



Jurisdiction that made great progress improving its arbitration regime in 2013

Brazil

“It’s made huge strides,” explained one commentator when asked why he had voted for Brazil in this category. “Foreign companies are now very comfortable arbitrating there.”

The South American state was selected as the winner by *GAR*’s 50-strong editorial board, comprising senior arbitrators and counsel from around the world. Other nominees were Austria, Belgium, Mauritius, Myanmar, Peru and the US. *GAR* asked the board to consider not only concrete developments in these countries in 2013, but also how perceptions of them had improved. Brazil’s most tangible development of the past year was the revision of its 1996 arbitration law, which has been in force in the country since the Supreme Court confirmed its constitutionality in 2002. Among other breaks with the past, the revised law allows Brazilian government bodies to arbitrate disputes provided they respect laws on transparency

in public affairs. It is currently awaiting confirmation by the executive.

The updating of the law gives further clout to a jurisdiction that is routinely praised for its recognition and enforcement of foreign arbitral awards. Dutch arbitrator Albert Jan van den Berg has called it a “model” for other jurisdictions to follow with its “one-shot”, transparent procedure and judges who specialise in arbitration. Not bad for a country that only acceded to the New York Convention in 2002.

Brazil is now regularly selected as a seat for cases administered by the ICC and ICDR, in part because of the significant bargaining power of Brazilian companies, described by one *GAR* commentator as “often the 800-pound gorilla in the room”.

Local arbitral centres are also hearing more foreign-related disputes, often concerning local subsidiaries of multinational companies.

The other nominees

Austria
Belgium
Mauritius
Myanmar
Peru
US (especially New York)

Visitors to Brazil, meanwhile, attest to the vibrancy of the international arbitration community – which has led to successful *GAR* Live events in both São Paulo and Rio de Janeiro.

As there were no Brazilians at the awards ceremony, *GAR* has couriered the trophy to the headquarters of the Brazilian Arbitration Committee (CBAr) in São Paulo.

Adriana Braghetta, immediate past president of CBAr, tells *GAR* that Brazil’s progress is partly a result of “a constant dialogue among lawyers, arbitrators, scholars, users and judges. The participation of the judges in this process is paramount.”