

CUBA'S NEED TO PROVIDE LEGAL CERTAINTY - CCAIC

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Rodolfo Dávalos

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It is important to Cuba that there is international confidence in the country's legal system and that legal awards will be recognised, says Rodolfo Dávalos, President of Cuba's International Commercial Arbitration Court (CCAIC).

"Specifically, the use of arbitration in a foreign country offers investors a higher sense of legal comfort and many now utilise it as the favoured dispute resolution mechanism. Parties therefore come freely to the process, Cuba is a signatory to the New York convention and so the recognition and enforcement of arbitral awards here is equitable to a tribunal sentence."

The country is also a signatory to the Private International Law Code (Bustamente Code) by which parties can decide on the applicable law relevant to their dispute, and may also submit to the rules

of the International Commercial Court (ICC), he explains.

He is realistic though about the limits of arbitration in Cuba. "We are not aiming to become an international centre for Latin America but have seen substantial development in the field. We have over four decades of arbitration experience, including a new Arbitration Law in 2007, and so our hope is that at the least we offer a high quality service."

Davalos is the author of a book on joint ventures, which has provided a basis to facilitate investment agreements ('mixed companies') with Cuban entities.

The concept having recently been extended, with the expansion of mixed companies into new international markets. An example being the Chinese- Cuban hotel investment taking place in Shanghai, allowing Spanish hotel chain Melia to open its first hotel there.

If things go wrong, the aim of the CCAIC, he explains, is to offer companies with business interests in Cuba an alternative means of resolving disputes with experienced arbitrators, albeit who are currently chosen from the CCAIC's own list. Nonetheless, he emphasises that foreign arbitrators are welcome to join also although the operating language of the Court is in Spanish.

"The essence of arbitration is trust and specialised knowledge of the issue in dispute and we believe that the expansion of the list of arbitrators available can help to ensure this."