

# Corruption Investigations by Governmental Authorities and Investment Arbitration: An Uneasy Relationship

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This article explores the relationship between investment arbitration proceedings and regulatory authorities in the context of allegations of corruption relating to the underlying investment. In addition to discussion of key cases such as *World Duty Free Company Limited v Republic of Kenya* and *Siemens AG v Argentine Republic*, this article also incorporates discussion and analysis of other published awards and procedural orders in which tribunals have addressed allegations of corruption relating to the underlying investment, and where in many cases there has been a concurrent investigation by the host State or other regulatory authorities into that alleged corruption. Further, this article explores the challenges which can arise for a tribunal, including situations where the tribunal may have access to more information than regulators, where a tribunal may be called upon to scrutinize the actions or inactions of a host State regulator and where a regulatory finding contradicts a finding of a tribunal. This article also explores core conceptual issues such as the evidential burden of proof in relation to a corruption allegation, whether an allegation of corruption relating to an investment is a jurisdictional or substantive issue and the extent to which arbitrators have a duty to uphold anti-corruption norms.

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