

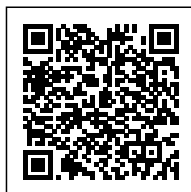
# THE COMMERCIAL IMPERATIVES OF ARBITRATION - GARRIGUES

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**Arbitration is not the preserve of multinational corporations, emphasises Garrigues' managing partner José María Alonso, it can benefit commercial organisations of any size.**

A fin de que el arbitraje se desarrolle como una verdadera alternativa de resolución de conflictos, éste debe ser acogido por las empresas, tanto en operaciones nacionales como internacionales, dice José María Alonso, socio director de Garrigues y presidente del Club Español de Arbitraje. Many of the key strengths of arbitration are clearly also those that may make some afraid of the process, says José María Alonso, managing partner of Garrigues, and President of the Club Español de Arbitraje. "It is perceived by some as a 'one-shot' process – there is no ability to appeal before the courts if you don't like the decision, and there are very limited grounds to annul an award."

But he emphasises however that for commercial organisations, domestic or international, arbitration

offers a very practical means of resolving disputes. A key issue that remains unsolved however is ensuring that legal advisers are able to communicate the very real benefits to company executives.

"Our focus must be towards general counsel, who not only manage legal affairs and write the contracts, but who ultimately advise a company's management on the best course of action in any dispute. It is vital that we demonstrate to them that arbitration is a commercially astute option."

Among the main benefits, he stresses, are the manner in which arbitration is conducted, its relative speed, confidentiality, and the parties' ability to ensure the technical expertise of those involved.

"Arbitration is a much less aggressive forum than litigation, and as such is conducive to enabling organisations – albeit those in disagreement – to maintain their existing commercial arrangements rather than to merely apportion culpability," he explains.

It may also be much faster than litigation, requiring less management time and thus expense.

"Additionally it is confidential. While an organisation's senior management and lawyers may be aware of a dispute, the rest of the organisation can continue to operate as normal."

Finally, he highlights the very specialised expertise that can be brought to a dispute. "The ability of parties to appoint their own judge, to ensure that this person has the requisite technical knowledge, is clearly not something that can be experienced in the commercial courts."

The only thing that company general counsel and management have to fear about arbitration, concludes Alonso, is the fear itself.