

**WHU Center of Overseas Investment
Law**

Monthly Events

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Domestic Events

1. On 31 July, with the joint testimony of Chinese President Xi Jinping and President Ivan Duque of the Republic of Colombia, Chairman Song Shuguang, on behalf of China Credit Insurance, signed “Memorandum of Understanding on Cooperation between China Export Credit Insurance Company and Colombia Trade, Investment and Tourism Bureau ” and Framework Cooperation Agreement between China Export Credit Insurance Company and Colombia Foreign Trade Bank” with Flavia Santoro, Chairman of the Colombian Trade and Investment Tourism Bureau, and Javier Dias, Chairman of the Colombian Foreign Trade Bank in the Great Hall of the People.

(<https://www.yidaiyilu.gov.cn/xwzx/gnxw/99118.htm>)

2. From 2 to 3 August, the Ministerial Meeting of the Regional Comprehensive Economic Partnership Agreement (RCEP) was held in Beijing. The participants expressed the need to maintain the momentum of positive negotiations and achieve the goal of concluding negotiations within the year. This meeting was an important ministerial meeting held at the critical stage of RCEP negotiations and the first RCEP ministerial meeting held in China. Trade ministers from 16 ASEAN countries, including Japan, South Korea, Australia, New Zealand and India, and ASEAN Secretary-General attended the meeting.

(<https://www.yidaiyilu.gov.cn/xwzx/gnxw/99003.htm>)

3. On 6 August, Xinhua News Agency reported that the State Council issued the "Overall Plan for the Lingang New Area of China (Shanghai) Pilot Free Trade Zone" to support the new area with the focus on investment freedom and trade freedom, and promote the liberalization and facilitation of investment trade. Implement a foreign investment security review system, relax restrictions on registered capital, investment methods, etc., and allow overseas well-known arbitration institutions to register

(<http://www.shanghai.gov.cn/nw2/nw2314/nw2315/nw18454/u21aw1396964.html>)

4. On 6 August, according to the report of Legal Daily, China submitted the proposal on reforming the Investor-State Dispute Settlement (ISDS) to UNCITRAL on 19 July. The proposals are related to the following perspective: permanent appellate mechanism, parties' right to appoint arbitrators, the qualifications and independence of arbitrators, alternative dispute resolution, procedures for pre-arbitration consultation, and transparency for third-party funding.

(http://www.legaldaily.com.cn/Arbitration/content/2019-08/06/content_7956656.htm)

(reference:<https://uncitral.un.org/sites/uncitral.un.org/files/wp117c.pdf>)

5. On 7 August, Li Chenggang, Assistant Minister of the Ministry of Commerce, led a Chinese government delegation to attend the signing ceremony of the United Nations Convention on International Settlement Agreements Resulting from Mediation in Singapore, and signed the Convention on behalf of China. Forty-six countries, including China, the United States, South Korea, India, Singapore, Kazakhstan, Iran, Malaysia and Israel, have signed the Convention.

(<http://www.mofcom.gov.cn/article/ae/ai/201908/20190802888435.shtml>)

6. On 8 August, the Beihai Asia International Arbitration Center (BAIAC), established by the Beihai Arbitration Commission in Singapore, was officially launched, marking the establishment of the first overseas center of the Beihai Arbitration Commission. BAIAC aims at settling disputes in the implementation of the “Belt and Road Initiative” and disputes between Chinese parties and ASEAN parties. It provides diversified dispute resolution services for the parties of the “Belt and Road Initiative” participating countries, with

international commercial arbitration as the main part and international investment arbitration and commercial mediation as the three driving forces.

(<http://www.beihaiac.com/web/show/782>)

7. On 13 August, the Information Office of the Shanghai Municipal Government organized a news briefing to introduce 30 policies and measures of "Several Opinions on Promoting the Development of Regional Headquarters of Multinational Corporations" recently issued by Shanghai government. These measures further optimize the headquarters identification criteria, more in line with the reality of the development of transnational corporations, and further promote the functions of regional headquarters from the aspects of investment convenience, freedom of use of funds and convenience, and increase the support of headquarters functions. The document will be formally implemented from September 1. More than 190 enterprises from 22 countries and regions along the "Belt and Road Initiative" have signed 87 investment projects with more than 440 enterprises in 8 western provinces, reaching 272 cooperation intentions.

(http://www.gov.cn/xinwen/2019-08/13/content_5420985.htm)

8. According to the Ministry of Commerce on 15 August, from January to July 2019, a total of 4088 overseas enterprises from 153 countries and regions in the world were invested in non-financial direct investment, with a cumulative investment of 43.29 billion yuan, an increase of 3.3% over the same period of last year; in July, foreign direct investment of 68.06 billion yuan, an increase of 25.5% over the same period of last year. From January to July 2019, the turnover of foreign contracted projects was 549.13 billion yuan, an increase of 2% compared with the same period last year, and the newly signed contract value was 82.1 billion yuan, an increase of 1.9% compared with the same period last year. 265,000 workers were sent to foreign labor cooperation, which was basically the same as the same period last year. At the end of July, 972,000 workers were sent to foreign labor cooperation.

(<http://www.mofcom.gov.cn/article/ae/sjld/201908/20190802890962.shtml>)

9. On 13 August, according to the official website of the “one Belt and one Road”, from January to July 2019, 24,050 new foreign-invested enterprises were established nationwide, and the actual use of foreign investment was 533.14 billion yuan, a year-on-year increase of 7.3%. Among the main sources of investment, the actual amount of foreign investment in the countries along the “Belt and Road Initiative” increased by 5% year-on-year (including free port investment data); Germany, South Korea, Japan, and the Netherlands increased their investment in China by 72.4%, 69.7%, 12.6% and 14.3 %

respectively; the actual amount of foreign investment in the EU increased by 18.3% year-on-year.

(<https://www.yidaiyilu.gov.cn/xwzx/gnxw/99931.htm>)

10. On 15 August, the US government announced that it would impose a 10% tariff on approximately US\$300 billion of goods imported from China, which will be implemented in two batches from 1 September and 15 December 2019. In response to the above measures, China was forced to take countermeasures. On 23 August, the State Council Customs Tariff Commission decided to impose 10% and 5% tariffs on 5078 tax items and about 75 billion US dollars of goods originating in the United States, in two batches from 00:01 on 1 September and 00:01 on 15 December. On 24 August, the US announced that it would raise the tax rate on the tariff of about 550 billion US dollars for Chinese exports to the United States. The China-US trade war has escalated further.

(http://gss.mof.gov.cn/zhengwuxinxi/gongzuodongtai/201908/t20190823_3372938.html)

11. On 16 August, the first plenary meeting of the “Belt and Road Initiative” Green Investment Principles (GIP) was held in Beijing. More than 150 representatives from Chinese and British governments and regulatory agencies, GIP signatories, international organizations and third-party organizations attended the meeting. GIP is an important achievement of the Sino-British economic and financial dialogue in 2018. Since its release in November 2018, it has received positive response from the global financial industry. By the end of August 2019, 30 large financial institutions around the world had signed the GIP. At the second respectively. International Cooperation Summit held in April 2019, GIP was one of the most important achievement, demonstrating China's firm determination to build a green “Belt and Road”.

(<https://www.yidaiyilu.gov.cn/xwzx/gnxw/100393.htm>)

12. On 18 August, the State Council issued the “Opinions of the CPC Central Committee and the State Council on Supporting Shenzhen's Pioneering Demonstration Zone with Chinese Characteristics”. Shenzhen will take the lead in building a modern economic system that reflects the requirements of high-quality development, creating a democratic and rule-of-law environment that demonstrates fairness and justice. Shenzhen will also take the lead in shaping the modern urban civilization that shows the prosperity and prosperity of socialist culture, forming a common development pattern of building a common

governance and sharing common prosperity, creating a model of harmonious coexistence between human and nature, better implementing the strategy of Guangdong, Hong Kong and Macao Great Bay District and improving the cause of “one country, two systems”.

(http://www.gov.cn/xinwen/2019-08/18/content_5422183.htm)

13. On 20 August, in order to correctly determine the origin of import and export goods under the “Framework Agreement on Comprehensive Economic Cooperation between the People's Republic of China and the Association of Southeast Asian Nations” and promote economic and trade exchanges between China and ASEAN, the General Administration of Customs issued the No. 136 Announcement, which is an amended implement rule. The new implementation Certificate of Origin (FORME) was implemented on 20 August 2019.

(<http://www.customs.gov.cn/customs/302249/302266/302267/2570744/index.html>)

14. On 20 August, an emergency arbitrator from China International Economic and Trade Arbitration Commission (CIETAC) made the first emergency arbitrator decision. The claimant, a Chinese company and the

respondent, an Australia company had disputes over the investment agreement related to coal mine resource exploration. The claimant filed an application for the emergency arbitrator procedure, claiming that the respondent should not dispose its assets to ordinary unsecured creditors before the final arbitral award was recognized and enforced. The respondent had no objection to this and reached an agreement with the claimant to jointly request the emergency arbitrator to make a decision. The emergency arbitrator made the emergency arbitrator procedural order accordingly.

(<https://mp.weixin.qq.com/s/Gx1MulEPA2urmJjfHqDdzA>)

15. On 21 August, Vice Minister of Commerce Qian Keming said at the press conference of the Qingdao Summit that by now, about 490 of the world's top 500 companies have invested in China, accounting for 98% of the total number. In addition, the pace of internationalization of Chinese companies has accelerated, and the number of Fortune 500 companies on the list has continued to grow, from 11 in 2001 to 129 in 2019.

(<https://www.yidaiyilu.gov.cn/xwzx/gnxw/100786.htm>)

16. According to a news report on 22 August, the Board of Investment (BOI) of Thailand released data that the amount of direct investment from overseas from January to June 2019 reached 147.1 billion baht, 2.1 times that of the same period last year. Investment from Japan has increased by about 2 times, and investment from mainland China has increased to about 5 times. Mainland China ranked second in direct investment in Thailand, reaching 24.2 billion baht, increasing by 5.3 times year-on-year. Tires and metals, mold makers are planning to enter the Thai market.

(<http://www.china-ofdi.org/newsDetail/34/6523>)

17. On 18 August, the first expressway built by a Chinese company in Europe, the Serbian E763 highway, was officially opened to traffic. This is the first infrastructure project under the China-Central and Eastern European countries cooperation framework. On 22 August, China Electric Power Construction Corporation signed a contract for the design and construction of the West S14 Lodz Expressway in Poland. The project is the first road construction project that Chinese companies have signed in Poland in the past 10 years, which is of great significance to the infrastructure cooperation between China and Poland.

(<http://www.sasac.gov.cn/n2588025/n2588119/c12065854/content.html>)

18. On 26 August, the State Council officially approved the establishment of the Shandong, Jiangsu, Guangxi, Hebei, Yunnan, and Heilongjiang free trade pilot zones, and issued overall design plan for the six new free trade pilot zones. The overall plan emphasized on the significance of promoting investment liberalization and facilitation, fully implementing the pre-entry national treatment and negative list management system for foreign investment, establishing a foreign investment information reporting system, improving investment promotion and protection mechanisms, establishing a foreign-invested service system, and improving foreign investment promotion, project tracking services and complaints work mechanisms.

(http://www.gov.cn/zhengce/content/2019-08/26/content_5424518.htm)

19. On 30 August, the Colloquium of China's Practice of International Law hosted by the Wuhan University Institute of International Law was held in Wuhan University. Experts from China University of Politics and Law, East China University of Politics and Law, University of International Business and Economics and Wuhan University discussed several issues, including China's contribution in international law, China's compliance with its international

commitment in investment and intellectual property, legal analysis of US unilateral measures in the trade conflicts with China, etc.

(https://www.thepaper.cn/newsDetail_forward_4302785)

International Events

1. On 7 August, ICSID released data on 306 pending cases for fiscal year 2019, including 52 new cases in fiscal year 2019. It is noteworthy that 59 cases were completed in fiscal year 2019, making it the largest number of cases closed in a single year.

(<https://icsid.worldbank.org/en/Pages/News.aspx?CID=334>)

2. On 9 August, the International Monetary Fund (IMF) issued China's annual Article 4 consultation report, reiterating that China's current account surplus declined in 2018 and that the level of RMB exchange rate was basically in line with economic fundamentals. In response to the US Treasury Department's earlier announcement that China is considered a “currency manipulator”, the report confirms that China has not “manipulated the exchange rate”, and the relevant US accusations are groundless and untenable.

(http://www.gov.cn/guowuyuan/2019-08/12/content_5420585.htm)

3. On 9 August, Tethyan Copper formally appealed to the District Court of Columbia to enforce the ICSID award (Case No. ARB/12/1) and to compensate Pakistan for \$4.087 billion in interest and arbitration-related costs.

(<https://www.italaw.com/cases/1631>)

4. On 11 August, the OECD's FDI Restrictiveness Indicator for 2018 showed that China relaxed its restrictions on foreign investment substantially in 2018 and made significant progress in its openness. Of the 69 economies in all statistics, China ranked second in the decline in restrictions on foreign investment, after Myanmar. The negative list of foreign investment access published in June 2018 has greatly reduced restrictions on foreign investment in 22 areas, which has made progress in the overall level of China's opening to foreign investment.

(<https://www.yicai.com/news/100305148.html>)

5. On 11 August, the defeat of Argentine President Mauricio Macri in the presidential primaries triggered criminal investigations and charges against him, his family holding company and officials from other camps, mainly because he

was suspected of abusing his presidential powers and using ICSID false arbitration (ICSID Case No. ARB/15/48) for his family holding company El Grupo Macri Group. The pursuit of private interests constitutes a huge loss of state-owned assets and a huge fraud against the state. If he loses the final election in October, the progress of the criminal procedure will be accelerated.

(https://mp.weixin.qq.com/s/rfaMqup_GIwb-ZS0XceuDw)

6. On 12 August, the Stockholm Commercial Arbitration Court (SCC) announced the SCC Council Decision on Arbitrator's Avoidance (2016-2018). The report reviewed the SCC Council's decision on Arbitrator's Avoidance from 2016 to 2018, discussed and summarized the general guidelines and trends of SCC in dealing with arbitrator's Avoidance Application. For example, the applicable law, jurisprudence and best practices in international arbitration are considered in respect of an application for withdrawal; if an application for withdrawal is based on circumstances or relationships that ceased to exist several years ago, it is usually not supported.

(<https://sccinstitute.com/about-the-scc/news/2019/scc-practice-note-challenges-to-arbitrators-2016-2018/>)

7. On 16 August, ICSID released its latest proposals for amendment of its procedural rules for the resolution of international investment disputes *Working Paper #3: Proposals for Amendment of the ICSID Rules*, which includes amendments about arbitration fee, fact-finding, conciliation and mediation rules, etc.

(https://icsid.worldbank.org/en/Documents/WP_3_VOLUME_1_ENGLISH.pdf)

8. On 18 August, according to the news released on its official website, MIGA along with investors and lenders from Japan, have together channeled sizeable investments to help improve lives across Africa. Projects MIGA supported in the past six years in Africa are expected to provide 25.4 million people with access to power, generate US\$2.2 billion in tax revenues annually for governments. MIGA currently supports investments of \$6.3 billion in North and Sub Sahara Africa, over double that from six years ago.

(<https://www.miga.org/press-release/miga-helps-deliver-power-over-25-million-people-across-africa>)

9. On 20 August, The Ethics Network of Multilateral Organizations (ENMO) has approved the Asian Infrastructure Investment Bank for membership. AIIB Chief Ethics Officer Tony Wan said that the membership in ENMO demonstrates AIIB's commitment to the highest standards of professionalism and ethics in its operations.

(https://www.aiib.org/en/news-events/news/2019/20190820_001.html)

10. On 21 August, Engineering News-Record 2019 Top Global Contractors was released. The total income of the 250 listed companies in 2018 was 486.925 billion US dollars, with an increase of 1% from 2017, and achieved growth for two consecutive years. Among them, 52% of the listed companies' international turnover has increased, and 48% of the company declined. Among them, 75 Chinese companies were selected as "the world's largest 250 international contractors" in 2019, with an increase of 6 over the previous year, reaching a higher level on the top of the list.

(<https://www.enr.com/toplists/2019-Top-250-Global-Contractors-1>)

11. On 21 August, according to the report from BBC, UK technology industry has attracted more investment from US and Asia, maintaining the

tendency of last year. Statistics from DEC and TN showed that the investment from Japan and Singapore has exceeded China, becoming the biggest investor in technology industry from Asia.

(<https://www.bbc.com/news/business-49413186>)

14. On 26 August, officials from France and the United States have reached a compromise on a new French tax on services provided by large internet companies, potentially defusing the threat of a trade conflict between the two countries. France president Macron admitted that the digital tax was kind of controversial, and many US companies were impacted. He expressed his preference for international rules for taxing digital services. The G20 finance ministers agreed to a roadmap of the new tax plan in May, with the hope of a new agreement under the framework of OECD being signed by leaders in 2020.

(<https://edition.cnn.com/2019/08/26/business/digital-tax-france-us/index.html>)

15. On 28 August, a public hearing was held for the case of Bridgestone Licensing Services, Inc. and Bridgestone Americas, Inc. v. Republic of Panama (ICSID Case No. ARB/16/34) before a three-member arbitral tribunal.

(<https://icsid.worldbank.org/en/Pages/News.aspx?CID=335>)

16. On 29 August, the Institute of International Finance (IIF) published a new report. According to the report, supported by its upgrade to emerging market status, Saudi Arabia has attracted \$18 billion in foreign equity inflows so far this year, and became the top equity investment destination among emerging markets this summer.

(<https://www.arabnews.com/node/1546671/business-economy>)

17. On 29 August, US-China Business Council (USCBC) published the annual member survey report, containing the following important information: US-China trade friction is negatively impacting US companies operating in China. Second, an unlevel playing field favoring domestic companies over foreign ones is making it increasingly difficult for US companies to compete. Third, while China continues to be a priority market for most of the companies surveyed, market optimism is moderating. All three of these trends are forcing companies to reevaluate company strategies and supply chains. American companies also remain concerned about recent developments in intellectual

property rights (IPR), technology transfer, and data flow and cybersecurity policy.

(<https://www.uschina.org/reports/uscbs-2019-member-survey>)

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