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# RIVISTA DELL'ARBITRATO

diretta da

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## **An important observatory for international arbitration in the Gulf Region**

The Bahrain Chamber of Dispute Resolution (BCDR) has launched in 2014 a new international arbitration journal, the *BCDR International Arbitration Review*. The Review will publish two yearly issues devoted to the law and practice of international arbitration in the Gulf States, in English and Arabic.

One may wonder if there was really the need of adding a new review to the already existing publications of various sources and content dealing with international arbitration in the Arab countries <sup>(1)</sup>.

Going through the content of the first issues the answer cannot but be in the affirmative for a number of reasons.

For a long time legal regulation and practical experience of international arbitration in the Arab countries have been of difficult access to the Western world despite the increase of commercial relations between these two geographical areas. Among the reasons was not only the language barrier but also the lack of a complete and steady source of information, including the national jurisprudence, due to the somewhat disorganized manner by which Arab courts' judgments were made available.

A first significant opening of Gulf States to international arbitration experience was occasioned by their adhesion to international conventions in the field, first of all the New York Convention of 1958 on the Recognition and Enforcement of Foreign Awards and the Washington Convention of 1965 on the Settlement of Investment Disputes between States and Nationals of other States <sup>(2)</sup>.

A further opening was due to the conclusion of bilateral investment treaties with Western States, such treaties providing for international arbitra-

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<sup>(1)</sup> A first contribution by way of information was offered by the *Journal of Arab Arbitration*, issued on a quarterly basis starting from February 2009, as to which see in this Rivista 4/2008, p. 617.

<sup>(2)</sup> The following Gulf States are party to these two Conventions: Bahrain (1996), Kuwait (1979), Oman (New York 1967; Washington 1995), Qatar (2011), Saudi Arabia (1980), United Arab Emirates (1982).

tion as a means of settling disputes between investors and host States in connection with the implementation of the treaties.

Still, the need continued to be felt of a reliable source of information regarding the law and practice of international arbitration in particular in the area of the Gulf States as to which Western investors' and commercial operators' attraction had been since long rather high.

The wide recognition gained for the quality of its content and the renown of those contributing reports and articles regarding individual States and specific subjects confirm that launching the Review was a wise initiative.

As noted by the General Editor, Nassib G. Ziadé, in the introduction to the first issue of 2014, the main objective of the Review was to increase awareness of alternative dispute resolution mechanisms and arbitration in the Arab world and to provide the outside world with a perspective on related developments occurring in the region, noting in particular that

“At a time when the Arab World is experiencing rapid changes as well as unprecedented uncertainty, doubts could reasonably be expressed as to the timeliness of launching another law publication. It is, however, precisely at this time that the prominence of law ought to be emphasized in the Arab world”.

Going through the first issues of the Review one is surprised by the richness of the sources of information and the level of detail by which national courts express the reasons for decisions regarding such important matters as the enforcement of foreign arbitral awards, or by the quality of contributions regarding more recently emerged topics such as transparency of investor-State arbitration, conflicts of law avoidance or third-party funding in international arbitration. But one is also favorably surprised to see how rules and principles prevailing since long in the Western world experience are applied by Gulf State. This is the case of the distinction between domestic and international arbitration, the latter enjoying greater flexibility in its regulation. This is also the case of “public order” as a bar to the enforcement of foreign awards where, however, depending on individual States, different may be the influence of the *Shari'a* law.

A factor of added complication is the existence of regional conventions in connection with the enforcement of arbitral awards, specifically the GCC (Gulf Cooperation Council) Convention and the Riyadh Arab Convention. The Western operator has now available also regarding this conventions far better information when deciding whether to enforce a favourable award in one of the Gulf States.

A convinced welcome has therefore to be given to the *BCDR International Arbitration Review* as a reliable source of continuous and comprehensive information regarding the law and practice of international arbitration in the Gulf States. [PIERO BERNARDINI]