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# Specific Investments, Opportunism and Corporate Contracts: A Theory of Tag-along and Drag-along Clauses

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## Abstract

*This paper is designed to analyse the effectiveness of tag-along and drag-along arrangements. These are of widespread use in corporate reality, in particular among private companies. And yet, despite their recurrence in normal practice, they have not to date attracted the interest of the legal literature. The paper intends to confirm the validity of three essential intuitions about these arrangements that redefine the ordinary understanding of them. The first is that they* constitute 'anti-opportunism' mechanisms *inasmuch as they are arrangements in principle designed to respond to* ex post conflicts of interest between liquidity and stability. *They are, then, contractual tools that aim to protect one shareholder from opportunistic behaviour on the part of another in companies where both have made* heavy specific investments. *These clauses are particularly pertinent in settings such as joint ventures or venture capital companies, which tend to involve such investments. The second intuition is that these arrangements constitute* self-defence tools that are, additionally, relatively

self-enforceable. *Specifically, self-defence adopts the form of a put option in tag-along arrangements or a call option in drag-along arrangements, to the benefit of shareholders exposed to expropriation risk. These tools are relatively self-enforceable because their implementation entails no third-party involvement. The third intuition is that their typical location is that of shareholders' agreements and not bylaws, since they define* inter-shareholder relations (involving all or some of them) rather than corporate structure or machinery.

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