

DECODING CHINESE BILATERAL INVESTMENT TREATIES

This is a major work investigating China's bilateral investment treaties (BITs) regime through various approaches, including textual analysis, case study, comparative study and empirical study. This book tries to unveil some of the puzzles in Chinese BITs. The general consensus is that the evolution of China's BIT regime has its underlying logic, which follows an investment liberalization trend and fits China's changing role from a key capital-importing state to a major capital-exporting state. A similar trend is evident in Chinese BIT-making and BIT policy. This book investigates these theoretical assumptions and looks into some of the loopholes in Chinese BITs.

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*In loving memory of my mother Qian Meifang
and
In great honor of my father Shen Guanqun*

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Abbreviations

AIIB	Asian Infrastructure Investment Bank
ASEAN	Association of South East Asian Nations
AUD	Australian dollar
BIT	bilateral investment treaty
BLEU	Belgium–Luxembourg Economic Union
BRI	Belt and Road Initiative
BRICS	Brazil, Russia, India, China and South Africa
BUCG	Beijing Urban Construction Group
CAI	EU-China Comprehensive Agreement on Investment
CAMA	Civil Aviation and Meteorology Authority, Yemen
CCP	Chinese Communist Party
CEPA	closer economic partnership arrangement
CETA	EU–Canada Comprehensive Economic Trade Agreement
CFIUS	Committee on Foreign Investment in the United States
ChAFTA	China–Australia Free Trade Agreement
CIFA	cooperation and investment facilitation agreement
CJV	contractual joint venture (or cooperative joint venture)
CKJ TIT	China–Korea–Japan Trilateral Investment Treaty
CPEC	China–Pakistan Economic Corridor
CPI	Corruption Perceptions Index
CPTPP	Comprehensive and Progressive Trans-Pacific Partnership
DBI	Doing Business Index
DCF	discounted cash flow
DOB	denial of benefits
EFI	Economic Freedom Index
EJV	equity joint venture
EU	European Union
FDI	foreign direct investment
FDII	FDI inward flow
FDIO	FDI outward flow
FDISM	foreign direct investment screening mechanism
FET	fair and equitable treatment
FIE	foreign-invested enterprise
FIL	foreign investment law

fintech	financial technology
FIRRMA	Foreign Investment Risk Review Modernization Act
FTA	free trade agreement
FTZ	free trade zone
G20	Group of Twenty
GATS	General Agreement on Trade in Services
GATT	General Agreement on Tariffs and Trade
GDP	gross domestic product
GE	government effectiveness
ICJ	International Court of Justice
ICS	investment court system
ICSID	International Centre for Settlement of Investment Disputes
IDSM	investment dispute settlement mechanism
IIA	international investment agreement
IIL	international investment law
IMF	International Monetary Fund
IP	intellectual property
IPR	intellectual property rights
IPRI	International Property Rights Index
ISA	investor–state arbitration
ISAT	investor–state arbitration tribunal
ISDS	investor–state dispute settlement
ITA	investment treaty arbitration
JHSF	Ji’nan Hela Schwarz Food Co., Ltd.
KORUS FTA	Republic of Korea–US FTA
LIBOR	London Inter-Bank Offered Rate
MFN	most-favored-nation
MIC	multilateral investment court
MOFCOM	Chinese Ministry of Commerce
MTF	“Moving Treaty Frontier” rule
NAFTA	North American Free Trade Agreement
NGO	nongovernmental organization
NT	national treatment
NVs	notes verbales
OBOR	One Belt One Road Initiative
OECD	Organisation for Economic Co-operation and Development
PCA	Permanent Court of Arbitration
PCIJ	Permanent Court of International Justice
PRC	People’s Republic of China, or China, for the purpose of this book, excluding the Special Administrative Region of Hong Kong, the Special Administrative Region of Macau and the territory of Taiwan
PRP	personal remittances: payments
PRR	personal remittances: receipts
PRS	Political Risk Services International Country Risk Guide
RCEP	Regional Comprehensive Economic Partnership
renminbi	the lawful currency of China (RMB or yuan)
REIO	regional economic integration organization

List of Abbreviations

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S&D	special and differentiated
SGCA	Singapore’s Court of Appeal
SOE	state-owned enterprise
SUNAT	Administramos los tributos del Gobierno Nacional Peruano, Peru
TIP	treaty with investment provisions
TIPP	EU–US Transatlantic Trade and Investment Partnership
TIT	trilateral investment treaty
TPP	Trans-Pacific Partnership, now CPTPP
TRIM	WTO Agreement on Trade-Related Investment Measure
TTIP	Transatlantic Trade and Investment Partnership
UAE	United Arab Emirates
UK	United Kingdom
UNCITRAL	United Nations Commission on International Trade and Law
UNCTAD	United Nations Conference on Trade and Development
US	United States
USD	US dollar, the lawful currency of the United States of America
USMCA	United State–Mexico–Canada Agreement
VCLT	Vienna Convention on the Law of Treaties
WFOE	wholly foreign-owned enterprise
WGI	World Bank’s Worldwide Governance Indicators
WGIRL	Worldwide Governance Indicators: Rule of Law
WJPRLI	World Justice Program’s Rule of Law Index
WTO	World Trade Organization