

met een verzetsprocedure tegen de uitvoering en over de mogelijkheid tot uitsluiting van de vordering tot vernietiging door de partijen.

Als zevende en tevens laatste onderwerp kiest Johan Erauw (gewoon hoogleraar UGent, advocaat) ervoor om met de lezer enkele beschouwingen te delen inzake de gevolgen van het internationaal karakter van een geschil op vragen rond de bevoegdheid van de arbiters en de rechters, het recht van toepassing op de arbitrale procedures en de grensoverschrijdende werking van uitspraken. De uitgebreide kennis van de auteur inzake het internationaal privaatrecht maakt dat de interessantste bemerkingen bij uitstek te vinden zijn in de thema's die daarmee raakvlakken vertonen.

Als besluit geldt dat dit boek de aangesneden onderwerpen grondig uitwerkt en de (ratio achter de) wijzigingen helder bespreekt. Het doet meer dan de lezer informeren, het slaagt er moeiteloos in hem te interesseren.

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J. JENKINS, *International Construction Arbitration Law*, 2nd ed., Arbitration in Context Series, Alphen aan den Rijn, Kluwer Law International, 2014, 414 p.

Arbitration has long been the preferred means to resolve international construction disputes. The large majority of construction model contracts (such as the FIDIC's standard forms of contract) contains arbitration clauses. Construction disputes represent a significant proportion of the cases that are submitted each year to international arbitration, as shown by the statistics of the International Chamber of Commerce or other arbitral institutions. Construction contracts are, indeed, particularly prone to the emergence of disputes.

Furthermore, the construction industry has often been in the forefront of the development of other alternative dispute resolution ("ADR") mechanisms. For instance, Dispute Review Boards and Dispute Adjudication Boards were first put in place for construction projects.

Moreover, construction disputes present several specificities: these disputes are technically complex and are often multi-party. Firstly, these types of disputes are

hardly exclusively contractual. Complex technical issues are either at the core of the dispute or underlie the contractual matters. The resolution of construction disputes therefore requires intensive factual and technical investigations. Parties (or ADR providers) will usually need to have recourse to one or several technical experts to support their case or resolve the dispute. Secondly, the execution of construction contracts always involves many parties. An average construction contract involves at least an owner, contractors and subcontractors, suppliers, insurers and financing institutions. Each party has a direct contractual relationship with one or a few of the other intervening parties. The chains of contracts linked to construction projects mean that disputes are regularly multi-party.

The publication of the second edition of J. Jenkins's book on "*International Construction Arbitration Law*" is therefore more than welcome. This book looks in detail at all aspects of arbitration proceedings and alternative dispute resolution in construction disputes.

As there is usually no construction dispute without construction contract, J. Jenkins begins (Chapter 2, pp. 13-48), with an explanation of the key features of international construction contracts (such as the role of the "certificates", the participation of multiple parties to the project, the meaning of the "completion" and the role of the programme, the specific liability issues and periods, the project security or the financing of the project); this is done with a view to setting the scene and indentifying the issues which commonly give rise to construction disputes. This chapter focuses then on the key players that construction contracts usually involve and key provisions that the latter usually contain. The most commonly encountered forms of construction contracts ("Design-Bid-Build" (or "Build Only"), "Design and Build" (or "Turnkey"), "Construction Management", "Management Contracting" and other forms of "Alliancing" and "Partnering") are also briefly described. Finally, the author explains the role of ancillary documents (such as bonds and guarantees) which are often an important part of the background facts or motivation for a dispute (see pp. 42-48).

The core of the book is devoted to arbitration (chapters 7 to 13). The author examines all steps of such arbitration proceedings, highlighting the specificities of construction disputes, from the commencement of proceedings to the effect of the award, potential grounds for challenges and enforcement of the award. In Chapter 7 ("Commencement of the arbitration"), the author looks at the selection of the arbitral tribunal. Considering the specificities of construction disputes, the need for joinder of related disputes is discussed there, together with consolidation (pp. 146-150). In Chapter 8 ("Control of the Arbitration"), the author considers the importance of effective case management in construction arbitration, addressing

the powers of the arbitral tribunal to control the proceedings. Chapters 9 and 10 focus on the preparation and the collection of evidence: as mentioned above, the resolution of construction disputes requires intensive factual and technical investigations, usually supported by extensive document production. Chapter 9 provides a general summary of the preparation and collection of evidence, looking at the value for the arbitral tribunal of a chronology (the methods for drafting such a chronology are explained on pp. 180-182), of document management (pp. 180-185) (a.o. the use of electronic resources), of the use of the so-called Scott Schedules (pp. 187-189) (which purpose is to set out all relevant particulars of a claim in tabular form). Are also discussed the evidence required for common construction claims (pp. 187-200), as well as the expert evidence (pp. 200-210) (tribunal or party-appointed experts). Chapter 10 then focuses on programme analysis (pp. 213-232). Indeed, one of the most common features of any construction project is that the project takes longer to be completed than anticipated. Then, this chapter identifies particular issues with regard to delay claims raised in the context of construction arbitration, such as the date for completion and the role of the programme (pp. 214-220), the critical path (pp. 220-225), the concurrent delay (pp. 227-230) or the ownership of flow (i.e. the periods in a programme where activity durations are in fact shorter than the time available to carry out the work without delaying the overall completion) (pp. 230-232). Chapter 9 also addresses some procedural issues, such as the preparation of evidence, cross-examination of witnesses, expert reports and the extent of document disclosure (pp. 233-252). Chapter 10 (pp. 253-272) concerns the conduct of the hearing, with a.o. some useful practical issues such as the schedule of the hearing, the logistics of the hearing. Chapter 13 closes the presentation of the arbitration proceedings with an analysis of the effect of the award, the potential grounds for challenge and the enforcement of the award (pp. 273-304).

Besides arbitration, the book also considers the full range of other dispute resolution methods (presented in general in chapter 3, pp. 49-84), with a focus on mediation and conciliation (chapter 6, pp. 119-136) as well as on determination by Dispute Review Boards or expert panels (chapter 5, pp. 99-118): as the author explains (p. 5), such dispute boards are now commonly seen in standard form construction contracts as the first tier of binding dispute resolution techniques, being binding only on an interim basis unless and until revised by arbitration.

The specificities of Investor-State arbitration within the construction sector, which is becoming increasingly important, are also presented in chapter 14 (pp. 305-316).

These chapters are followed by a number of useful annexes. Among others, the author provides (annex 4), through a bullet list of questions, a set of important drafting considerations for dispute resolution clauses. A more detailed discussion of these considerations and related issues is contained in chapter 3. Very useful are also the flowcharts illustrating the different stages in construction disputes and arbitration: the guidance is provided for the FIDIC Silver Book disputes (annex 1), for the NEC Option W1 and W2 disputes (annex 2), as well as for the ICC (2012 Rules) arbitration disputes (annex 3). The book also provides an example outline for request for arbitration (under the LCIA Rules) (annex 6) as well as an example outline of terms of reference (under ICC Rules) (annex 7). These models are also suitable for most arbitration disputes monitored by other institutions.

In other words, as rightly explained by the author himself (p. 7), this book will be of particular value for lawyers embarking on a (international) construction dispute. It is also a easy-to-use resource at the time of the drafting of a construction contract, for both corporate counsels and lawyers who, while having many years of experience, haven't had to live through a construction dispute or to manage a construction contract during the life of a project.

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TUSHAR KUMAR BISWAS, *Introduction to Arbitration in India – The Role of the Judiciary*, Wolters Kluwer, 224 p.

The law of arbitration in India underwent a complete overhaul in 1996 when it was largely brought in line with the UNCITRAL Model law on Arbitration. Subsequently, the last two decades has seen a proliferation of decisions from the Supreme Court of India, seeking to resolve various controversies that have arisen under the Arbitration and Conciliation Act, 1996. Not surprisingly, most of these controversies have revolved around the scope of judicial interference in the arbitral process, reflecting the tension between denationalization and the necessity of judicial intervention. In his book, *Introduction to Arbitration in India – The Role of the Judiciary*, published by Wolters Kluwer, Mr. Tushar Kumar Biswas has attempted to chart out the circumstances in which the courts are called upon to intervene in the arbitral process under Indian law and the extent to which the courts will exercise their jurisdiction under the 1996 Act. As India follows the