

# *Draco Dormiens Nunquam Titillandus:* The Uncertain Dynamics of Dispute Settlement and Investment Protection in the Post-Brexit Era



**Ana Amorín  
Fernández**

International Arbitration  
and Litigation



**Alberto Fernández  
Matía**

International Arbitration  
and Litigation



**Anna María  
Sánchez Santana**

International Arbitration  
and Litigation

## Introduction

**O**n 1 May 2021, the Trade and Cooperation Agreement ('TCA') finally entered into force. The TCA, which was signed almost at the last minute on 30 December 2020 and applied provisionally between 1 January 2021 and 30 April 2021, is the international treaty that frames the economic conditions of the EU-UK relationship from the end of the Brexit transition period onward. It also marks the final chapter of one of the most complex multilateral negotiations of the modern era.<sup>1</sup> As a result of its ratification and entry into force, the TCA definitively joins the Withdrawal Agreement ('WA'), which has been in force since 1 February 2020.<sup>2</sup>

Nevertheless, recent developments prove that Brexit is far from over. For example, right when it seemed that the divorce would be amicable, the EU formally announced on 15 March 2021 that it would trigger the dispute-resolution mechanism established in the WA against the UK for breaching the Protocol on Ireland and Northern Ireland annexed to the WA.<sup>3</sup> Much remains uncertain and the sleeping dragon that is the issues of 'sovereignty', 'trade wars' and 'economic tensions' is still there... and might just wake up.

<sup>1</sup> Federico Fabbrini, 'From the Withdrawal Agreement to the Trade & Cooperation Agreement: Reshaping EU-UK Relations' (2020) Brexit Institute Working Paper Series 10/2020 <<https://ssrn.com/abstract=3756331>> accessed 27 July 2021.

<sup>2</sup> The WA includes the important and controversial Protocol on Ireland and Northern Ireland. See 'Commission sends letter of formal notice to the United Kingdom for breach of its obligations under the Protocol on Ireland and Northern Ireland' <[Protocol on Ireland and Northern Ireland \(europa.eu\)](https://ec.europa.eu/protocol-on-ireland-and-northern-ireland/)> accessed 26 July 2021.

<sup>3</sup> This was the second time in less than a year that Brussels initiated infringement proceedings against the UK. On 1 October 2020, the EU also initiated proceedings against the UK over certain provisions of the UK Internal Market Bill that allegedly violated the WA. However, the infringement proceedings were abandoned given that the contested provisions of the Bill were finally withdrawn. See 'Bruselas emprende acciones legales contra Londres por violar el acuerdo del Brexit' *Cinco Días (El País)* (Madrid, 15 March 2021) <[https://cincodias.elpais.com/cincodias/2021/03/15/economia/1615820712\\_670483.html](https://cincodias.elpais.com/cincodias/2021/03/15/economia/1615820712_670483.html)> accessed 19 March 2021.

**Home**

**Editorial**

**Insight**

*Draco Dormiens Nunquam Titillandus: The Uncertain Dynamics of Dispute Settlement and Investment Protection in the Post-Brexit Era*

**Global Briefing**

*The Conflict Between Environmental and Sustainable Development Rights and Indigenous Communities' Rights to Prior Consultation in Wind Energy Generation Projects in Colombia*

*A Brief Overview of Expert Determinations and a Glimpse at this Alternative Dispute Resolution Mechanism in Chile and Portugal*

*Intra-European Union Investment Protection: What Now?*

*Insolvency and Arbitration Agreements in Spain: Following on from Decision 266/2019 of 30 September 2019*

**In Focus**

*Investment Funds and International Investment Arbitration*

*Is the Door to Investment Arbitration Closed for Dual National Investors who Submit a Claim Against their Home State?*

*An Arbitrator's Independence under Scrutiny: the EDF Test as the Standard for Annulment under the ICSID Convention*

**Investment Arbitration: Contact Lawyers**



To keep up with the next chapters of the Brexit saga, it is essential to understand how the institutional enforcement mechanisms of the WA and the TCA operate. Furthermore, in this new regulatory scenario, foreign investors and other economic actors need certainty as to how these new rules will apply to them. This article will briefly examine these issues.

### Overview of the Dispute-Settlement Mechanisms Under the Withdrawal Agreement and Under the Trade and Cooperation Agreement

Part Six of both agreements establish the mechanisms for overseeing each instrument's implementation and the settling of disputes that arise between the parties concerning the interpretation and application of the corresponding agreement.<sup>4</sup>

<sup>4</sup> WA, Arts 167 and 169; TCA, Art 735.

The governance frameworks are essentially the same, with the WA establishing a 'Joint Committee' and the TCA a 'Partnership Council' which are both entrusted with monitoring compliance with the respective agreement and are supported by specialised committees. The dispute-settlement mechanisms of the WA and the TCA follow the same principles, although there are also notable differences, including extended timelines and larger panels in the WA and a different set of remedies if a party fails to comply with an arbitration ruling. In both agreements, non-compliance can lead to a proportionate suspension of treaty obligations.<sup>5</sup>

Firstly, under both the WA and the TCA, the parties must attempt to resolve the dispute amicably through a process of political consultations, lasting up to three

<sup>5</sup> WA, Art 178(2) and TCA, Arts 749(4)-(5).

## Formal enforcement mechanisms deriving from international trade agreements, such as those set out in the WTO rules, the WA and the TCA, also rely on informal incentives for compliance

months in the case of the WA, which contrasts with the 30-day limit if the dispute relates to the TCA (although the parties can agree to an extension).<sup>6</sup> If no solution is reached, either party may request that an arbitration panel be set up.

Briefly, in the WA dispute-settlement mechanism the five-member arbitration panel must be established within 15 days of the date of the request,<sup>7</sup> and the binding ruling must be handed down within 12 months (six months if urgent).<sup>8</sup> Under the TCA the three-member arbitration panel must be established within ten days of the date of the request, and the binding ruling must be handed down within 130 days (which can be extended to 160 days).<sup>9</sup> Moreover, if urgent proceedings are agreed, timelines are cut by half.<sup>10</sup>

<sup>6</sup> WA, Art 170(1) and TCA, Art 738.

<sup>7</sup> Under both agreements, the EU and the UK nominate an equal number of independent arbitrators, with jointly agreed chairs. In accordance with the WA, in December 2020 the Joint Committee agreed on a list of potential arbitrators. The Partnership Council had until the end of June 2021 to agree on a list of arbitrators for the TCA. See Stefano Fella, 'Governing the new UK-EU relationship and resolving disputes' (2021) House of Commons Library <<https://commonslibrary.parliament.uk/governing-the-new-uk-eu-relationship-and-resolving-disputes/>> accessed 26 July 2021.

<sup>8</sup> WA, Art 173.

<sup>9</sup> TCA, Art 745.

<sup>10</sup> Also, in the TCA proceedings, the arbitration panel must issue an interim report within 100 days (130 days if extended), which becomes a binding ruling if neither party requests a review.

Unsurprisingly, given the UK's sovereignist approach,<sup>11</sup> the most important differences between the WA and the TCA enforcement mechanisms probably relate to the role of the Court of Justice of the European Union ('CJEU'). Under the WA, the CJEU continues to have jurisdiction over all judicial proceedings concerning EU law registered before the end of the transition period.<sup>12</sup> Furthermore, if the WA dispute-settlement mechanism is activated and, during the course of the arbitration proceedings, a question arises regarding the interpretation of EU law,<sup>13</sup> the panel is obliged to refer the matter to the CJEU, whose ruling will be binding on the panel.

The EU sought a similar role for the CJEU in the TCA, but the UK opposed it. As a result, the CJEU will play no role in settling disputes arising from the TCA,<sup>14</sup> given that the agreement is grounded in public international law (and not in EU law).<sup>15</sup>

<sup>11</sup> Mark Konstantinidis and Vasiliki Poula, 'From Brexit to Eternity: The institutional landscape under the EU-UK Trade and Cooperation Agreement' (2021) European Law Blog <<https://europeanlawblog.eu/2021/01/14/from-brexit-to-eternity-the-institutional-landscape-under-the-eu-uk-trade-and-cooperation-agreement/>> accessed 19 March 2021.

<sup>12</sup> 'The revised EU-UK Withdrawal Agreement EXPLAINED' <[https://ec.europa.eu/info/sites/info/files/slides\\_the\\_wa\\_explained.pdf](https://ec.europa.eu/info/sites/info/files/slides_the_wa_explained.pdf)> accessed 19 March 2021.

<sup>13</sup> Including the Protocol on Ireland and Northern Ireland annexed to the WA.

<sup>14</sup> With the exception of matters regarding the UK's continued participation in EU programmes.

<sup>15</sup> TCA, Art 4.

[Home](#)

[Editorial](#)

[Insight](#)

[Draco Dormiens Nunquam Titillandus: The Uncertain Dynamics of Dispute Settlement and Investment Protection in the Post-Brexit Era](#)

[Global Briefing](#)

[The Conflict Between Environmental and Sustainable Development Rights and Indigenous Communities' Rights to Prior Consultation in Wind Energy Generation Projects in Colombia](#)

[A Brief Overview of Expert Determinations and a Glimpse at this Alternative Dispute Resolution Mechanism in Chile and Portugal](#)

[Intra-European Union Investment Protection: What Now?](#)

[Insolvency and Arbitration Agreements in Spain: Following on from Decision 266/2019 of 30 September 2019](#)

[In Focus](#)

[Investment Funds and International Investment Arbitration](#)

[Is the Door to Investment Arbitration Closed for Dual National Investors who Submit a Claim Against their Home State?](#)

[An Arbitrator's Independence under Scrutiny: the EDF Test as the Standard for Annulment under the ICSID Convention](#)

[Investment Arbitration: Contact Lawyers](#)

The nexus between the WA and the TCA dispute-settlement mechanisms is also worth addressing.

On the one hand, the WA establishes that if a party consistently fails to comply with the arbitration panel's rulings, the complainant may suspend any provision of the WA other than Part Two<sup>16</sup> and 'parts of any other agreement between the EU and the UK under the conditions set out in that agreement' (e.g. the TCA).<sup>17</sup>

On the other hand, the TCA states that some of its provisions can be suspended in the event of non-compliance with an arbitration ruling under 'an earlier agreement' between the UK and EU, i.e. the WA,<sup>18</sup> meaning that failure to comply with the more politically oriented content of the WA may lead to economic retaliation under the more technical and commercially oriented TCA. This reflects the closely intertwined relationship between the two agreements.

### **Similarities and Differences Between the Dispute-Settlement Mechanisms of the Withdrawal Agreement, the Trade and Cooperation Agreement and the World Trade Organization**

Both the WA and the TCA dispute-settlement rules follow the same basic structure as the World Trade

Organization ('WTO') rules.<sup>19</sup> It could be argued that the commonality among the mechanisms is due to the fact that the specific and potential bilateral international disputes between the EU and the UK could not be left in a legal vacuum,<sup>20</sup> even though the TCA is arguably the first free trade agreement to ever have been designed 'in reverse' i.e. to restrict commerce<sup>21</sup> and not encourage it (which was inevitable since Brexit meant that the UK would leave the EU common market and the customs union). The multilateral WTO rules were, by default, an obvious inspiration for British and EU negotiators.

As to similarities, the WA and the TCA were designed essentially following the WTO's multi-tiered dispute-settlement model, which initially relies on political consultations between the affected state members if a state believes that another is breaching its obligations or has impaired benefits. Under WTO rules, as under the WA and the TCA, if the states fail to reach an agreement, they may subsequently trigger arbitration proceedings. Also, once a decision has been made by the arbitral tribunal, the WA and the TCA

<sup>19</sup> Steve Peers, 'Analysis 4 of the Brexit deal: Dispute settlement and the EU/UK Trade and Cooperation Agreement' (2021) EU Law Analysis <<http://eulawanalysis.blogspot.com/2021/01/analysis-4-of-brexit-deal-dispute.html>> accessed 21 March 2021.

<sup>20</sup> This would have been the case had a 'no-deal' Brexit occurred.

<sup>21</sup> Enrique Féas, 'Lo que se va con Reino Unido' *Expansión* (Madrid, 31 December 2020) <<https://www.expansion.com/opinion/2020/12/31/5fedfe3d468aeb62328b45b5.html>> accessed 21 March 2021.

**Although the risk of disputes exists, ultimately the expectation is that close, strategic partners such as the UK and the EU will cooperate amicably and, whenever possible, reach mutually agreed solutions, in line with the objectives of the TCA**



**Home**

**Editorial**

**Insight**

*Draco Dormiens Nunquam Titillandus: The Uncertain Dynamics of Dispute Settlement and Investment Protection in the Post-Brexit Era*

**Global Briefing**

*The Conflict Between Environmental and Sustainable Development Rights and Indigenous Communities' Rights to Prior Consultation in Wind Energy Generation Projects in Colombia*

*A Brief Overview of Expert Determinations and a Glimpse at this Alternative Dispute Resolution Mechanism in Chile and Portugal*

*Intra-European Union Investment Protection: What Now?*

*Insolvency and Arbitration Agreements in Spain: Following on from Decision 266/2019 of 30 September 2019*

**In Focus**

*Investment Funds and International Investment Arbitration*

*Is the Door to Investment Arbitration Closed for Dual National Investors who Submit a Claim Against their Home State?*

*An Arbitrator's Independence under Scrutiny: the EDF Test as the Standard for Annulment under the ICSID Convention*

**Investment Arbitration: Contact Lawyers**

## The TCA lacks direct effect, and therefore investors can only request that the parties (i.e. the UK or the EU) invoke the provisions regarding investments in the arbitration proceedings described in the TCA, since they are not allowed to directly participate in those proceedings

establish compliance procedures that give time to the respondent party to comply with the ruling, as is the case under the WTO system. Furthermore, the duration of these periods and potential disagreements as to whether compliance has occurred can also be subject to arbitration.

Key differences exist nonetheless. Under the WTO, once the arbitral panel has issued a binding decision, the state that lost on an issue of law has the right to appeal before the 'Appellate Body'.<sup>22</sup> No equivalent institution exists under either the WA or the TCA. In fact, it is arguable whether the TCA, a by-product of the British government's aspirations, gives more latitude in connection with unilateral retaliatory measures than prior trade agreements. It certainly does so to a greater extent than the WTO model, which relies on the ultimate judicialisation of international disputes.

As to the nature of jurisdiction, both the WA and the TCA represent a mix

between the 'political/diplomatic' model and the 'quasi-judicial' model,<sup>23</sup> i.e. disputes are preferably settled via interstate consultations between the parties involved, but they may also be resolved through the ad hoc intervention of third parties, such as an arbitral tribunal. It remains to be seen how the system under the WA and the TCA will operate in the future and whether the future relationship between the UK and the EU will suffer diplomatic and economic tensions.

In any case, it is important to take into consideration that formal enforcement mechanisms deriving from international trade agreements, such as those set out in the WTO rules, the WA and the TCA, also rely on informal incentives for compliance. Specifically, one party's breach of obligations could potentially result in a unilateral direct retaliatory response by the other party, or might

<sup>23</sup> Claude Chase, Alan Yanovich, Jo-Ann Crawford and Pamela Ugaz, 'Mapping of Dispute Settlement Mechanisms in Regional Trade Agreements—Innovative or Variations on a Theme?' in R. Acharya (ed), *Regional Trade Agreements and the Multilateral Trading System* (Cambridge University Press 2016) 608-702.

result in diminished opportunities for the breaching party to secure cooperation in the future.<sup>24</sup> Although the risk of disputes exists, ultimately the expectation is that close, strategic partners such as the UK and the EU will cooperate amicably and, whenever possible, reach mutually agreed solutions, in line with the objectives of the TCA.<sup>25</sup>

### Absence of Specific Dispute-Settlement Mechanism for Investments in the TCA and Limitations on the Scope of the Protection of Investors

Notably, trade tensions and new barriers as a result of Brexit will not be the only difficulties that economic operators will face. Special attention must also be paid to the situation in which foreign investors are left after the TCA. Indeed, the regulation of investments set out in the TCA is more restrictive than in other international agreements, including bilateral investment treaties ('BITs'). It is important to take into consideration that the TCA does not contain a specific framework regulating investments but rather a number of provisions regarding investments under Title II: 'Services and Investment', in which the EU and the UK affirm their commitment to establish a favourable climate for the development of trade and investment

<sup>24</sup> Alan O. Sykes, 'The Dispute Settlement Mechanism: Ensuring Compliance?' in Amrita Narlikar, Martin Daunton and Robert M. Stern (eds), *The Oxford Handbook on The World Trade Organization* (Oxford University Press 2012).

<sup>25</sup> TCA, Art 734.

between them.<sup>26</sup> The main regulation of investments is set out in Chapter 2 of Title II: 'Investment liberalisation'.<sup>27</sup>

The TCA establishes some general principles that will apply to investments, i.e. (i) market access<sup>28</sup>, (ii) national treatment<sup>29</sup> and (iii) most-favoured-nation treatment.<sup>30</sup> Even with these principles, the protection that the TCA affords investors is significantly weaker than under other international agreements.<sup>31</sup> This is due to the fact that the TCA imposes restrictions and limitations that must be taken into account when analysing its implications.

<sup>26</sup> TCA, Art 123.

<sup>27</sup> 'Questions & Answers: EU-UK Trade and Cooperation Agreement' <[https://ec.europa.eu/commission/presscorner/detail/en/qanda\\_20\\_2532](https://ec.europa.eu/commission/presscorner/detail/en/qanda_20_2532)> accessed 22 March 2021.

<sup>28</sup> Article 128 of the TCA establishes that 'a Party shall not adopt or maintain, with regard to establishment of an enterprise by an investor of the other Party or by a covered enterprise, or operation of a covered enterprise, either on the basis of its entire territory or on the basis of a territorial sub-division, measures that impose limitations on several issues or restrict or require specific types of legal entity or joint venture through which an investor of the other Party may perform an economic activity.'

<sup>29</sup> Article 129 of the TCA states that 'each Party shall accord to investors of the other Party and to covered enterprises treatment no less favourable than that it accords, in like situations, to its own investors and to their enterprises, with respect to their establishment and operation in its territory.'

<sup>30</sup> Article 130 of the TCA states that 'each Party shall accord to investors of the other Party and to covered enterprises treatment no less favourable than that it accords, in like situations, to investors of a third country and to their enterprises', with respect to (i) establishment in its territory and (ii) operation in its territory. However, this 'treatment' does not include investor-to-state dispute settlement procedures provided for in other international agreements.

<sup>31</sup> José Carlos Fernández Rozas, 'La (des)protección de inversiones en el Acuerdo de Comercio y Cooperación entre la Unión Europea y el Reino Unido (TCA)' (2021) 5 LA LEY Mediación y Arbitraje 148.

[Home](#)

[Editorial](#)

[Insight](#)

[Draco Dormiens Nunquam Titillandus: The Uncertain Dynamics of Dispute Settlement and Investment Protection in the Post-Brexit Era](#)

[Global Briefing](#)

[The Conflict Between Environmental and Sustainable Development Rights and Indigenous Communities' Rights to Prior Consultation in Wind Energy Generation Projects in Colombia](#)

[A Brief Overview of Expert Determinations and a Glimpse at this Alternative Dispute Resolution Mechanism in Chile and Portugal](#)

[Intra-European Union Investment Protection: What Now?](#)

[Insolvency and Arbitration Agreements in Spain: Following on from Decision 266/2019 of 30 September 2019](#)

[In Focus](#)

[Investment Funds and International Investment Arbitration](#)

[Is the Door to Investment Arbitration Closed for Dual National Investors who Submit a Claim Against their Home State?](#)

[An Arbitrator's Independence under Scrutiny: the EDF Test as the Standard for Annulment under the ICSID Convention](#)

[Investment Arbitration: Contact Lawyers](#)

<sup>22</sup> WTO Agreement, Art 17, Annex 2.



First of all, the TCA excludes several areas of investment from its scope, such as air services, national maritime cabotage, and subsidies or grants.<sup>32</sup>

Secondly, the TCA includes a more restrictive definition<sup>33</sup> of investor than those typically found in BITs, since the TCA requires that the investor not only perform investment activities in the other state, but also that it have a strong link with the state of origin. Furthermore, the

<sup>32</sup> In particular, Article 123(5) to (7) of the TCA state that Title II will not apply to (i) several services such as air services, audio-visual services, national maritime cabotage; (ii) measures of a Party with respect to public procurement of a good or service purchased for governmental purposes; and (iii) subsidies or grants including government-supported loans, guarantees and insurance.

<sup>33</sup> Article 124 of the TCA states that 'investor of a Party' means a natural or legal person of a Party that seeks to establish, is establishing or has established an 'enterprise' (as described in Article 124 (h)) in the territory of the other Party. Furthermore, Article 124 of the TCA, letter (k) (i) (A), establishes that this investor, when a legal person, must have business operations that constitute an 'effective and continuous link' with the economy of a Member State or the UK.

TCA<sup>34</sup> allows a party to deny the benefits of Title II of Chapter 2 to an investor of the other party if the denying party adopts or maintains measures related to the maintenance of international peace and security, including the protection of human rights.

Thirdly, the TCA lacks, as a general rule, direct effect,<sup>35</sup> and therefore can only be applied state-to-state.<sup>36</sup> As such, investors (whether natural or legal persons) cannot invoke the provisions of the TCA before the courts of any Member State or of the UK. As a consequence, only the Parties to the TCA (i.e. the UK

<sup>34</sup> TCA, Art 125.

<sup>35</sup> Direct effect is nevertheless recognised with regard to the protection of individual rights (Article SSC.67 of the Protocol on Social Security Coordination).

<sup>36</sup> Article 5 of the TCA establishes that nothing in the TCA shall be construed as conferring rights or imposing obligations on persons other than those created between the Parties under public international law, nor as permitting the TCA to be directly invoked in the domestic legal systems of the Parties.

and the EU) can request the application of those provisions in the arbitration proceedings described in the TCA.

Finally, and most importantly, the TCA does not establish a dispute-settlement mechanism between investors and states to enforce the obligations assumed under the TCA.<sup>37</sup> Moreover, as indicated, the TCA lacks direct effect, and therefore investors can only request that the parties (i.e. the UK or the EU) invoke the provisions regarding investments in the arbitration proceedings described in the TCA, since they are not allowed to directly participate in those proceedings.

To date, there is only one international, multilateral agreement that contains investment-protection provisions, i.e. the Energy Charter Treaty, which was signed by the EU and Member States (including the UK) and, therefore, its provisions may be invoked by investors to protect their rights.<sup>38</sup>

## Conclusions

The WA and the TCA are heavily intertwined, to the point that non-compliance with either of them can

<sup>37</sup> Article 130 of the TCA on most-favoured-nation treatment cannot be asserted by investors to invoke dispute-settlement procedures established in other international agreements.

<sup>38</sup> It includes provisions for resolving disputes between investors and states. If an investor dispute cannot be settled amicably within three months, investors may choose to submit the dispute for resolution to (i) courts or administrative tribunals; (ii) any previously agreed dispute-settlement procedure; or (iii) international arbitration or conciliation.

lead to cross-retaliation under both agreements. The WA and the TCA establish complex dispute-settlement procedures that rely on similar governance frameworks, enabling the use of arbitration. These procedures are inspired by the WTO rules, despite specific (and sometimes significant) differences between them. Thus, the extent to which these two agreements break new ground in the field of international dispute settlement and trade law is debatable. Be that as it may, one can only hope that amicable cooperation will govern the future economic relationships between the EU and the UK.

Finally, as regards the protection of investors, the fact that the TCA lacks a dispute-resolution mechanism between investors and states poses more questions than answers.<sup>39</sup> The UK currently has BITs with 11 individual Member States. It is unclear whether the UK will negotiate new BITs with other Member States, whether the UK and EU will negotiate a new overall agreement, or whether the UK will conduct these negotiations with each individual Member State.<sup>40</sup>

<sup>39</sup> Following the *Achmea* ruling (C-248/16), the BITs between Member States were declared incompatible with EU law. The Member States subsequently entered into an agreement on 5 May 2020 to terminate the BITs between them.

<sup>40</sup> José Carlos Fernández Rozas, 'Acuerdo para la terminación de los tratados bilaterales de inversión entre los Estados miembros de la Unión Europea' (2020) *El blog de José Carlos Fernández Rozas* <<https://fernandezrozas.com/2020/05/31/acuerdo-para-la-terminacion-de-los-tratados-bilaterales-de-inversion-entre-los-estados-miembros-de-la-union-europea/>> accessed 22 March 2021.

[Home](#)

[Editorial](#)

[Insight](#)

[Draco Dormiens Nunquam Titillandus: The Uncertain Dynamics of Dispute Settlement and Investment Protection in the Post-Brexit Era](#)

[Global Briefing](#)

[The Conflict Between Environmental and Sustainable Development Rights and Indigenous Communities' Rights to Prior Consultation in Wind Energy Generation Projects in Colombia](#)

[A Brief Overview of Expert Determinations and a Glimpse at this Alternative Dispute Resolution Mechanism in Chile and Portugal](#)

[Intra-European Union Investment Protection: What Now?](#)

[Insolvency and Arbitration Agreements in Spain: Following on from Decision 266/2019 of 30 September 2019](#)

[In Focus](#)

[Investment Funds and International Investment Arbitration](#)

[Is the Door to Investment Arbitration Closed for Dual National Investors who Submit a Claim Against their Home State?](#)

[An Arbitrator's Independence under Scrutiny: the EDF Test as the Standard for Annulment under the ICSID Convention](#)

[Investment Arbitration: Contact Lawyers](#)