

BRAZILIAN COMPANIES OBSERVE ARBITRATION

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Most of the enterprises condemned by international arbitral processes keep the decisions of the arbitration courts voluntary. There are a few cases that were taken to the Brazilian Highs Courts that, in general, enforced the arbitral award

The research that confirmed the respect to such foreign arbitral awards was made by the Brazilian Committee of Arbitration (Comitê Brasileiro de Arbitragem – Cbar) in association with the Getúlio Vargas Foundation (Fundação Getúlio Vargas - FGV) between 1999 and 2009.

The research provides that in a period of ten years only 28 enterprises submitted to foreign arbitration. - It is important to note that when one of the parties was a Brazilian company, Brazilian Courts sought to enforce the arbitration award in Brazil. The only time this happened was when one party did not want the arbitral sentence. The damaged party was then obligated to seek for judicial enforcement This means that the majority of Brazilian and other foreign enterprises that settled their conflicts through arbitration respect the arbitral award. Whenever this is not the case, the prejudiced company can take the arbitral award to be validated at STJ, the Brazilian Superior Court (Final Appeal for non Constitutional matters)

In Brazil, the STJ was authorized by the Federal Constitution to confirm or deny those decisions only in the procedural questions, and not on the merits.

The survey also shows which are most common activities in the requests for approval. Nine cases, for example, refer to decisions by the Board of Arbitration Liverpool Cotton Association, England.

From the points mentioned here, we conclude that Arbitration has adhered to the Brazilian legal system very well, demonstrating a more effective solution of conflicts between companies.