

PERUVIAN ARBITRATION – A BENCHMARK - INSTITUTO PERUANO DE ARBITRAJE

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Peru has a well-established body of domestic arbitration institutions and is increasingly seen as a preferred seat for regional disputes, says Carlos Soto, Head of International Arbitration at Peru's Muñiz, Ramírez, Pérez-Taíman & Olaya Abogados. Soto is also President of the Peruvian Institute of Arbitration.

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Cuando se mira a la gestión de conflictos en Latinoamérica, Perú ofrece no sólo instituciones arbitrales arraigadas sino una reputación que poco a poco se asienta entre los lugares preferenciales para arbitrajes, dice Carlos Soto, Instituto Peruano de Arbitraje.

Peru has one of the world's most modern arbitration laws, updated in 2008, built on over two decades prior experience," he says. "The system reflects the best of the UNCITRAL model while

drawing on international best practice to create a one-tier system applicable to cross-border disputes."

The 2008 Act follows developments not only in legal practice but also cross-border trade and investment, with the merits of this practical approach recognised by Peru's judiciary. "The Constitutional Court ruled that the only way to challenge the validity of an arbitral award is annulment under the Act," explains Soto. "There is a clear recognition that arbitration offers a complementary approach to justice through the national courts."

Peru is a signatory to the New York, Panama and Montevideo Conventions, which ensures recognition and enforcement principles, and the Act also states that the Commercial Court is prohibited to hinder enforcement of an award, he explains. "Arbitration is in such good health that it has become the preferred dispute mechanism for entrepreneurs, investors and even the Peruvian state itself," he adds, "for whom it is mandatory for all disputes arising out of supply contracts."

But there is also an acceptance at Government level of the importance of the process for investment disputes under the ICSID rules, says Soto. And it is now the preferred mechanism for disputes arising out of Peru's Free Trade Agreements. "These recognise the importance of a rapid resolution method, and it is this desire for legal and commercial certainty that is helping Peruvian arbitration expertise to flourish."