

Book Review – FRANCISCO GONZÁLEZ DE COSSÍO, *Arbitraje*, México: Editorial Porrúa, 2004

Modernization of Mexican arbitration law began in 1971 when Mexico acceded to the New York Convention and was subsequently launched when in 1989 the Commercial Code was amended to include a Title IV on “The Arbitral Procedure.” The UNCITRAL Model Law, which directly inspired Mexican arbitration law, is presented in “Arbitraje” as the source and starting point of the major Mexican initiatives.

The book is comprised of ten chapters in 596 pages virtually reviewing every aspect of arbitration, from its fundamental role as an alternative to national courts in the resolution complex international business disputes, to investor-State arbitrations conducted pursuant to international investment agreements. The author relies on a broad range of international materials, including conventions and scholarly writings. Written in Spanish by a leading Mexican arbitration practitioner, the author adopts a truly international and comparative approach to arbitration.

The introduction gives the reader a general overview of arbitration and a description of the main international conventions. The first two chapters provide a thorough analysis on the nature of arbitration and its relationship with other alternative methods of dispute resolution. The author stresses the fundamental importance of ADR, including mediation, as many disputes can ultimately be settled without the need of recourse to expensive litigation or arbitration proceedings.

Party autonomy is the fundamental pillar of arbitration and is analysed with success and in great detail. Chapter III is devoted to the arbitration agreement, covering diverse issues and providing a practical approach to validity, recognition and enforcement of arbitration agreements, interpretative mechanisms, multi-tiered dispute resolution clauses and multi-party arbitration. The appendix of this chapter –providing the text for model dispute resolution clauses– makes the book a valuable resource for practitioners.

Chapter IV refers to the constitution of the Arbitral Tribunal and the qualities of arbitrators, making a brief but thorough description of the arbitrator and his relationship with the parties, the number and appointment of arbitrators, impartiality and independence, challenge and remuneration of arbitrators. In general, the book provides a useful guideline for arbitrators – both from an international and comparative perspective – on how to accomplish the tasks the parties have entrusted them: to render a valid award with the force of *res judicata*.

The book takes the reader through the various steps of the arbitration proceedings in chapter V, including every procedural and substantive issue that may arise during the arbitration. Of particular interest is the analysis on topics which continue to be a crucial in today's practice of arbitration, including *inter alia*, confidentiality, the role of Secretaries of Arbitral Tribunals, the standard for requiring security for costs, and state measures that interfere with arbitrations. Interim or precautionary measures are of fundamental importance and their acceptance reveals the role of national courts in arbitration. These are dealt with from a Mexican, comparative and international approach, illustrating the author's expertise and ability on the matter.

Chapters VI and VII describe the fundamental aspects of the award and its enforcement. Reference is made to Mexican law but also to the New York Convention. The author provides a complete analysis of the procedural aspects of enforcing or seeking the annulment of an award in Mexico.

In addition to contract-based arbitration, the international community is witnessing an increasing number of investor-State arbitrations, initiated pursuant to international investment agreements including, bilateral investment treaties, the NAFTA and the Energy Charter Treaty. These treaties set out guaranties and protection provisions for investors, allowing them to initiate arbitration proceedings against the offending State. These arbitrations usually take place before the World Bank's International Centre for the Settlement of Investment Disputes, in accordance with the Convention on the Settlement of Investment Disputes between States and Nationals of Other States. *Ad hoc* arbitrations in this context have been less important, but there have been remarkable developments in the context of proceedings conducted under the UNCITRAL arbitration rules. Investor-to-State arbitration is dealt with in great detail under Chapter VIII, from a practical but also legislative approach. The author provides a thorough analysis of the most important substantive and procedural aspects of these types of proceedings.

Other public international law areas in which arbitration has played a key role have been in the context of claims commissions, including the Iran-U.S. Claims Tribunal or the Holocaust Victims' Assets Commission. More recent and of fundamental importance in a globalized economy are the GATT/WTO arbitration procedures. This final chapter IX is devoted to arbitration in these other areas.

The author adopts a transnational approach to arbitration focusing both on major international conventions and on Mexican and comparative law. The book is an excellent publication which constitutes an in-depth approach to all aspects of arbitration, of great help for practitioners. In addition, the language, the structure and detailed references will make of "Arbitraje" an important scholars' choice.

Bernardo M. Cremades