

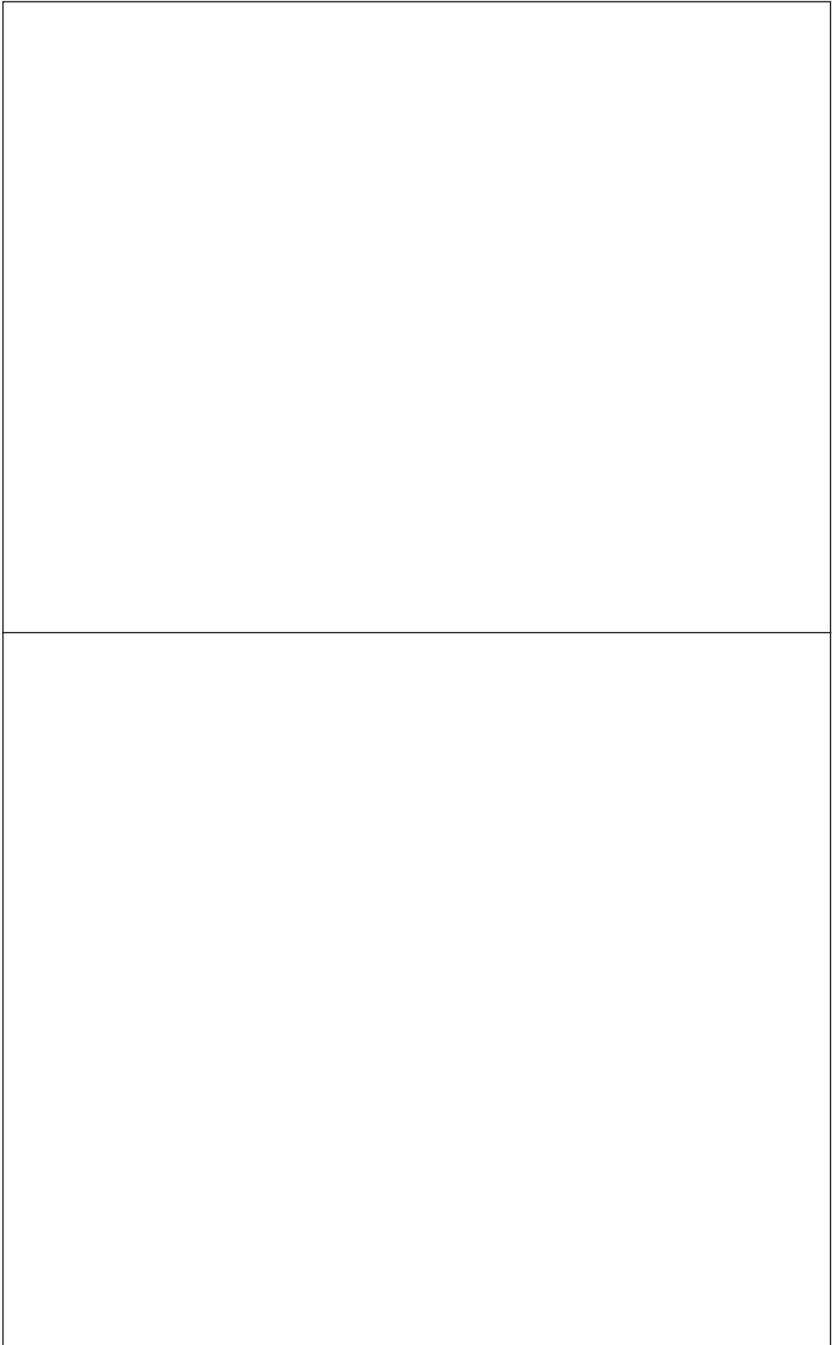
Thomas S. Eder

China and International Adjudication

Caution, Identity Shifts, and the Ambition to Lead



Nomos



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AB	Appellate Body (WTO)
AD	Anti-dumping (used in AD Agreement)
AJIL	American Journal of International Law
All ER	All England Law Reports
AoA	Agreement on Agriculture
Art(s)	Article(s)
ASEAN	Association of Southeast Asian Nations
ASIL	American Society of International Law
AsJIL	Asian Journal of International Law
BIT	Bilateral Investment Treaty
BRICS	Brazil, Russia, India, China and South Africa
CAI	Comprehensive Agreement on Investment
CETA	Comprehensive Economic and Trade Agreement (between the EU and Canada)
CJIL	Chinese Journal of International Law
CLCS	Commission on the Limits of the Continental Shelf
Co	Company
COC	Code of Conduct
Corp	Corporation
CPC	Communist Party of China
D / DS	Dispute Settlement
DOC	2002 Declaration on the Conduct of Parties in the South China Sea
DSB	Dispute Settlement Body (WTO)
DSM	Dispute Settlement Mechanism (WTO)
DSU	Dispute Settlement Understanding
EC	European Community / -ies
ECS	East China Sea
ECT	Energy Charter Treaty
ed(s)	editor(s)
edn	edition

Table of Abbreviations

EEZ	Exclusive Economic Zone
eg	<i>exempli gratia</i> , for example
EJIL	European Journal of International Law
EU	European Union
FDI	Foreign Direct Investment
FET	Fair and Equitable Treatment
FN	footnote(s)
FTA	Free Trade Agreement
GATS	General Agreement on Trade in Services
GATT	General Agreement on Tariffs and Trade (1947 / 1994)
G/L/	General Documents
ICJ	International Court of Justice
ICJ Rep	Reports of Judgments, Advisory Opinions and Orders of the International Court of Justice
ICSID	International Centre for the Settlement of Investment Disputes
ie	<i>id est</i> , that is
IL	international law
ILC	International Law Commission
ILM	International Legal Materials
ILR	International Law Reports
IMO	International Maritime Organization
IMS	International Minimum Standard
IP(Rs)	Intellectual Property (Rights)
IR	international relations
ISA	International Seabed Authority
ITLOS	International Tribunal for the Law of the Sea
ITLOS Rep	Reports of Judgments, Advisory Opinions and Orders of the International Tribunal for the Law of the Sea
LLC	Limited Liability Company
LNTS	League of Nations Treaty Series
Ltd	limited
MES	Market economy status
MFA	Ministry of Foreign Affairs
MFN	Most-Favored Nation
MOFCOM	Ministry of Commerce of the PRC
MoU	Memorandum of Understanding

NAFTA	North American Free Trade Agreement
NDRC	National Development and Reform Commission of the PRC
NGO	non-governmental organization
nm	nautical miles
NME	Non-market economy
No	Number
NPC	National Peoples Congress of the PRC
NPCSC	National People's Congress Standing Committee of the PRC
OUP	Oxford University Press
Para(s)	Paragraph(s)
PCA	Permanent Court of Arbitration
PCIJ	Permanent Court of International Justice
PCIJ Rep	Reports of Judgments, Advisory Opinions and Orders of the Permanent Court of International Justice
PLA	People's Liberation Army of the PRC
PRC	People's Republic of China
R	Report(s)
Res	Resolution
RCEP	Regional Comprehensive Economic Partnership Agreement (RTA in Asia)
RIAA	United Nations Reports of International Arbitration Awards
RMB	<i>renminbi</i> (Chinese currency)
RTA	Regional Trade Agreement(s)
SAR	Special Administrative Region
SCC	Stockholm Chamber of Commerce
SCM	Subsidies and countervailing measures (used in SCM Agreement)
SCO	Shanghai Cooperation Organisation
SCS	South China Sea
SEZ	Special Economic Zone
SG	Safeguards (used in SG Agreement)
S/L/	Trade in Services general documents
SOE	State-Owned Enterprise
SPC	Supreme People's Court of the PRC
SPS	Sanitary and phytosanitary measures (used in SPS Agreement)
Suppl	Supplement
TPP	Trans-Pacific Partnership Agreement (RTA in the Asia-Pacific)

Table of Abbreviations

TRIMS	Trade-related investment measures (used in TRIMS Agreement)
TRIPS	Trade-related intellectual property rights (used in TRIPS Agreement)
TTIP	Transatlantic Trade and Investment Partnership Agreement
UK	United Kingdom of Great Britain and Northern Ireland
UKTS	United Kingdom Treaty Series
UN	United Nations
UNC	United Nations Charter
UNCLOS	1982 United Nations Convention on the Law of the Sea
UNCITRAL	United Nations Commission on International Trade Law
UNGA	United Nations General Assembly
UNSC	United Nations Security Council
UNSG	United Nations Secretary-General
UNTS	United Nations Treaty Series
US	United States of America
USITC	United States International Trade Commission
USTR	United States Trade Representative
USTS	United States Treaty Series
VCLT	Vienna Convention on the Law of Treaties
VCST	Vienna Convention on Succession of States in respect of Treaties
vol	volume(s)
WTO	World Trade Organisation

I. Introduction – International Adjudication and China’s Rise

1.1. A New Ambition – ‘Guiding’ International Order

When Xi Jinping started speaking on 17 February 2017 at a National Security Work Conference in Beijing,¹ most observers were already familiar with China’s overall ‘rise’ and rhetoric of a new, responsible ‘pillar’ of the international order. However, things would change on this day, the ambition changed, because Xi told his surely captive audience that China was to no longer merely ‘participate’ and ‘contribute its share.’ Rather, it was to ‘guide’ international order – ‘legal order’ being implied as a part thereof – with the trade realm explicitly mentioned. The Chinese President declared the international order as clearly in need of reform to cope with the demands of a new age, and China being well qualified to take the reins of leadership. Reform efforts were thus to be led – rather than supported – by Beijing. However, the way of reform would not be to ‘build a new stove,’ ie to break down what is there and start anew, but rather to build from within, use existing structures and merely shape them in what China would consider a more ‘just’ and ‘fair’ direction.

Making the connection to the international legal order more explicit, some of China’s most prominent international lawyers had already argued that China had to become a ‘leader country’ in the legal sphere to consolidate economic and political gains.² This would involve comprehensive engagement, including participation in international adjudication in ways that were both more active and potentially more far-reaching in breadth and depth than anything that the People’s Republic’s governments had previously considered acceptable.

1 People.cn, ‘习近平首提“两个引导”有深意’ (Xi Jinping’s first mention of the “two guides” has deeper meaning) *People.cn* (Beijing, 20 February 2017) <<http://politics.people.com.cn/n1/2017/0220/c1001-29094518.html>> accessed 10 January 2019.

2 Yuefeng 岳峰 Qi 齐, ‘中国应更积极参与国际法治进程——对话外交部国际法咨询委员会委员易显河’ (China should actively participate in international rule of law processes – A conversation with member of the Foreign Ministry International Law Consultative Committee Yi Xianhe) *Oriental Outlook* (Shanghai, 28 January 2016) <http://www.lwdf.cn/article_1984_1.html> accessed 10 January 2019. See also Zhipeng 志鹏 He 何, ‘走向国际法强国’ (Becoming a Great Power in International Law) [2015] (1) *Dangdai Faxue* 148.

Subsequently, interesting questions arise about the ways in which China engages in international adjudication, as well as the underlying factors shaping its choices.

I.2. *How Nations Behave – China’s Growing Impact on International Adjudication*

International lawyers’ preoccupation with ‘how’ and ‘why’ states embrace and comply with international legal norms, violate or seek to modify them has a long tradition, prominently represented by Louis Henkin’s *How Nations Behave*.³ In the second edition of his book, Henkin focused – for example – on the ways in which developing states were seeking to change or establish new international norms, and developed states were acting to preserve the status quo.⁴

In a related notion, Gregory Shaffer and colleagues rather recently maintained that:

[M]ore broadly, our study suggests that one cannot fully understand international legal developments without examining dynamics within key countries, and that one cannot understand these dynamics without examining how they respond to international processes – in our case, of WTO legalization and judicialization. The two recursively and dynamically interact.⁵

This book attempts to provide a somewhat novel approach for this kind of endeavor. It also exercises it through a case study of the state that has seen the most striking rise in importance for the international legal order since the turn of the century: the People’s Republic of China (hereinafter: PRC).⁶ It does so for a specific set of international legal norms, namely those related to international adjudication of investment, trade, law of the

3 Louis Henkin, *How Nations Behave* (Frederick Praeger 1968).

4 Louis Henkin, *How Nations Behave* (2nd edn, published for the Council on Foreign Relations, Columbia University Press 1979) 197–204.

5 Gregory C Shaffer, Michelle Ratton Sanchez Badin and Barbara Rosenberg, ‘Winning at the WTO: the development of a trade policy community within Brazil’ in Gregory C Shaffer and Ricardo Melendez-Ortiz (eds), *Dispute Settlement at the WTO – The Developing Country Experience* (CUP 2010) 99.

6 In the following, the term ‘PRC’ will only be used when referring to the respective state, its government, and official behavior. The generally used term ‘China’ is more open. ‘Mainland China’ denotes the PRC’s territory without the Special Ad-

sea and territorial disputes. This is at least partly because international adjudication touches acutely on the concept of sovereignty, which has been ‘at the heart of China’s position in international law’.⁷

China’s comprehensive relative power gains since the onset of economic reforms in 1978 are evident and recognized as such. It nonetheless bears repeating that China became the world’s largest trading nation in 2013,⁸ overtook the US as the world’s largest economy in 2014 (with GDP measured using purchasing power parity),⁹ and became the second largest investing country in 2016.¹⁰ Since the turn of the century, China has also had a higher military budget than everyone aside from the US: in 2017, it spent more than four times the Russian budget.¹¹ An assertive foreign policy was adopted to go with the new capabilities in two steps, under Hu Jintao’s leadership following the 2008/09 global financial crisis,¹² and after the ascension to power of Xi Jinping in 2012/13.¹³

These developments represent a major change in international relations, with potentially significant ramifications for both the PRC’s behavior in the realm of international law and the international legal order as such.

ministrative Regions of Hong Kong and Macao, as well as the non-PRC controlled Taiwan.

- 7 Wim Muller, ‘Beyond History and Sovereignty – China and the Future of International Law’ (PhD thesis, European University Institute 2013) 31.
- 8 Angela Monaghan, ‘China surpasses US as world’s largest trading nation’ *Guardian* (London, 10 January 2014) <<https://www.theguardian.com/business/2014/jan/10/china-surpasses-us-world-largest-trading-nation>> accessed 5 January 2019.
- 9 Ben Carter, ‘Is China’s economy really the largest in the world?’ *BBC News* (London, 16 December 2014) <<https://www.bbc.com/news/magazine-30483762>> accessed 5 January 2019; The PRC had also significantly narrowed the gap on nominal dollar terms by 2018. While it remained somewhat far down the list on a per capita basis, China had also improved by several dozen places in that ranking in the decade up to 2018.
- 10 UN Conference on Trade and Development, ‘World Investment Report’ (2017) xi.
- 11 China Power Team, ‘What does China really spend on its military?’ *CSIS China Power* (Washington DC, 28 December 2015, updated 9 October 2018) <<https://chinapower.csis.org/military-spending/>> accessed 5 January 2019.
- 12 Rush Doshi, ‘Hu’s to blame for China’s foreign assertiveness?’ *Brookings* (Washington DC, 22 January 2019) <<https://www.brookings.edu/articles/hu-to-blame-for-chinas-foreign-assertiveness/>> accessed 25 January 2019.
- 13 Mikko Huotari and others, ‘China’s Emergence as a Global Security Actor – Strategies for Europe’ *MERICs Papers on China no 4* (Berlin, July 2017) <<https://www.merics.org/de/papers-on-china/chinas-emergence-global-security-actor>> accessed 25 January 2019.

This issue ‘goes to the heart of the mixed nature of international law, which has both served as a set of rules that govern the relationships between states, but has also become an instrument of change used by different actors attempting to effect change on a global level’.¹⁴

When deliberating about China’s potential impact, it is imperative to assess its positions, how they evolved, what has influenced them, the historic roots behind Chinese legal thinking, as well as who formulates China’s positions and has an influence on decision-makers.

Accordingly, the most extensive part of this book assesses the PRC’s positions in the respective fields of law as they evolved throughout the research period, in which these positions both surfaced in and were influenced by case law.¹⁵ This is the ‘how’ and part of the ‘why’ of China’s engagement with international adjudication. Second, this book makes the historico-philosophical underpinning of distinct Chinese legal thought an object of critical analysis.¹⁶ It takes this underpinning to be the prism through which Chinese scholars perceive and evaluate current international law issues, and formulate policy recommendations. Extensively discussing such inner-PRC debates,¹⁷ it also draws on them in analyzing China’s actual engagement.¹⁸

Preceding all of the above, the following chapter will set out the theoretical and methodological approach taken.¹⁹ It will argue that while retaining a strong doctrinal, international legal positivist streak, an interdisciplinary approach is necessary to properly address both the PRC’s *de facto* engagement and the underlying motivations.²⁰ Ultimately, this study aims to help to understand significant factors of China’s behavior, and thereby contribute to assessing ‘the conditions under which international law works [if not] to grander theoretical claims about *whether* it works’.²¹

14 Muller, ‘Beyond History and Sovereignty’ (n 7) 37.

15 See Chapter IV.

16 See Chapter III.

17 See Chapter V.

18 See Chapter IV.

19 See Chapter II.

20 See also Muller, ‘Beyond History and Sovereignty’ (n 7) 27–28.

21 Gregory Shaffer and Tom Ginsburg, ‘The Empirical Turn in International Legal Scholarship’ (2012) 106 AJIL 1, 44.

II. Framework – Theoretical and Methodological Approach

II.1. Introduction

This first part of the book will serve to set the stage. It will first review the focus of previous studies in terms of understanding Chinese legal thought and China's relationship with international law. The case will be made that the question of why the PRC has chosen to engage with only the forms of international adjudication that it has – including the issue of the time and (changing) intensity of engagement – has remained underexplored prior to this endeavor. Indeed, such engagement has remained underexplored in its breadth, in terms of how scholarly discourse informs it, and the way in which such discourse builds on history.

The next step will be to carefully build a theoretical and methodological framework that allows for fruitful engagement with the subject matter and deriving meaningful conclusions. A decision is made to engage in interdisciplinary research in the tradition of the school of international law and international relations. In the effort to employ international relations theory to answer questions of international law, Neoclassical Realism is drawn upon (in combination with Perception Theory). However, this research remains firmly anchored within international law and retains a strong positivistic element,²² with an extensive focus on structured analysis of the increasingly substantive case law.

A suitable four-step methodology for this book is developed as follows. First, the history of Chinese legal thought is delineated to work out the *image* of international law in China. Second, China's concrete engagement with international adjudication on investment, trade as well as law of the sea and territorial issues from 2002 to 2018 is comprehensively discussed to clarify what *object* can be perceived in Chinese debates. Third, the contem-

22 Broadly in the sense of 'classical international legal positivism' where 'extra-legal considerations (economic, social, moral or political) are alien to legal analysis (...), problems are supposed to have one correct legal answer [and the] answer is to be found in the legal system as such. See eg Andrea Bianchi, *International Law Theories – An Inquiry into Different Ways of Thinking* (OUP 2016) 21, citing Bruno Simma and Andreas L Paulus, 'The Responsibility of Individuals for Human Rights Abuses in Internal Conflict: A Positivist View' (1999) 93 AJIL 302, 304–305.

II. Framework – Theoretical and Methodological Approach

porary Chinese academic discourse on international adjudication is analyzed, and fourth conclusions are drawn, interpreting engagement through the prism of laid-out *perceptions* and the pre-formed *image*.

II.2. Previous Approaches and New Endeavor

A significant number of international studies on the PRC and international law appeared in two phases: first, around 1971, when the PRC took over the Chinese seat in the UN,²³ and throughout the 1970s with another driver of interest being the onset of economic reforms in 1978;²⁴ and second, research has proliferated again since the 1990s, spurred on by the PRC's WTO accession in 2001 and continuing up to the writing of this book.²⁵

In the first of these phases, a strong focus was placed on the historical and philosophical origins of contemporary PRC positions on international law, the so-called 'unequal treaties',²⁶ and comparisons with Imperial or Republican Chinese positions,²⁷ as well as the issue most crucial to the PRC's approach to international law: sovereignty.²⁸

In the second (and ongoing) phase, international scholars have been able to review a much longer period of PRC practice, and a much wider spectrum of engagement. Scholars have – inter alia – discussed the PRC

23 UNGA Res 2758 (XXVI) (25 October 1971) UN Doc A/RES/2758(XXVI)..

24 Barry Naughton, *Growing Out of the Plan: Chinese Economic Reform, 1978–1993* (CUP 1995).

25 WTO, *Protocol on the Accession of the People's Republic of China* (23 November 2001) WT/L/432 ('Accession Protocol').

26 See Chapter III.2.2.3.

27 See eg Hungdah Chiu, 'Comparison of the Nationalist and Communist Chinese Views of Unequal Treaties' in Jerome Cohen (ed), *China's Practice of International Law: Some Case Studies* (Harvard University Press 1972); Gerd Kaminski, *Chinas Völkerrecht und Außenpolitik: Historische Grundlagen* (Bastei 1972) 54–62; Daniel J Hoffheimer, 'China and the International Legal Order: An Historical Introduction' (1979) 11 Case Western Reserve Journal of International Law 251.

28 See eg Jerome Cohen, 'China and Intervention: Theory and Practice' (1973) 121 *University of Pennsylvania Law Review* 471; Suzanne Ogden, 'The Approach of the Chinese Communists to the Study of International Law, State Sovereignty and the International System' [1977] (70) *The China Quarterly* 315. See also more general titles pertinent here, such as Hungdah Chiu, 'Communist China's Attitude Toward International Law' (1966) 60 *AJIL* 245; Jerome Cohen (ed), *China's Practice of International Law: Some Case Studies* (Harvard University Press 1972); James C Hsiung, *Law and Policy in China's Foreign Relations – A Study of Attitudes and Practice* (Columbia University Press 1972).

and human rights post-‘Tiananmen’, the country’s positions on international humanitarian and criminal law, and related questions of sovereignty and influence.²⁹ Authors have addressed participation and compliance in general,³⁰ and broader studies on Chinese legal reforms have also touched upon international law.³¹

On international adjudication,³² studies have addressed the PRC’s recognition of some extent of international jurisdiction in investment law from the 1980s and 1990s,³³ and some seminal work on China’s investment treaties has been produced.³⁴ Investment arbitration awards in cases involving China were only handed down from 2011 (involving a Hong Kong investor invoking a PRC investment treaty) and 2013, with most findings

29 See eg Ann Kent, *Between Freedom and Subsistence: China and Human Rights* (OUP 1993); Muller, ‘Beyond History and Sovereignty’ (n 7); Björn Ahl, ‘The Rise of China and International Human Rights Law’ (2015) 37 *Human Rights Quarterly* 637.

30 See eg Pitman B Potter, ‘China and the International Legal System: Challenges of Participation’ (2007) 191 *The China Quarterly* 699.

31 See eg Stanley B Lubman, *Bird in a Cage: Legal reform in China after Mao* (Stanford University Press 1999); Randall Peerenboom, *China’s Long March Toward Rule of Law* (CUP 2002).

32 On substantive studies tackling China and international adjudication in international economic law see eg Lisa Toohey, Colin B Picker and Jonathan Greenacre (eds), *China in the International Economic Order: New Directions and Changing Paradigms* (CUP 2015). On China and international adjudication overall see eg Julian Ku, ‘China and the Future of International Adjudication’ (2012) 27 *Maryland Journal of International Law* 154. See also Tommy Koh, ‘International Law and the Peaceful Resolution of Disputes: Asian Perspectives, Contributions, and Challenges’ (2011) 1 *AsJIL* 57; Mihaela Papa, ‘Emerging Powers in International Dispute Settlement: From Legal Capacity Building to a Level Playing Field?’ (2013) 4 *Journal of International Dispute Settlement* 83.

33 See Chapter IV.2.1.2.

34 See most importantly Norah Gallagher and Wenhua Shan, *Chinese Investment Treaties* (OUP 2009). See also Vivienne Bath and Luke R Nottage, *Foreign Investment and Dispute Resolution Law and Practice in Asia* (Routledge 2011); Axel Berger, ‘The Politics of China’s Investment Treaty-Making Program’, in Tomer Broude, Marc L Busch and Amelia Porges (eds), *The Politics of International Economic Law* (CUP 2011); Lauge Skovgaard Poulsen, ‘The Politics of South-South Bilateral Investment Treaties’, in Tomer Broude, Marc L Busch and Amelia Porges (eds), *The Politics of International Economic Law* (CUP 2011); Axel Berger, ‘Hesitant Embrace: China’s Recent Approach to International Investment Rule-Making’ (2015) 16 *Journal of World Investment and Trade* 843.

clustered in 2017,³⁵ although there has also been some notable research here.³⁶

In trade law, the embrace of jurisdiction of an international judicial mechanism and the onset of actual case law went practically hand in hand with China's 2001 WTO accession.³⁷ Aside from a plethora of journal articles discussing individual cases involving the PRC, important publications have reviewed China's first decade within the organization.³⁸ On law of the sea or such dispute resolution related to territorial matters, the PRC has still only participated indirectly or under the threshold of contentious proceedings.³⁹ Several studies have focused on the law of the sea arbitration addressing the South China Sea – and underlying questions – which the Philippines initiated against China in 2012, and wherein awards on jurisdiction and merits were handed down in 2015 and 2016.⁴⁰

35 See Chapter IV.2.1.3.

36 On investment arbitrations involving China see most notably – aside from journal articles discussing individual cases – Wenhua Shan (ed), *China and International Investment Law: Twenty Years of ICSID Membership* (Brill 2015).

37 See Chapter IV.2.2.

38 See most importantly Ka Zeng and Wei Liang (eds), *China and Global Trade Governance – China's first decade in the World Trade Organization* (Routledge 2013). See also Xiuli Han, 'China's First Ten Years in WTO Dispute Settlement' (2011) 12 *The Journal of World Investment & Trade* 49; Matthew Kennedy, 'China's role in WTO Dispute Settlement' (2012) 11 *World Trade Review* 555. See already earlier on Joseph YS Cheng, 'China's WTO membership and its concern for state sovereignty' (2004) 13 *Journal of Contemporary China* 819. See also Merit E Janow, Victoria Donaldson and Alan Yanovich (eds), *The WTO: Governance, Dispute Settlement, and Developing Countries* (Juris Publishing Inc 2008); Gregory C Shaffer and Ricardo Melendez-Ortiz, *Dispute Settlement at the WTO – The Developing Country Experience* (CUP 2010); Laura C Mahrenbach, 'Emerging powers, Domestic Politics, and WTO Dispute Settlement Reform' (2016) 21 *International Negotiation* 233.

39 See Chapters IV.3.3 and IV.3.4.

40 See eg S Jayakumar, Tommy Koh and Robert Beckman (eds), *The South China Sea Disputes and Law of the Sea* (Edward Elgar Publishing 2014); Keyuan Zou, 'The South China Sea', in Donald R Rothwell and others (eds), *The Oxford Handbook of the Law of the Sea* (OUP 2015); Keyuan Zou, 'China's Approach to UNCLOS and its Application to Disputed Issues in the South China Sea', in Jill Barrett and Richard Barnes (eds), *Law of the Sea – UNCLOS as a Living Treaty* (The British Institute of International and Comparative Law 2016); Thomas J Schoenbaum, 'The South China Sea Arbitration Decision and a Plan for Peaceful Resolution of the Disputes' (2016) 47 *Journal of Maritime Law & Commerce* 451; Stefan Talmon, 'The South China Sea Arbitration and the Finality of "Final" Awards' (2017) 8 *Journal of International Dispute Settlement* 1.

In parallel to the renewed international scholarship on the PRC and international law, Chinese scholarship also picked up and proliferated especially after WTO accession in 2001, supported by much-increased government funding. Chinese-language PRC law journals have multiplied, increased publication frequencies, and significantly improved in quality.⁴¹ Since the early-2000s, PRC international law scholars – including (former) officials and international judges – have also started to publish more frequently on Chinese positions in English.⁴² As part of this trend, the 2002-founded *Chinese Journal of International Law* (CJIL) allows greater scope for debates on China and international law, but also for voices sympathetic to PRC positions in particular, and thus an increase in Chinese influence on such debates.⁴³ While a self-assessment of Chinese contributions to global international law scholarship remained rather critical in 2010,⁴⁴ some contributions to international legal theory have since followed.⁴⁵

This book contributes to the field in several respects. It comprehensively covers pertinent (sometimes very recent) case law in three fields: investment law, trade law, and law of the sea.⁴⁶ It provides a systematic English-language review of debates on engagement with international adjudication

41 See Chapters II.3.2 and V.

42 See eg Deming Huang, Yuan Kong and Hua Zhang, ‘Symposium on China’s Peaceful Development and International Law’ (2006) 5 CJIL 261; Jielong Duan, ‘Statement on the Rule of Law on the National and International Levels’ (2007) 6 CJIL 185; Hanqin Xue, ‘Chinese Observations on International Law’ (2007) 6 CJIL 83; Lijiang Zhu, ‘Chinese Practice of International Law: 2008’ (2009) 8 CJIL 493; Bing Bing Jia, ‘A Synthesis of the Notion of Sovereignty and the Ideal of the Rule of Law: Reflections on the Contemporary Chinese Approach to International Law’ (2010) 53 *German Yearbook of International Law* 11; Junwu Pan, ‘Chinese Philosophy and International Law’ (2011) 1 *AsJIL* 233; Hanqin Xue, ‘Meaningful Dialogue Through a Common Discourse: Law and Values in a Multi-Polar World’ (2011) 1 *AsJIL* 13.

43 Published by Oxford University Press (OUP) in cooperation with the Chinese Society for International Law, Peking University and Wuhan University.

44 Zonglai Wang and Bin Hu, ‘China’s Reform and Opening-up and International Law’ (2010) 9 CJIL 193.

45 See eg Xianhe (Sienho) Yi (Yee), ‘The International Law of Co-progressiveness: The Descriptive Observation, The Normative Position and Some Core Principles’ (2014) 13 CJIL 485. Works that provide the author’s name as Sienho Yee will be listed under Yi Xianhe in the bibliography – and Sienho Yee will be put in brackets in the footnotes – as this is merely a different transliteration of the same professor’s name: 易显河. ‘Yi Xianhe’ is the Pinyin Romanization of the name, which is now the standard system in Mainland China and is also consistently used in this book.

46 See Chapter IV.