

Revista de Arbitraje Comercial y de Inversiones, 2014 (3)

The last issue of *Arbitraje. Revista de Arbitraje Comercial y de Inversiones*, 2014 (3), has just been released. Although contributions are in Spanish, most provide for an abstract in English; I reproduce them below. The Journal also offers a section on recently published texts concerning arbitration, case law (Spanish and foreign), as well as news of interest for the arbitration world.

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Miguel VIRGÓS, *La eficacia de la protección internacional de las inversiones extranjeras* (*The Effectiveness of International Protection of Foreign investments*)

Foreign investments are subject to certain risks arising from host countries that exercise sovereign rights, and typically the risk of opportunistic behavior. In this article expropriation is taken as an example and two different investor protection scenarios are compared: a world without investment protection treaties, and a world with investment protection treaties. To this end, it compares the situation of Spanish nationals' whose property was expropriated during the Cuban revolution, and the more recent expropriation suffered by a Spanish oil company in Argentina. It also reviews the enforcement mechanisms in public international law and its application to foster compliance in this sector.

Bernardo CREMADES ROMÁN, *Nuevas perspectivas de la protección de inversiones en América Latina: Análisis de la situación en Bolivia* (*New Perspectives of Investment Protection in Latin America: Analysis of the Situation in Bolivia*)

This article will review the expropriations executed by the Government of Evo Morales in the Plurinational State of Bolivia. The article will subsequently explore the Bolivian economic indicators and the impact of the expropriations on such indicators. Finally, the author will analyze the new legal framework of foreign investment in Bolivia and the possibility of resorting to arbitration. In particular, the author will analyze and provide a brief commentary on Law No. 516, of 4 April

2014, on the Promotion of Investment and on the Draft Bill on Conciliation and Arbitration.

Unai BELINTXON MARTIN, Jurisdicción / arbitraje en el transporte de mercancías por carretera: ¿comunitarización frente a internacionalización? (Jurisdiction / Arbitration in the transport of goods by road: communitarization against internationalization?)

The aim of this research is to analyze and evaluate the regulations development in the international carriage of goods by road sector, as well as its ascription in the Private International Law area. The analysis will identify the role of the autonomy orders in the competent jurisdiction as well as in the arbitration, and it will be analyzed the interaction between normative blocks and the derivative malfunctions of a complex assembly between the conventional sources (particularly CMR) and the derivative of the Europe institutions normative. From the operators sector's point of view, it will tackle that when the aim of the legal security is achieving or on the contrary the absence of the compatibility of the rules between those deserve rules finishes producing doubts that harm all the interests of the present cast

Hernando DÍAZ CANDIA , Viabilidad y operatividad práctica contemporánea del arbitraje tributario en Venezuela (The practical feasibility of tax arbitration in Venezuela)

The article refers to arbitration of tax disputes in Venezuela. While it is focused on domestic Venezuelan law, it is useful as a source of comparative tax and arbitration laws to study the differences and similarities of various legal systems. The article explains that the arbitrability of tax disputes is provided in the Venezuelan Tax Code at least since 2001, but that there have been no actual tax arbitrations reported in Venezuela, except in investment arbitrations. The lack of actual cases may be due to complicated legal provisions, which, if taken isolated and literally, could imply that tax arbitration is just a burdensome step within judicial tax matters, which makes the resolution of disputes lengthier and more expensive for the taxpayer. The article proposes that tax arbitration must be approached as arbitration is generally conceived by the Venezuelan Constitution of 1999: as a truly alternative and efficient dispute resolution mechanism. That implies that the Tax Code must be construed to permit the annulment of tax assessment by arbitrators and that the intervention of judicial courts must be

limited. Tax arbitration can further the perception of fairness of the tax system, which can ultimately reduce tax evasion

Horacio ANDALUZ VEGACENTENO, Retando el concepto de validez?. La naturaleza jurídica del reconocimiento de laudos anulados (Challenging the Concept of Validity? The Legal Nature of the Recognition of Annulled Awards)

The recognition in 2013 in the United States of a Mexican arbitral award annulled by Mexican courts seems to bring the implicit affirmation that it is legally possible to grant recognition to an annulled award. Such affirmation itself challenges the concept of legal validity, since it means that what have been declared void can, at the same time, be valid as to produce legal effects. The point of this article is to find the legal nature behind the so called recognition of annulled awards. In order to do so, the article reviews nine judicial decisions, from 1984 to 2013, and concludes that behind the recognition of annulled awards there are three different hypotheses, each one with a distinctive legal nature and none of them being a challenge to the concept of legal validity.

Brian HADERSPOCK, Revisión de laudos arbitrales en Bolivia: una propuesta plausible (Review of arbitration awards in Bolivia: a plausible proposal)

The contribution focuses on the question whether or not an extraordinary review of judgments in respect of arbitral awards would be positive in the Bolivian legal system. Through this note, the author tries to discuss the feasibility of this extraordinary appeal in Bolivia's arbitration process. To do this, the author presents certain criteria that, in his opinion, are positive, therefore concluding, that considering implementing this resource in the Bolivian arbitration legislation would be a feasible decision. In this sense, the author proposes changes to the current arbitration legislation, allowing the value of justice prevail over any judicial or extrajudicial decision

Seguimundo NAVARRO, Cuestiones relativas al third party funding en arbitraje

Francisco RUIZ RISUEÑO, Árbitros e instituciones arbitrales: la ética como exigencia irrenunciable de la actuación arbitral