

## How Informed is Sovereign Consent to Investor-State Arbitration?

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Argentina's recent history of international investment disputes highlights the role of sovereign consent in investor-State dispute resolution. Argentina has been a frequent party to both litigation in the United States and international investment arbitration based on its consent to dispute-resolution provisions in bond agreements and bilateral investment treaties (BITs). Argentina's consent to these methods of dispute resolution is often invoked in response to complaints about the treatment of Argentina in both fora. In other words, the fact that Argentina freely consented to these fora and the applicable law selected in the contracts and treaties is a strong argument for the legitimacy of the processes and resulting awards and judgments.

This article addresses the distinctions between sovereign consent to litigation in national courts and sovereign consent to BITs, especially early or first-generation BITs like those at issue in the arbitrations against Argentina. While consent may be a strong argument for the legitimacy of the U.S. judgments against Argentina, consent has less force in the context of BIT arbitration because sovereigns like Argentina had much less information about the procedural and substantive realities of BIT arbitration before they entered into the treaties.

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