

PhD Viva

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Chinese bilateral investment treaties (BITs)-focused on the protection of foreign investment-have evolved through three different generations in terms of form, structure and content. In 2013, however, China accepted pre-establishment national treatment and a negative list approach in the context of its BIT negotiations with the US. This acceptance is having a crucial bearing on the development of Chinese BITs, as it marked the beginning of a new generation of Chinese BITs addressing both investment liberalization and investment protection. Therefore, the fourth generation of Chinese BITs seems to be emerging. This thesis presents a detailed analysis of the emerging fourth generation of Chinese BITs, arguing that this will have an important influence on international investment law and international economic law more generally: the fourth generation both reflects evolving trends in international investment law but also-given China's role in the global economy-marks an important indication of shift of China from a rule taking to a rule leading role. It is firstly argued that the fourth generation of Chinese BITs will be likely to provide pre-establishment national treatment on the basis of a negative list approach. Secondly, the fourth generation of Chinese BITs needs to be considered in the context of a global backlash against investment arbitration. Thirdly, the fourth generation of Chinese BITs suggests a mutual interaction between Chinese and international investment law. In sum, this thesis provides a detailed examination of the emerging fourth generation of Chinese BITs and its implications for international investment and economic law.