 17 United Nations Assistance Mission in Afghanistan, 2 African Union, 22 Agreement among the Government of the Republic of Korea, the Government of the People's Republic of China and the Government of Japan for the Promotion, Facilitation and Protection of Investment (TIT), 118 Anglo-Iranian Oil Company, 104 Annacker, Claudia, 192 Ansung Housing Company, 281-82 Arab League, 17, 22 Arase, David, 210 Arbitral Tribunals (UNCLOS) generally, 251 appointments to, 302-3 International Tribunal for the Law of the Sea (ITLOS) and, 239, 302-3 overview, 6 referrals to, 214, 237-38 in South China Sea Arbitration (See South China Sea Arbitration) Arbitration. See International arbitration Archer Daniels Midland, 117 Archipelagos islands distinguished, 265 territorial disputes and, 260-61, 262 Argentina-China BIT, 136 International Tribunal for the Law of the Sea (ITLOS) and, 238 maritime disputes and, 221 Agreement (TPP) and, 91

Armenia, enforcement of foreign judgments in, 40-41 Asian Infrastructure Investment Bank (AIIB), 19, 54, 180 Asia-Pacific Economic Cooperation, 15 - 16Assistance Mission in Afghanistan (UN), 2Association of Southeast Asian Nations (ASEAN) generally, 22, 54 Agreement on Investment of the Framework Agreement on Comprehensive Economic Cooperation, 118 ASEAN-China BIT, 118, 138 China-ASEAN Free Trade Agreement (CAFTA), 15–16, 118 Declaration on the Conduct of the Parties in the South China Sea. 244 - 45Regional Comprehensive Economic Partnership (RCEP) and, 119-20 Australia Bureau of Meteorology, 116-17 Foreign Judgments Act 1991, 30 free trade agreements (FTAs) with, 118 Indonesia, negotiation with, 241-42 International Court of Justice (ICJ) and, 234, 238 International Tribunal for the Law of the Sea (ITLOS) and, 238 Pearl Fisheries Act, 234 Regional Comprehensive Economic Partnership (RCEP) and, 119-20 trade with China, 16 Trans-Pacific Partnership



**More Information** 

318 INDEX

Austria Austria-China BIT, 139 International Tribunal for the Law of the Sea (ITLOS) and, 238 Baker Island, 272 Barbados bilateral investment treaties (BITs) with, 122-23 Permanent Court of Arbitration (PCA) and, 235 Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation, 17 Behavioral economics, 62 Belarus, enforcement of foreign judgments in, 40-41 Belgium Belgium-Luxembourg-China BIT, 136 International Court of Justice (ICJ) and, 238 International Tribunal for the Law of the Sea (ITLOS) and, 238 Belt and Road Initiative (BRI). See also specific topic Action Plan, 14-15, 16, 18 Afghanistan and, 2, 13 Bhutan and, 14 bilateral investment treaties (BITs) and, 118, 122-23 (See also Bilateral investment treaties (BITs)) Energy Charter Treaty (ECT) and, 188-89, 198-99, 204 (See also Energy Charter Treaty (ECT)) energy cooperation in, 185-86 foreign direct investment (FDI) and, 116 - 17free trade agreements (FTAs) and, 118 India and, 14 International Centre for the Settlement of Investment Disputes (ICSID) and, 108 (See also International Centre for the Settlement of Investment Disputes

international dispute resolution mechanism (See International Dispute Resolution Mechanism for BRI) Kashmir and, 14 Kazakhstan and, 122 Kyrgyzstan and, 122 maritime aspects of, 210 Memoranda of Understanding (MOU), 15, 16 outbound investment and, 118, 120 - 22overview, 1-2, 23-24, 113 Pakistan and, 14 purpose of, 113-15, 209-10 regional investment treaty, need for, 118 - 21regulatory and political risk and, 123 - 26as response to United States, 117, 119 Silk Road concept, 113-14 Syria and, 13 territorial disputes and, 14 United Nations and, 2 United Nations Convention on the Law of the Sea (UNCLOS) and, 211-12, 215-16, 232, 251 (See also United Nations Convention on the Law of the Sea (UNCLOS)) Uzbekistan and, 122 Visions and Actions, 216 World Trade Organization (WTO) and, 210 Benin-China BIT, 136 Bhutan BRI and, 14 trade with China, 17 World Trade Organization (WTO) and, 16 Bilateral investment treaties (BITs). See also specific treaty or country generally, 52 BRI and, 118, 122-23 expropriation and (See Expropriation) international dispute resolution mechanism for BRI and, 15, 16, 17 - 18

(ICSID))



**More Information** 

INDEX 319

international investment law and,
101-2
overview, 5, 146–48 strategic energy state-owned entities
(SOEs) and, 191–93
Bilateral maritime agreements, 248–49
BITs. See Bilateral investment treaties
(BITs)
Blue Book on the Dispute Resolution
Mechanism for the Belt and
Road, 18
Boon, Kristen, 313
Born, Gary, 44, 45 Boute, Anatole, xiii, 5
Brand, Ronald A., 45
Brazil, foreign direct investment (FDI)
in, 182
Bretton Woods Agreements, 58,
147–48
Brexit, 59, 74
BRI. See Belt and Road Initiative (BRI)
Briggs, Adrian, 29–30, 31, 36–37
Broad reciprocity, 33–36
Broches, Aron, 178
Brunei Darussalam enforcement of foreign judgments
in, 25
maritime delineation dispute with
China, 244
Nansha Islands and, 250, 283–84
trade with China, 16, 17
Trans-Pacific Partnership
Agreement (TPP) and, 91
Bulgaria
enforcement of foreign judgments
in, 38
Hague Convention on Choice of Court Agreements and, 44
Burke, William T., 219
Burke-White, William W., 161
Burke Wille, William W., 101
Cambodia, trade with China, 16
Canada
bilateral investment treaties (BITs)
with, 123
International Court of Justice (ICJ)
and, 234 Model BIT, 134–35, 143, 144

North American Free Trade Agreement (NAFTA) and, 15, 130, 141 Trans-Pacific Partnership Agreement (TPP) and, 91 Cape Verde, International Tribunal for the Law of the Sea (ITLOS) and, 238 Central Leading Group for Comprehensively Deepening Reforms, 19 Cheng, Lim Si, x, 3-4 Chesterman, Simon, 313, 316 Cheung Kong Infrastructure, 116-17 Chigua Jiao (reef), 309-10 Chile, Trans-Pacific Partnership Agreement (TPP) and, 91 China. See specific topic China-Africa Joint Arbitration Centers, 51 - 52China-ASEAN Free Trade Agreement (CAFTA), 15-16, 118 China Development Bank, 72 China Institute for Marine Affairs, 306 China International Commercial Court (CICC), 3, 19-20 China International Economic and Trade Arbitration Commission (CIETAC), 19, 108 China-Pakistan Economic Corridor (CPEC), 115-16 China-Pakistan Free Trade Agreement, 15 - 16Chinese-European Arbitration Center, 51 - 52Chinese Society of International Law, 285, 302, 303 Chinese Taipei. See Taiwan Civil law countries, enforcement of foreign judgments in, 31-42, 46 Civil Procedure Law 2013, 36 Clipperton Island, 272 Code of Civil Procedure, 39 Commission on the Limits of the Continental Shelf (UN), 305 Common law countries, enforcement of foreign judgments in, 25-31, 46 Commutative justice, 64



Road Initiative' Caliberty of the Press Edited 1884 935 y 25h Child and The Share at 10 March 189 ute Resolution in the Context of the 'Belt and Index

**More Information** 

320

Compensation for expropriation, 139 - 46exchange rate in, 143-46 "Hull Formula," 5, 139 interest on, 142-43 moral damages, 141-42 valuation date, 142 Conciliation Commission on the Continental Shelf Area between Iceland and Ian Maven, 311 Confucianism, 54-55, 57, 246 Constitutionalism commutative justice, 64 Confucianism and, 54-55, 57 constitutional justice, 64 constitutional pluralism, 64-66 corrective justice, 64 cosmopolitan constitutionalism, 67-68, 69-70, 76-77 cultural function of law, 53 democratic constitutionalism, 54, 57 dependence of BRI law on, 61-63 distributive justice, 64 emancipatory constitutionalism, 68 equity principles, 64 evolution of, 68-70 human rights and, 55-56, 67, 69 instrumental function of law, 53 Kantianism and, 55-56, 57 legal self-commitment in, 59 Marxist and, 54-55, 57 methodological self-commitment multilevel constitutionalism, 67, 69 national constitutionalism, 67 overview, 52-53, 66-67 political self-commitment in, power-oriented approach, 56-57 principles of justice and, 64-66 procedural justice, 64 republican constitutionalism, 57, 65-66, 76-77 "state ship" metaphor, 54 systemic function of law, 53 transition from Western to Chinese leadership, 58-61

INDEX

Western versus Chinese constitutionalism, 53-58 World Trade Organization (WTO) and, 57, 58 Constitutional justice, 64 Constitutional pluralism, 64-66 Constitution (China) generally, 68 enforcement of, 56-57 rights under, 55-56 Contract law, 76 Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (MARPOL), 218 Convention on the Territorial Sea and the Contiguous Zone, 274 Corrective justice, 64 COSCO, 216 Cosmopolitan constitutionalism, 67-68, 69-70, 76-77 Court of Justice of the European Union (CJEU), 57-58, 65, 68, 77 Crawford, James Richard, ix, 3 Croatia Hague Convention on Choice of Court Agreements and, 44 International Tribunal for the Law of the Sea (ITLOS) and, 238 Cuarteron Reef, 309-10 Cultural function of law, 53 Cyprus-China BIT, 136 Czech Republic Czech Republic-China BIT, 129 Hague Convention on Choice of Court Agreements and, 44 Damages for expropriation, 131-32

Damages for expropriation, 131–32
Declaration on the Conduct of Parties in the South China Sea (DOC), 244–45, 299–301
de la Fayette, Louise, 220
Democracy, 67
Democratic constitutionalism, 54, 57
Deng Xiaoping, 63
Denmark
Denmark-China BIT, 129

Western bias in, 53-54



**More Information** 

INDEX 321

International Court of Justice (ICJ) and, 238 Distributive justice, 64 DOC. See Declaration on the Conduct of Parties in the South China Sea (DOC) Doctrine of natural prolongation, 244 Doctrine of obligation, 25 Doha Declaration, 103 Doha Development Agenda (DDA), 86, 89-90 Doha Round, 79, 89-90, 93 Donghsa Islands, 283-84 Dongmen Jiao (reef), 309-10 Draft Articles on Responsibility of State for Internationally Wrongful Acts, 141 Dubai International Financial Centre (DIFC), enforcement of foreign judgments in, 25, 40, 42 Due process in expropriation, 136-38 Duterte, Rodrigo, 314 ECT. See Energy Charter Treaty (ECT) Ecuador, bilateral investment treaties (BITs) and, 161-62 EDF (utility), 126 EEZs. See Exclusive economic zones (EEZs) Egypt, World Bank and, 104 Emancipatory constitutionalism, 68 Energy Charter Treaty (ECT). See also specific country BRI and, 188-89, 198-99, 204 energy jurisprudence of, 199-200 European bias in, 200-4 European Union law and, 203-4, 205 geographic scope of, 188-89 historical background, 201 investment protection standards, 197-99 modernisation of, 205 Multilateral Investment Dispute Resolution (MIDR-proposed) compared, 180 overview, 5, 188-89 potential accession of China to, 204 - 5

regulatory and political risk and, 187-88 strategic energy state-owned entities (SOEs) and, 193, 196-97 substantive protections, 197 as "unlevelled playing field," 202-4 Enforcement of foreign judgments arbitral awards versus foreign judgments, 24 breach of natural justice as defense, 28 - 29in civil law countries, 31-42, 46 civil procedure and, 33 in common law countries, 25-31, 46 defenses and, 27-29 diversity and, 33, 37-38 doctrine of obligation and, 25 fraud as defense, 28 under Hague Convention on Choice of Court Agreements, 4, 25, 42-45, 46jurisdiction as defense, 27 memoranda of guidance (MOGs) and, 42 memoranda of understanding (MOUs) and, 41-42, 46 New York Convention (See New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards) overview, 3-4, 24-25 public policy as defense, 27-28 reciprocity and, 33-36, 38-42, 46 review on merits precluded, 26 stavs and, 26 traditional hurdles to, 31-36 Environmental Goods Agreement (EGA), 4, 87–88, 89–90 Equity principles, 64 Estonia Hague Convention on Choice of Court Agreements and, 44 International Court of Justice (ICJ) and, 238 International Tribunal for the Law of the Sea (ITLOS) and, 238 EU. See European Union (EU) Eurocentrism, 53-54, 200-4, 294, 296



Road Initiative' Registed by Yeggya Shaching and Three national Dispute Resolution in the Context of the 'Belt and Index

**More Information** 

322

European Commission, 203

European Court of Human Rights (ECtHR), 65, 74

European Economic Area

Agreement, 69

European Energy Charter Declaration, 201, 205

European Free Trade Area (EFTA) Court, 65, 68, 77

European Union (EU)

generally, 15, 22

Charter of Fundamental Rights, 63, 69

Energy Charter Treaty (ECT) and, 203-4, 205

EU-China Trade and Cooperation

Agreement, 15–16 Global Strategy, 231

Investor-State Dispute Settlement

(ISDS) and, 161-62

maritime disputes and, 231 Multilateral Investment Dispute

Resolution (MIDR-proposed) and, 180, 181–82

Palestine, trade with, 17

regulatory and political risk in, 186

Exchange rate in compensation for expropriation, 143–46

Exclusive economic zones (EEZs)

military activities in, 227-28

Nansha Islands and, 309-10

navigation in, 223-24, 225

South China Sea Arbitration and, 290–91, 292–93

Taiping Island and, 298

Expropriation

compensation for, 139-46

damages, 131–32

due process in, 136-38

economic approach, 132 exchange rate and, 143-46

"Hull Formula," 5, 139

indirect expropriation, 128-35

interest and, 142-43

legalistic approach, 132

moral damages, 141-42

non-discrimination in, 138-39

overview, 126-27

INDEX

public purpose as ground for, 135-36

regulatory takings, 130–31, 132

"sole effect" doctrine and, 132–33

valuation date, 142

value and, 139-41

Fiery Cross Reef, 309-10

Finland

Finland-China BIT, 133

International Court of Justice (ICJ)

and, 238

International Tribunal for the Law of

the Sea (ITLOS) and, 238

Fisheries, 240-41

Fish Stocks Agreement, 219

Fitch Ratings, 190

Five Principles of Peaceful Co-

existence, 2-3

Foreign direct investment (FDI),

116-17, 182

Foreign judgments. See Enforcement of

foreign judgments

Framework Convention on Tobacco

Control (FCTC), 68, 69

France

France-China BIT, 129

International Tribunal for the Law of

the Sea (ITLOS) and, 239

islands and, 272

World Bank and, 104

Frankopan, Peter, 53–54

Free Trade Agreement of the Asia

Pacific, 15-16

Free trade agreements (FTAs). See also

specific agreement or country

BRI and, 118

expropriation and(See

Expropriation)

Fuller, Lon L., 76

Gao, Zhiguo, 306

GATT. See General Agreement on

Tariffs and Trade (GATT) GCC. See Gulf Cooperation

Council (GCC))

GCC Convention for the Execution of

Judgments, Delegations and

Judicial Notifications, 41



Road Initiative' Registed by Yeggya Shaching and Three national Dispute Resolution in the Context of the 'Belt and Index

**More Information** 

INDEX 323

General Agreement on Tariffs and Trade (GATT) generally, 22, 63, 94 commutative justice and, 64 plurilateral agreements and, 87 - 88ports and, 217 regional trade agreements (RTAs) and, 84 Tokyo Round, 87-88 Germany bilateral investment treaties (BITs) and, 101 Germany-China BIT, 128, 136, 138, 139, 140 International Tribunal for the Law of the Sea (ITLOS) and, 238 Ghana, maritime disputes and, 221 Global value chains (GVCs), 88 Go (board game), 56 GrainCorps, 117 Greece Greece-China BIT, 129, 142 International Tribunal for the Law of the Sea (ITLOS) and, 238 G20 international investment law and, 103 Leaders' Summits, 78-79 (See also Hangzhou Summit) role of China in, 95 Strategy for Global Trade Growth, Trade and Investment Working Group (TIWG), 89 Guillaume, Gilbert, 239-40 Gulf Cooperation Council (GCC) China and, 16 free trade agreements (FTAs) with, 118 GCC Convention for the Execution of Judgments, Delegations and Judicial Notifications, 41 Gulf of Thailand, 241-43 Gulf of Tonkin, 243-44, 304 "Gun boat diplomacy," 100 Guyana, Permanent Court of Arbitration (PCA) and, 235

Hague Convention for the Pacific Settlement of International **Disputes**, 17, 235 Hague Convention on Choice of Court Agreements, 4, 25, 42-45, 46. See also specific country Hague Peace Conference (1899), 235 Hangzhou Summit development of World Trade Organization (WTO) and, 89-90, **Environmental Goods Agreement** (EGA) and, 87-88, 89-90 global value chains (GVCs) and, 88 inclusiveness principle, 81 integration principle, 80 openness principle, 80-81 overview, 4, 79-80, 95 plurilateral agreements and, 87-88 post-Nairobi actions, 86 principles of, 80-81 regional trade agreements (RTAs) and, 83-85, 90 significance of, 80-81 steel, and excess capacity in, 88-89 Strategy for Global Trade Growth and, 88 strengthening of multilateral trading system and, 82-83 Trade and Investment Working Group (TIWG) and, 89 Trade Facilitation Agreement and, 86-87, 89-90 trade protectionism and, 85 Trans-Pacific Partnership Agreement (TPP) and, 91-93, 94-5 vision principle, 80 Havana Charter for an International Trade Organization, 94 Herrup, Paul, 45 High-tide features, 309-10, 311 Hinkley Point, 126 Historical background China, 1 Energy Charter Treaty (ECT), 201



Historical background (cont.)

International Centre for the

Road Initiative' Registed by Yeggya Shaching and Three national Dispute Resolution in the Context of the 'Belt and

INDEX

India

**More Information** 

Settlement of Investment Disputes foreign direct investment (FDI) (ICSID) and, 99-102 in, 182 international investment law. India-China BIT, 134 99-103 **Investor-State Dispute Settlement** Silk Road, 11-12 (ISDS) and, 161-62 Historic rights, 259, 298-99, 307-9 Kashmir, BRI and, 14 Regional Comprehensive Economic Historic title, territorial disputes and, 259-61, 262 trade with China, 16 Hobbes, Thomas, 60-61 Holloway, David, x, 3-4 Indirect expropriation, 128-35 Honduras, International Court of Indonesia Justice (ICJ) and, 238 Australia, negotiation with, Hong Kong 241 - 2enforcement of foreign judgments bilateral investment treaties (BITs) and, 101, 161-62 in, 25 status as island, 311 Indonesia-China BIT, 129, 139 Hong Kong International Arbitration trade with China, 16 Centre (HKIAC), 108 Information Technology Hongxiu Island, 277 Agreement, 87 Howland Island, 272 Instrumental function of law, 53 Huangyan Dao (shoal), 309-10 Interest on compensation for Huayang Jiao (reef), 309-10

Hungary Energy Charter Treaty (ECT) and,

Hague Convention on Choice of Court Agreements and, 44 International Tribunal for the Law of the Sea (ITLOS) and, 238

Hwang, Michael, ix-x, 3-4

Hughes Reef, 309-10

"Hull Formula," 5, 139

Human rights, 55-56, 67, 69

Hull, Cordell, 58

## Iceland

Conciliation Commission on the Continental Shelf Area between Iceland and Jan Mayen, 311 Iceland-China BIT, 129 islands and, 271-72

ICJ. See International Court of Justice (ICJ)

ICSID. See International Centre for the Settlement of Investment Disputes (ICSID)

## Constitution, 68

Partnership (RCEP) and, 119–20

expropriation, 142-43

International Academy of the Belt and Road, 18

International arbitration

adjudication versus, 235-36

conditions for success, 313

foreign judgments versus arbitral awards, 24, 46-47 (See also Enforcement of foreign

judgments)

International Centre for the Settlement of Investment Disputes (ICSID) (See International Centre for the Settlement of Investment Disputes (ICSID))

as international dispute resolution mechanism for BRI, 18-20

**Investor-State Dispute Settlement** (ISDS) (See Investor-State Dispute Settlement (ISDS))

Multilateral Investment Dispute Resolution (MIDR-proposed) (See Multilateral Investment Dispute Resolution (MIDRproposed))



**More Information** 

INDEX 325

New York Convention (See New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards) South China Sea Arbitration (See South China Sea Arbitration) UNCITRAL Arbitration Rules, 105, 110, 111 United Nations Model Law on International Commercial Arbitration (UNCITRAL), 26, 29 - 30, 45International Centre for the Settlement of Investment Disputes (ICSID) Additional Facility Rules, 105-7, 110, 111 Administrative Council, 107 Appellate Body (proposed), 110-11, 180 Arbitration Rules, 108–10 binding nature of awards, 199 BRI and, 108 caseload, 105-7 China in, 16, 281-82 complaints against China in, 52 Convention, 103-5, 155, 157-58, 178, 199, 281-82 cosmopolitan constitutionalism and, 67 - 68historical background, 99-102 Investor-State Dispute Settlement (ISDS) in, 99, 105, 154-55, 157-58 Mauritius Convention and, 110 Member States, 105 Model Clauses, 105-7 Multilateral Investment Dispute Resolution (MIDR-proposed) compared, 180 overview, 4 Panel of Arbitrators, 104 Panel of Conciliators, 104 procedure versus substance in, 178 publications and documents, 107 - 8rule amendments, 108-12 Secretariat, 111–12 simplified enforcement mechanism, 105

UNCITRAL Arbitration Rules and, 105, 110, 111 World Bank and, 103-4, 108 International Commercial Expert Committee, 20 International Court of Justice (ICJ). See also specific country generally, 3 Chinese Member on, 281 choice of forum, 213-14 compulsory jurisdiction, 213-14, 233 - 34as international dispute resolution mechanism for BRI, 20-21 International Tribunal for the Law of the Sea (ITLOS) versus, 237-38 on islands, 263-64, 273 judges, 181 maritime disputes and, 213-14, 233 - 34Multilateral Investment Dispute Resolution (MIDR-proposed) compared, 172, 181 South China Sea Arbitration and, 293, 300 territorial disputes in, 246, 273-74 United Nations Convention on the Law of the Sea (UNCLOS) and, 213-14, 288-89 International Covenant on Economic. Social, and Cultural Rights, 62 International Criminal Tribunal for Rwanda (ICTR), 239 International Criminal Tribunal for the former Yugoslavia (ICTY), 239 - 40International dispute resolution mechanism for BRI Action Plan, 14-15, 16, 18 bilateral investment treaties (BITs) and, 15, 16, 17-18 bilateral legal structure without multilateral courts, 75-76 Chinese strategy regarding, 14 - 18CICC as, 19-20 desirability of, 21-22 ICJ as, 20-21



Road Initiative' Cambilities University Press Edited 188 4935925h Child and The Share The Share at 10 March 189 Ute Resolution in the Context of the 'Belt and Index

**More Information** 

326 INDEX

International dispute (cont.) institutionalization at national level, international arbitration as, 18 - 20international law and, 13-14, 15 mediation as, 18 Memoranda of Understanding (MOU), 15, 16 "mixed" disputes, 20 overview, 3, 12-13, 22, 210-11 possibilities for, 18-21 proliferation of organizations, effect of, 21-22 International Energy Agency, 190 International Energy Charter Declaration, 188, 205 International investment agreements (IIAs). See Investor-State Dispute Settlement (ISDS) International investment law active participation of China in, 3 ad hoc commissions and tribunals, 100 - 1bilateral investment treaties (BITs) and, 101-2 G20 and, 103 "gun boat diplomacy" and, 100 historical background, 99-103 host state jurisdiction, 99-100 International Centre for the Settlement of Investment Disputes (ICSID)(See International Centre for the Settlement of Investment Disputes (ICSID)) international law and, 100 substantive gaps in law, 101 Treaties of Friendship, Commerce and Navigation (FCNs) and, 101 "treatification" of, 101 International law Chinese participation in, 280-82 international investment law and, 100 ports and, 217 International Law Commission, 264-65, 267, 308

International Maritime Organisation (IMO), 218 International Monetary Fund (IMF), 180 International Ship and Port Facility Security (ISPS) Code, 218, 219 International Trade Organization (ITO), 102-3International Tribunal for the Law of the Sea (ITLOS). See also specific country generally, 251 Arbitral Tribunals (UNCLOS) and, 239,302-3Chamber for Fisheries Disputes, 237 Chamber for Marine Environment Disputes, 237 Chamber for Maritime Delimitation Disputes, 237 Chamber of Summary Procedure, 237 choice of forum, 237-38 declarations of exclusion, 238-39 fragmentation and, 239-40 International Court of Justice (ICJ) versus, 237-38 jurisdiction, 237 overview, 6 ports and, 220-21 preferability of, 236 procedures, 236-37 referrals to, 214, 288-89 Seabed Disputes Chamber, 237 South China Sea Arbitration and, 293 special chambers, 237 International tribunals emergence of, 22 reluctance of China regarding, 2-3 Investment promotion, 163-64 Investment protection, 163 Investor-State Dispute Settlement (ISDS) criticisms of, 159 democratic deficit in, 159-60 emergence of, 153-55 foreign direct investment (FDI) and, 157



Road Initiative' Registed by Yeggya Shaching and Three national Dispute Resolution in the Context of the 'Belt and

**More Information** 

INDEX

hybrid nature of, 151-53 in-put legitimacy, 167 in International Centre for the Settlement of Investment Disputes (ICSID), 99, 105, 154-55, 157-58 investment promotion and, 163-64 investment protection and, 163 lack of consistency in, 161 legitimacy deficit in, 160 legitimacy-efficiency balance in, 153-54, 183 limited review, 169 Multilateral Investment Dispute Resolution (MIDR-proposed) and, 149-51, 183-84 (See also Multilateral Investment Dispute Resolution (MIDR-proposed)) out-put legitimacy, 168 over-expansion of, 157-59, 161 overview, 149-51 party autonomy, 168-69 private efficiency refinement and, 168 - 69procedural defects of, 159-60 proliferation of, 156 public legitimacy management and, 167 - 68public-private debate in, 151-52, 183 reform proposals, 161-63, 183-84 (See also Multilateral Investment Dispute Resolution (MIDRproposed)) sovereignty and, 160 substantive defects in, 161 sustainable development and, 165 - 66Civil Judgments Enforcement Act 1977, 32 World Bank and, 104 World Trade Organization (WTO) and, 16 Ireland, Permanent Court of Arbitration (PCA) and, 235 ISDS. See Investor-State Dispute Settlement (ISDS) Islands. See also specific island archipelagos distinguished, 265

327 defined, 274 economic life requirement, 310-11 as gap in United Nations Convention on the Law of the Sea (UNCLOS), 254-55, 278-79 high-tide features, 309-10, 311 human habitation requirement, 264, 265, 267-75, 276, 277, 278-79, 310 International Court of Justice (ICJ) on, 263-64, 273 overview, 278-79 rocks distinguished, 263, 264, 269, 274, 298, 309, 310 South China Sea Arbitration and, United Nations Convention on the Law of the Sea (UNCLOS) and, 254-55, 263 Vienna Convention on the Law of Treaties (VCLT) and, 264 Italy International Court of Justice (ICJ) and, 238 International Tribunal for the Law of the Sea (ITLOS) and, 238, 239 Italy-China BIT, 139 ITLOS. See International Tribunal for the Law of the Sea (ITLOS) Itu Aba. See Taiping Island Jan Mayen Island, 271-72, 311 Japan Agreement among the Government of the Republic of Korea, the Government of the People's Republic of China and the Government of Japan for the Promotion, Facilitation and Protection of Investment (TIT), 118 maritime delineation dispute with China, 244 Regional Comprehensive Economic Partnership (RCEP) and, 119-20 Sino-Japanese Fishery Agreement, 240 - 41

South Korea, negotiation with,

241 - 42



Road Initiative' Cambilities University Press Edited 188 4935925h Child and The Share The Share at 10 March 189 Ute Resolution in the Context of the 'Belt and Index

**More Information** 

328 INDEX Legal methodology issues. See also Japan (cont.) trade with China, 16 Constitutionalism dependence of BRI law on Trans-Pacific Partnership Agreement (TPP) and, 91 constitutionalism, 61-63 design of dispute resolution Jay Treaty, 100 Jennings, Robert, 250 mechanism, 70-73 Jia, Bingbing, xiv, 6-7, 306 evolution of constitutionalism. Iia, Yu, 306 68 - 70Johnson Reef, 309-10 legitimacy challenges, 73-74 overview, 4, 51-52, 66 Jordan, trade with China, 17 Juridical Regime of Historical Waters principles of justice, 64-66 including Historic Bays transition from Western to Chinese (ILC), 308 leadership, 58-61 Western versus Chinese Kantianism, 55-56, 57, 62-63 constitutionalism and legal Kashmir, BRI and, 14 traditions, 53-58 Lisbon Treaty, 63, 69 Kazakhstan BRI and, 122 Lithuania dispute resolution clauses in enforcement of foreign judgments BITs, 189 enforcement of foreign judgments Hague Convention on Choice of in, 40-41 Court Agreements and, 44 Kazakhstan-China BIT, 193-94 International Court of Justice (ICJ) Kent, Ann, 280 and, 238 Kinnear, Meg, xi-xii, 4 International Tribunal for the Law of Klein, Natalie, xiii, 5-6 the Sea (ITLOS) and, 238 Liu Zhenmin, 293-96 Kuala Lumpur Regional Centre for Arbitration (KLRCA), 108 LOSC. See United Nations Convention Kyrgyzstan on the Law of the Sea (UNCLOS) BRI and, 122 Luxembourg, Belgium-Luxembourgenforcement of foreign judgments China BIT, 136 in, 40-41Maastricht Treaty, 63 terrorism in, 122 Macclesfield Bank, 283-84 Macedonia, enforcement of foreign Laos-China BIT, 194 judgments in, 38 trade with China, 16 Malaysia Laruelle, Marlene, 190-91 enforcement of foreign judgments in, 25 Hague Convention on Choice of Gulf of Thailand and, 241-43 Court Agreements and, 44 International Court of Justice (ICJ) International Court of Justice (ICJ) and, 246 and, 238 maritime delineation dispute with International Tribunal for the Law of China, 244 the Sea (ITLOS) and, 238 Nansha Islands and, 250 Law of the Sea. See United Nations Permanent Court of Arbitration Convention on the Law of the Sea (PCA) and, 235 (UNCLOS) Thailand, negotiation with, 241-42



Road Initiative' दुर्भुद्देविक भूनुमुक्<mark>र Shaching and Threenation and Sp</mark>ute Resolution in the Context of the 'Belt and Index

**More Information** 

INDEX 329

trade with China, 16 Trans-Pacific Partnership Agreement (TPP) and, 91 Vietnam, negotiation with, 242–43 Maldives, trade with China, 17 Mao Zedong, 304 Maritime law. See United Nations Convention on the Law of the Sea (UNCLOS) Maritime Silk Road. See 21st Century Maritime Silk Road Marshall Plan, 58, 147-48 Marx, Karl, 54-55 Marxist, 54-55, 57 Mauritius Convention, 110 Maxwell Chambers, 108 May, Theresa, 126 McDorman, Ted L., 217 McDougal, Myers S., 219 Mediation as international dispute resolution mechanism for BRI, 18 Meiji Jiao (reef), 309-10 MERCOSUR, 77 Mergers and acquisitions (M&A), 116 Mexico International Court of Justice (ICJ) International Tribunal for the Law of the Sea (ITLOS) and, 238 Mexico-China BIT, 128 North American Free Trade Agreement (NAFTA) and, 15, 130, 141 Trans-Pacific Partnership Agreement (TPP) and, 91 MIDR. See Multilateral Investment Dispute Resolution (MIDRproposed) Military activities dispute resolution regarding, 226-30 in exclusive economic zones (EEZs), 227 - 28naval exercises and surveillance, 227-29, 230 passage of vessels, 226, 229-30 South China Sea Arbitration and, 229 Mills, Alex, 151-52

Ministry of Commerce, 1, 14-15, 118, 281 - 82Ministry of Foreign Affairs, 1, 14-15, 285, 291-92, 293, 300-1 Minsk Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters, 40-41 Mischief Reef, 309-10 Moldova, enforcement of foreign judgments in, 40-41 Montenegro enforcement of foreign judgments in, 38 trade with China, 17 Montt, Santiago, 178-79 Moral damages for expropriation, 141 - 42Morality, 76 Most favored nation clauses, 195-96 Multilateral Agreement on Investment (MAI), 102-3, 179 Multilateral Investment Dispute Resolution (MIDR-proposed) Annulment Committee, 170-73, 174-77, 181, 184 annulment of awards, 174-77 Arbitrator Roster, 171-73, 174, 176-77, 184 Code of Conduct, 172, 174 Energy Charter Treaty (ECT) compared, 180 European Union and, 180, 181-82 within existing institutions, 180 feasibility of, 177-82 institutional structure of, 170-71 International Centre for the Settlement of Investment Disputes (ICSID) compared, 180 International Court of Justice (ICJ) compared, 172, 181 Investment Committee, 170, 176-77, 180, 181, 184 Investor-State Dispute Settlement (ISDS) and, 149-51, 183-84 key players, 181-82 key rules, 181 Multilateral Agreement on Investment (MAI) and, 179



Road Initiative' Registed 188149334325hachish ears Zhachadio National Dispute Resolution in the Context of the 'Belt and Index

INDEX

**More Information** 

330 South China Sea Arbitration and, (MIDR-proposed) (cont.) New York Convention 222, 225 terrorism and, 224-25 and, 174 overview, 5, 149-51, 182-84 Nepal, trade with China, 17 procedure versus substance in. Netherlands bilateral investment treaties (BITs) restricted review of awards, 174-77 and, 101 role of China, 181-82 Netherlands-China BIT, 133 Newcombe, Andrew, 100 as standalone process, 180 Tribunal, 173-77 New York Convention on the UNCITRAL and, 180 Recognition and Enforcement of United States and, 181-82 Foreign Arbitral Awards World Trade Organization (WTO) breach of natural justice as compared, 180 defense, 28 Multilevel constitutionalism, 67, 69 China and, 16 Myanmar, trade with China, 16 cosmopolitan constitutionalism and, 67 - 68Nairobi Ministerial Conference, 86 defenses under, 27-29 Nansha Islands (Spratly Islands). See diversity and, 37 also South China Sea Arbitration foreign judgments versus arbitral as archipelago, 260-61, 262, 265-66 awards, 24, 46 (See also Brunei claims, 250 Enforcement of foreign Chinese claim to, 260-61, 262, judgments) 265-66, 276 fraud as defense, 28 Chinese Taipei claims, 250 Hague Convention on Choice of claims to generally, 244 Court Agreements versus, exclusive economic zones (EEZs) 42-45, 46 and, 309-10 jurisdiction as defense, 27 features of, 262, 265, 271 Multilateral Investment Dispute high-tide features, 309-10 Resolution (MIDR-proposed) human habitation on, 271 and, 174 overview, 24 islands versus rocks, 266 Philippine claim to, 250, 261, 262, party autonomy and, 168-69 public policy as defense, 27 265, 283-84 Vietnamese claim to, 250, 261, review on merits precluded, 283 - 8426 Nanwei Island, 277 stays under, 26 National constitutionalism, 67 **UNCITRAL Arbitration Rules** National Development and Reform and, 105 Commission, 1, 14-15 New Zealand Natural prolongation, doctrine of, enforcement of foreign judgments 244 Navigation New Zealand-China BIT, 133-34 dispute resolution regarding, 222-26 Reciprocal Enforcement of in exclusive economic zones (EEZs), Judgments Act 1934, 30 223-24, 225 Regional Comprehensive Economic on high seas, 224 Partnership (RCEP) and, 119-20 trade with China, 16 piracy and, 224-25



Road Initiative' Chiversity Press Edited 108 493592 Shaching and Thermalional Dispute Resolution in the Context of the 'Belt and Index

**More Information** 

INDEX 331

Trans-Pacific Partnership	China-Pakistan Free Trade
Agreement (TPP) and, 91	Agreement, 15–16
Nicaragua, International Court of	Kashmir, BRI and, 14
Justice (ICJ) and, 238, 239-40	Palestine
"Nine-dash line," 286, 292, 298-99,	trade with China, 17
304-7	World Trade Organization (WTO)
Ni Zhengyu, 281	and, 16
Non-discrimination in expropriation,	Paracel Islands, 283-84
138–39	Paradell, Luís, 100
North American Free Trade Agreement	Paris Agreement, 69
(NAFTA), 15, 130, 141	Payrouse, Sebastien, 190–91
North Korea, maritime delineation	Pemmaraju, Sreenivasa Rao, 299
dispute with China, 244	Permanent Court of Arbitration (PCA),
Norway	16, 235-36, 286, 290, 293. See also
free trade agreements (FTAs)	South China Sea Arbitration
with, 118	Permanent Court of Investment
International Court of Justice (ICJ)	Arbitration (proposed), 153
and, 238	Peru
islands and, 271-72	Peru-China BIT (See Peru-
Jan Mayen Island and, 311	China BIT)
•	Peru-China Free Trade Agreement
Obligation, doctrine of, 25	(See Peru-China Free Trade
OBOR. See Belt and Road	Agreement)
Initiative (BRI)	Trans-Pacific Partnership
Office for Ocean Affairs and the Law of	Agreement (TPP) and, 91
the Sea (UN), 238	Peru-China BIT
Oman	due process in expropriation, 136-38
International Court of Justice (ICJ)	exchange rate in compensation for
and, 238	expropriation, 143-46
International Tribunal for the Law of	indirect expropriation and, 128-35
the Sea (ITLOS) and, 238	interest on compensation for
Oman-China BIT, 139	expropriation, 142-43
One-Belt-One-Road Initiative (OBOR).	value of compensation for
See Belt and Road Initiative (BRI)	expropriation, 139-41
Opium War, 2	Peru-China Free Trade Agreement
Organization for Economic Co-	due process in expropriation, 136-38
operation and Development	exchange rate in compensation for
(OECD), 85, 89, 131, 179	expropriation, 143-46
Outbound investment, 118, 120–22	indirect expropriation and, 128-35
Over-capacity, 115	interest on compensation for
Oxman, Bernard H., 228	expropriation, 142–43
	overview, 127
Pakistan	valuation date for compensation for
bilateral investment treaties (BITs)	expropriation, 142
and, 101	value of compensation for
BRI and, 69-70	expropriation, 139-41
China-Pakistan Economic Corridor	Petersmann, Ernst-Ulrich, x-xi, 4
(CPEC), 115–16	Pettit, Philip, 75



Road Initiative' Califold By 1493542 Shachish and Thiernalional By Ute Resolution in the Context of the 'Belt and Index

**More Information** 

INDEX 332 Qatar, Civil and Commercial **Philippines** enforcement of foreign judgments Procedure Law No. 13 of 1990, 31 Quitasueño (island), 264, 273 in, 37-38 exclusive economic zone (EEZ), Rationale personae, 175 290 - 91International Court of Justice (ICI) Reform and Opening Period, 280-81 and, 234 Regional Comprehensive Economic Partnership (RCEP), 16, 54, maritime delineation dispute with China, 244 119 - 20Regional trade agreements (RTAs), Nansha Islands, claim to, 250, 261, 262, 265, 283-84 83-85, 90 Philippines-China BIT, 136 Regulatory and political risk South China Sea Arbitration (See BRI and, 123-26 South China Sea Arbitration) energy and, 186-88 Taiping Island and, 276 Energy Charter Treaty (ECT) and, trade with China, 16 187-88 in European Union, 186 Piracy, 224-25 Piraeus Container Terminal, 216 in Russia, 186 Regulatory takings, 130-31, 132 Plato, 54 Plurilateral agreements, 87-88 Ren'ai Jiao (shoal), 309-10 Poland Republican constitutionalism, 57, Code of Civil Procedure, 32, 65-66, 76-77 Republic of China. See Taiwan enforcement of foreign judgments Ricardo, David, 164, 165 in, 32-33, 38 Riyadh Arab Agreement for Judicial Hague Convention on Choice of Cooperation, 41 Rocks, islands distinguished, 263, 264, Court Agreements and, 44 269, 274, 298, 309, 310 Political Risk Services, 123 Romania, Hague Convention on Populism, 74 Choice of Court Agreements **Ports** dispute resolution regarding, and, 44 Rule of law, 67, 75 216 - 22international law and, 217 Russia South China Sea Arbitration Civil Procedure Code, 31-32, 38 Energy Charter Treaty (ECT) and, and, 221 Port State Measures Agreement, 188-89, 200-1enforcement of foreign judgments 218, 219 **Portugal** in, 38, 40-41 International Court of Justice (ICJ) foreign direct investment (FDI) and, 238 in, 182 International Tribunal for International Tribunal for the Law of the Law of the Sea (ITLOS) the Sea (ITLOS) and, 239 and, 238 regulatory and political risk in, Pratas Islands, 283-84 Principles of justice, 64-66 Russia-China BIT, 193 Procedural justice, 64 Protectionism, 85 S. Kidman & Company, 116–17 Safety of Life at Sea Convention, 219

Public goods, 60-61, 65



**More Information** 

INDEX 333

Saudi Arabia, Enforcement Law (Royal Decree No. M/53 of 2013), 32 Scarborough Shoal, 290-91, 309-10 Schill, Stephan, 132 Sea of Japan, 241-42 Second Thomas Shoal, 309-10 Seoul International Dispute Resolution Center (SIDRC), 108 Shan, Wenhua, ix, 151 Shen, Wei, xii, 5 Shihata, Ibrahim, 155 Shorter Oxford English Dictionary, 267 Silk Road dispute resolution and, 12 historical background, 11-12 Silk Road Economic Belt, 1, 19, 51, 113, 147-48, 210 Silk Road Institute for International and Comparative Law, 7-8 Singapore enforcement of foreign judgments in, 25, 28, 39, 41, 46-47 Hague Convention on Choice of Court Agreements and, 44 International Court of Justice (ICJ) and, 246 Permanent Court of Arbitration (PCA) and, 235 Reciprocal Enforcement of Commonwealth Judgments Act (Cap 264), 30 Reciprocal Enforcement of Foreign Judgments Act (Cap 265), 30 status as island, 311 trade with China, 16 Trans-Pacific Partnership Agreement (TPP) and, 91 Singapore International Arbitration Centre (SIAC), 108 Singapore Round, 102-3 16+1 meetings, 51-52 Slovakia, Hague Convention on Choice of Court Agreements and, 44 Slovenia, Hague Convention on Choice of Court Agreements and, 44 SOEs. See Strategic energy state-owned entities (SOEs)

Sornarajah, Muthucumaraswamy, 280 South Africa bilateral investment treaties (BITs) and, 161-62 enforcement of foreign judgments in, 25 South Asian Free Trade Area (SAFTA), 17 South China Sea Arbitration generally, 2-3 admissibility of submissions, 290-91 appointment of arbitrators, 290 Chinese reaction to, 291-92, 293 commencement of proceedings, 290 declaration of exclusion by China, Declaration on the Conduct of Parties in the South China Sea (DOC) and, 244-45, 299-301 Eurocentrism of Arbitral Tribunal, 294, 296 evolution of Chinese approach to dispute resolution and, 280, 313-16 exclusive economic zones (EEZs) and, 290-91, 292-93 Final Award, 286, 292-93, 304 historic rights and, 298-99, 307 - 9implications of Chinese approach to dispute resolution, 313-16 inconsistency of Arbitral Tribunal, 294, 296 initiation of proceedings, 284 International Court of Justice (ICJ) and, 293, 300 international reaction to, 286-87 International Tribunal for the Law of the Sea (ITLOS) and, 293 interpretation in, 264-66, 269 islands and, 309-13 issues in, 282-83 jurisdiction of Arbitral Tribunal, 285-86, 290, 291, 296-97 legitimacy of Arbitral Tribunal, 286, military activities and, 229 navigation and, 222, 225

"Sole effect" doctrine, 132-33



Road Initiative' Caliberty of the Press Edited 1884 935 y 25h Child and The Share at 10 March 189 ute Resolution in the Context of the 'Belt and Index

**More Information** 

334

South China Sea Arbitration (cont.) neutrality of Arbitral Tribunal, 286, 294

"nine-dash line" and, 286, 292, 298–99, 304–7

non-participation of China in proceedings, 284–86, 302–4

overview, 7, 246–50, 282–83 politicization of Arbitral Tribunal,

294, 295–96

ports and, 221

Position Paper of China, 258, 285, 290, 300, 303-4

power-oriented approach, 56

Rules of Procedure, 290, 302, 303 Taiping Island and, 298, 310,

311–13, 315 Taiwan *amicus curiae* brief, 311–13

territorial disputes and, 258 territorial sovereignty, jurisdiction over, 297–99

United Nations Convention on the Law of the Sea (UNCLOS) and, 230–32

Southern African Customs Union, 118 South Korea

Agreement among the Government of the Republic of Korea, the Government of the People's Republic of China and the Government of Japan for the Promotion, Facilitation and Protection of Investment (TIT), 118

International Tribunal for the Law of the Sea (ITLOS) and, 239

Japan, negotiation with, 241-42 maritime delineation dispute with

China, 244 Regional Comprehensive Economic Partnership (RCEP) and, 119–20 trade with China, 16

Sovereignty

government versus, 60–61

Investor-State Dispute Settlement (ISDS) and, 160

in South China Sea Arbitration, 297–99

INDEX

United Nations Convention on the Law of the Sea (UNCLOS), sovereignty exception, 289–90

Soviet Union-China BIT, 196

Spain

enforcement of foreign judgments in, 38

International Court of Justice (ICJ) and, 238

International Tribunal for the Law of the Sea (ITLOS) and, 238

Spratly Islands. See Nansha Islands (Spratly Islands)

Staden, Andreas von, 161

State Grid Corporation, 116-17

State Oceanic Administration, 306

State-owned entities (SOEs). See

Strategic energy state-owned entities (SOEs)

"State ship" metaphor, 54

Steel, excess capacity in, 88-89

Strait of Malacca, 114-15

Strategic energy state-owned entities (SOEs)

bilateral investment treaties (BITs) and 191-93

and, 191–93 Energy Charter Treaty (ECT) and,

193, 196–97 investor defined, 190–91

most favored nation clauses and, 195–96

narrow dispute resolution clauses, 193–95

overview, 189

Strategy for Global Trade Growth (G20), 88

Su, Jinyuan, ix

Subi Reef, 309-10

Subsidiarity, 76-77

Suez Canal Company, 104

Supreme People's Court, 3, 18, 19, 20

Suriname, Permanent Court of

Arbitration (PCA) and, 235

Sustainable development, 165–66 Sweden, International Court of Justice

(ICJ) and, 238

Syria, BRI and, 13

Systemic function of law, 53



Road Initiative' Cambridge University Press Edited 188 493592 Shaching and Thiernational Dispute Resolution in the Context of the 'Belt and Index

**More Information** 

INDEX 335

Taiping Island	Timor Gap, 241-42
South China Sea Arbitration and,	Timor-Leste, trade
298, 310, 311–13, 315	17
status as island, 266, 270-71, 272,	Tokyo Round, 87-
275–77	TPP. See Trans-Pag
Taiwan	Agreement (T
Nansha Islands and, 250	Trade and Investm
South China Sea Arbitration, amicus	
curiae brief in, 311–13	Trade Facilitation A
Taiping Island and, 298	89–90
Tajikistan, enforcement of foreign	Trade protectionis
judgments in, 40–41	Transatlantic Trade
Taler, Richard, 62	Partnership A
Talmon, Stefan, 289	117, 119
Tanaka, Yoshifumi, 311	Trans-Pacific Partn
Tanzania, International Tribunal for	Agreement (T
the Law of the Sea (ITLOS)	generally, 54, 59
and, 238	BRI as response
Territorial disputes	political self-com
archipelago disputes distinguished,	59-60
260–61, 262	as regional trade
BRI and, 14	91–93, 94–95
as gap in United Nations Convention	
on the Law of the Sea (UNCLOS),	and, 76, 94
254, 278	Treaties of Friends
historic title disputes distinguished,	Navigation (F
259–61, 262	Treaty of Amity, C
in International Court of Justice	Navigation be
(ICJ), 246, 273–74	and United St
no compulsory jurisdiction under	Treaty on European
United Nations Convention on	Treaty), 63
the Law of the Sea (UNCLOS),	Treaty reciprocity,
257–63	Trinidad and Toba
overview, 278	International Tri
South China Sea Arbitration	the Sea (ITLO
and, 258	Permanent Cour
United Nations Convention on the	(PCA) and, 23
Law of the Sea (UNCLOS)	
and, 254	Trump, Donald, 59 TTIP. See Transatla
Terrorism, 122, 224–25 Thailand	Investment Pa
	Agreement (T
Gulf of Thailand and, 241–43	Tunisia, Internation
Malaysia, negotiation with, 241–42	Law of the Sea
trade with China, 16	Turkey
Third United Nations Conference on	Act on Private In
the Law of the Sea. See United	Procedural La

with China, 88 cific Partnership ent Working Group Agreement, 4, 86-87, m, 85 e and Investment greement (TTIP), nership 'PP) to, 117, 119 nmitment and, agreement (RTA), ganization (WTO) hip, Commerce and CNs), 101 ommerce and tween Great Britain ates, 100 n Union (Maastricht 33-36 go bunal for the Law of S) and, 238 rt of Arbitration 9, 60–61, 69, 74 antic Trade and artnership TIP) nal Tribunal for the a (ITLOS) and, 238 nternational and Procedural Law, 32 enforcement of foreign judgments

in, 32-33

the Sea (UNCLOS)

Nations Convention on the Law of



Road Initiative' Cambinities University Press Edited 188 4935925h China and Thiernational Dispute Resolution in the Context of the 'Belt and Index

**More Information** 

336

Turkmenistan

dispute resolution clauses in BITs, 189

enforcement of foreign judgments in, 40–41

Turkmenistan-China BIT, 193–94 21st Century Maritime Silk Road, 19,

51, 113, 147–48, 210, 251 Tzanakopoulos, Antonios, 298

Uighurs, 122

Ukraine

enforcement of foreign judgments in, 40–41

Hague Convention on Choice of Court Agreements and, 44

UNCITRAL. See United Nations Commission on International Trade Law (UNCITRAL)

UNCLOS. See United Nations Convention on the Law of the Sea (UNCLOS)

United Arab Emirates

enforcement of foreign judgments in, 25, 40

Federal Law No. 11 of 1992 concerning Civil Procedure, 32

United Kingdom

Administration of Justice Act 1920, 30–31

Brexit, 59, 74

Civil Jurisdiction and Judgments Act 1982, 27

Foreign Judgments (Reciprocal Enforcement) Act 1933, 30–31

International Court of Justice (ICJ) and, 238

International Tribunal for the Law of the Sea (ITLOS) and, 239

Permanent Court of Arbitration (PCA) and, 235

sovereignty and, 63

UK-China BIT, 138, 139

World Bank and, 104

United Nations

Assistance Mission in Afghanistan, 2 BRI and, 2

Charter, 58-59, 212-13, 238-39, 288

INDEX

Commission on the Limits of the Continental Shelf, 305

Office for Ocean Affairs and the Law of the Sea, 238

Security Council, 215, 238-39, 289

Third United Nations Conference on the Law of the Sea (See United Nations Convention on the Law of the Sea (UNCLOS))

United Nations Commission on International Trade Law (UNCITRAL) (See United Nations Commission on International Trade Law (UNCITRAL))

United Nations Conference on Trade and Development (UNCTAD), 85

United Nations Convention on the Law of the Sea (UNCLOS) (See United Nations Convention on the Law of the Sea (UNCLOS))

United Nations Commission on International Trade Law (UNCITRAL)

Arbitration Rules, 105, 110, 111 Model Law on International Commercial Arbitration, 26, 29–30, 45

Multilateral Investment Dispute Resolution (MIDR—proposed) and, 180

United Nations Conference on Trade and Development (UNCTAD), 85

United Nations Convention for the Pacific Settlement of International Disputes, 235

United Nations Convention on the Law of the Sea (UNCLOS)

generally, 20, 21-22, 74

Arbitral Tribunals (See Arbitral Tribunals (UNCLOS)

arbitration versus adjudication, 235–36

BRI and, 211–12, 215–16, 251

China in, 282

complete exclusion of consideration, gaps involving, 254–55 compulsory nature of dispute resolution, 213, 288–90



Road Initiative' दुर्भुद्देविक भूनुमुक्<mark>र Shaching and Threenation and Sp</mark>ute Resolution in the Context of the 'Belt and Index

**More Information** 

INDEX 337

Contracting Parties, 247 declarations of exclusion, 215, 238-39, 289, 301-2 deference to parties, 215 dispute resolution generally, 5-6, 211-12, 230-32, 233, 250, 287-88 gaps in, 251-57, 278-79 International Court of Justice (ICJ) and, 213-14, 233-34, 288-89 International Tribunal for the Law of the Sea (ITLOS) (See International Tribunal for the Law of the Sea (ITLOS)) interpretation of, 251-57, 278-79 islands and, 254-55, 263 (See also matters of background knowledge, gaps involving, 252-53, 254 military activities, disputes regarding, 226-30 (See also Military activities) navigation, disputes regarding, 222-26 (See also Navigation) negotiation and, 240-44 non liquet matters, 256 Permanent Court of Arbitration (PCA) and, 235-36 ports, disputes regarding, 216-22 (See also Ports) power-oriented approach, 56 procedures in dispute resolution, 212 - 16provisional measures, 214 referrals to tribunals, 214, 288–89 regional institutions and, 244-45 South China Sea Arbitration and, 230-32 (See also South China Sea Arbitration) sovereignty exception, 289-90 territorial disputes and, 254, 257-63, 278 (See also Territorial disputes) third party settlement and, 246-50 "unsaid rules," 6-7, 251-57 Vienna Convention on the Law of Treaties (VCLT) and, 252-53, 255-56, 258, 272 World Trade Organization (WTO) compared, 211

United Nations Model Law on International Commercial Arbitration (UNCITRAL), 26, 29 - 30, 45United States "America First" policy, 69 bilateral investment treaties (BITs) with, 123, 133, 154, 164, 165 Bretton Woods Agreements, 58, 147 - 48BRI as response to, 117, 119 Chinese sovereignty and, 7 Constitution, 68, 133 Fifth Amendment, 133 International Court of Justice (ICJ) and, 239-40 international investment agreements (IIAs) in, 156, 163-64 International Tribunal for the Law of the Sea (ITLOS) and, 239 **Investor-State Dispute Settlement** (ISDS) and, 161-62 islands and, 272 maritime disputes and, 222, 226, 227, 231 Marshall Plan, 58, 147-48 Model BIT, 134-35, 165 Multilateral Investment Dispute Resolution (MIDR—proposed) and, 181-82 on "nine-dash line," 305 North American Free Trade Agreement (NAFTA) and, 15, 130, 141 Senate Foreign Relations Committee, 239 South China Sea Arbitration and, 225 sovereignty and, 63 State Department, 305 Trade Representative, 79 Trans-Pacific Partnership Agreement (TPP) and, 91, 94-95 World Trade Organization (WTO) and, 74 Universal Declaration of Human Rights (UDHR), 59 Uruguay, International Tribunal for the

Law of the Sea (ITLOS) and, 238



Road Initiative' Cambilities University Press Edited 188 4935925h Child and The Share The Share at 10 March 189 Ute Resolution in the Context of the 'Belt and Index

**More Information** 

338

Utilitarianism, 61 Uzbekistan BRI and, 122 Code of Civil Procedure, 33 enforcement of foreign judgments

in, 40–41 Uzbekistan-China BIT, 192, 193

Vandevelde, Kenneth J., 161 Van Harten, Gus, 152 Venezuela, enforcement of foreign judgments in, 38

Vienna Convention on the Law of Treaties (VCLT)

islands and, 264

methodological self-commitment and, 60

principles of justice and, 65, 70 United Nations Convention on the Law of the Sea (UNCLOS) and, 252–53, 255–56, 258, 272

Vietnam

Agreement on Fishery Cooperation in the Beibu Gulf, 243

Agreement on the Delimitation of the Territorial Seas, Exclusive Economic Zones and Continental Shelves in the Beibu Gulf, 243–44

Code of Civil Procedure, 32, 36 Gulf of Thailand and, 241–43 Gulf of Tonkin and, 243–44, 304 Malaysia, negotiation with, 242–43 maritime delineation dispute with

Nansha Islands, claim to, 250, 261, 283–84

Sino-Vietnamese Boundary Agreement, 243–44

Sino-Vietnamese Fishery Agreement, 243

trade with China, 16

China, 244

Trans-Pacific Partnership Agreement (TPP) and, 91

Wälde, Thomas, 151, 154, 202 Wang, Jiangyu, xiv, 7, 280 Wang, Peng, xii–xiii, 5 Wang Yi, 2 INDEX

Washington Consensus, 156

Wei qui (board game), 56

Wolfrum, Rüdiger, 294, 295-96

Working Group on the Relationship between Trade and Investment, 93

World Bank, 103-4, 108, 141, 178

World Economic Forum, 95

World Health Organization (WHO), 68

World Intellectual Property

Organization (WIPO), 68

World Investment and Trade

Organization (proposed), 4, 84, 94

World Trade Organization (WTO). See also specific country

Appellate Body, 71-72, 74, 172

BRI and, 210

China in, 3, 16, 18, 63, 281

constitutionalism and, 57, 58

cultural function of law and, 53

Dispute Settlement Body, 74

Dispute Settlement Understanding (DSU), 71–72

Doha Declaration, 103

Doha Development Agenda (DDA),

86, 89–90

Doha Round, 79, 89–90, 93

GATT (See General Agreement on Tariffs and Trade (GATT))

Hangzhou Summit and (See

Hangzhou Summit)

Multilateral Investment Dispute Resolution (MIDR—proposed) compared. 180

Nairobi Ministerial Conference, 86

plurilateral agreements and, 87–88

reform of law, 76

Singapore Round, 102–3

Trans-Pacific Partnership

Agreement (TPP) and, 76, 94

United Nations Convention on the Law of the Sea (UNCLOS)

compared, 211 United States and, 74

Working Group on the Relationship between Trade and Investment, 93

WTO. See World Trade

Organization (WTO)



Road Initiative' Cambridge University Press Edited to Westy 25 haching and Thick national Dispute Resolution in the Context of the 'Belt and Index

**More Information** 

INDEX 339

Xi'an Jiaotong University, 7–8 Xi Jinping, 51, 95, 113 Xisha Islands, 283–84 Xiyue Island, 277 Xunzi (Confucian philosopher), 54

Yanai, Shunji, 294, 295–96 Yang, Guohua, xi, 4 Yemen-China BIT, 194–95 Yongshu Jiao (reef), 309–10 Zhang, Feng, 315

Zhang, Sheng, ix, 188 Zhang, Wenliang, 36 Zhongye Island, 277 Zhubi Jiao (reef), 309–10 Zou, Keyuan, xiii–xiv, 6