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China's Treaty Policy and Practice in International Investment Law and Arbitration: A Comparative and Analytical Study

by G. Matteo VACCARO-INCISA. Nijhoff International Investment Law Series. Leiden; Boston: Brill Nijhoff, 2021. xxi + 415 pp. Hardcover: €121.00/US$146.00; eBook (pdf): €125.00/US$150.00. doi: 10.1163/9789004443938

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Most international dispute resolution practitioners today are aware of China's increasingly prominent role as a user of international arbitration. Indeed, China's earlier hesitancy to endorse investment treaty claims by Chinese entities now seems to have come to a definitive end. Chinese investors have brought at least seven investment treaty claims since the beginning of 2020.[1] This two-and-a-half year flurry compares starkly to the previous 13 years during which Chinese investors brought their first seven investment treaty claims.[2] Perhaps expecting a reciprocated appetite among foreign investors, the Chinese Government announced in January 2022 the appointment of 15 panel law firms to act on its treaty disputes.[3] In the same month, the Beijing Arbitration Commission unveiled its panel of over 100 arbitrators and code of conduct for international investment disputes.[4]

In light of these developments, Vaccaro-Incisa's comparative and analytical study of China's various model investment treaties alongside 120 international investment treaties concluded by China has proved prescient. The book provides an engaging and helpful historical, political, and socioeconomic view on China's attitudes towards foreign direct investment (Chapter 1). It also critically engages with past literature and provides, for

[1] See *Huawei v. Sweden* (ICSID Case No. ARB/22/2); *Qiong Ye and Jianping Yang v. Cambodia* (ICSID Case No. ARB/21/42); *Alpene v. Malta* (ICSID Case No. ARB/21/36); *Fengzhen Min v. Korea* (ICSID Case No. ARB/20/26); *Wang Jiazhu v. Finland* (UNCITRAL, 2021); *Beijing Everyway Traffic and Lighting Co Ltd v. Republic of Ghana* (UNCITRAL, 2021); and, *Wang & ors v. Ukraine* (Permanent Court of Arbitration, 2020).

[2] See *Jetion and T-Hertz v. Greece* (UNCITRAL, 2019); *Zhongshan Fucheng Industrial Investment v. Nigeria* (UNCITRAL, 2018); *Sanum Investments v. Laos* (ICSID Case No. ADHOC/17/1); *Beijing Urban Construction v. Yemen* (ICSID Case No. ARB/14/30); *Ping An Life Insurance v. Belgium* (ICSID Case No. ARB/12/29); *Beijing Shougang & ors v. Mongolia* (PCA Case No. 2010-20); and, *Tza Yap Shum v. Peru* (ICSID Case No. ARB/07/6).

[3] "Panel of Chinese law firms to advise state on treaty disputes" *Global Arbitration Review* (20 January 2022), online: Global Arbitration Review https://globalarbitrationreview.com/article/panel-of-chinese-law-firms-advise-state-treaty-disputes.

[4] "Beijing centre gears up for investment disputes" *Global Arbitration Review* (9 February 2022), online: Global Arbitration Review https://globalarbitrationreview.com/article/beijing-centre-gears-investment-disputes.

instance, fresh perspectives on Gallagher & Shan's periodization of China's history of foreign investment. The author preferred a qualitative approach (over Gallagher & Shan's quantitative one), and added a "fifth period" beginning from 2008, which marks China's shift away from the European to the North American model of investment protection.

Since signing its first bilateral investment treaty ("BIT") with Sweden in 1982, China has had three model BITs: 1984, 1989 and 1997. The author examines these three model BITs against the British and German templates (Chapter 2) to highlight China's desire to emulate "international best practices" in its investment policy, while 'retrofitting' these to suit China's core concern at the time–namely, sovereignty through the imposition of *ratione legis* conditions into its definition of investment. Notably, China has been remarkably successful in transferring the language of its model BITs into its active treaties.

Nonetheless, the real substance of Vaccaro-Incisa's analysis can be found in his study of China's 120 international investment treaties that have been signed and not otherwise superseded (Chapter 3). By way of a series of detailed tables and accompanying commentary, the author examines each "key" investment protections as they appear in each of the 120 treaties with helpful comparisons to the German, British, Dutch, French, Italian, US, and Canadian models. From this carefully curated exposition, the author successfully evidences his "fifth period" during which China has sought to modernize its foreign protection standards.

A reader may perceive the author's lack of engagement with more modern topics as a shortcoming. The book does not examine topics such as treaty provisions concerning environmental, social, and public health measures. However, these go outside the stated scope of the work, which instead encourages others to carry forward these topics. Notwithstanding that, the book will doubtlessly prove useful by charting a map to analogous provisions found in more established treaty regimes. It will be a valuable tool for years to come.

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The Logic of Financial Nationalism: The Challenges of Cooperation and the Role of International Law

by Federico LUPO-PASINI. Cambridge: Cambridge University Press, 2017. x + 298 pp. Hardcover: AUD$154.95; Softcover: AUD$49.95; eBook: USD$29.00. doi: 10.1017/9781316986950

Global Finance in the 21st Century: Stability and Sustainability in a Fragmenting World

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