

Minutes
Atlanta International Arbitration Society, Inc.
Plenary Meeting
March 10, 2022 – Hybrid

A plenary meeting of the society took place on March 10, 2022, with President Brent Clinkscale calling the meeting to order at 11:00 AM. The meeting was hosted by Seyfarth Shaw and employed a hybrid format with some persons attending in person and some attending virtually. A list of persons attending is attached as Exhibit A.

Desk Book

Shelby Grubbs reminded the group of the on-line publication of the fifth edition of the AtlAS Desk Book, summarized its contents and pointed out the relevant link.

Upcoming Events

Mr. Clinkscale noted the following upcoming events:

- April 14, 2022 – Deborah Hylton, Independent Arbitrator; Adriana Uson, Singapore International Arbitration Centre, and Kabir Duggal; Arnold & Porter will discuss the Greener Arbitration Initiative. The meeting will be hosted by Womble Bond Dickinson.
- April 2022 – Annual AtlAS Lecture to take place on a date to be announced. The lecture will be hosted by Emory Law School.
- September 12 – 14 – GAR Live Atlanta and annual conference with detail to be forthcoming.

Interview – Cecilia Flores Rueda

The principal program took the form of an interview of Cecilia Flores Rueda of Flores Rueda Abogados in Mexico City by Rebecca Davis. Ms. Davis noted that Ms. Flores is a former Secretary General of the Arbitration Center of the National Chamber of Commerce of Mexico City. She is a recipient of the medal of merit from the Inter-American Commission on Commercial Arbitration in recognition of her contribution to commercial arbitration in Latin America. She has been recognized by, among others, Chambers and Who's Who as a superb arbitration practitioner, and she is a member of the ICC Commission on Arbitration and ADR.

Ms. Davis asked that Ms. Flores Rueda explain how she found her way into an international arbitration practice. Ms. Flores Rueda noted that she began as a tax lawyer but later found a job with a prominent international arbitrator. While working with that person, she helped establish the Mexico City Arbitration Center where she served as general secretary. In this position, she was able to read submissions and attend hearings. Six years later, she took a job in a large law firm in Mexico City where she worked on a large case involving an oil refinery. Now she has her own firm and acts as counsel about 30% of the time and arbitrator about 70% of the time. Most of her work is in Mexico, but she also works extensively in Panama, Colombia, and Peru.

Asked about her favorite cases, Ms. Flores Rueda noted that while she enjoyed all types of disputes, she particularly likes infrastructure cases. She said that her practice includes work under the ICC and ICDR rules and the rules of various other institutions, including Bogota, Medellin, Lima and Madrid.

Latin American institutions gaining prominence include Bogota, the Brazil Canada Chamber of Commerce, the International Centre for Conciliation and Arbitration in Costa Rica.

Ms. Davis asked whether there are specialized courts for arbitration in Mexico. The speaker advised that there are no special courts and no unusual requirements for enforcing arbitration agreements or awards in Mexico. She noted that Mexico has adopted the UNCITRAL Model Law. While adopted without modifications, in 2011 the law was amended to add provisions regarding procedures for enforcement of agreements and awards and for set aside applications. Otherwise, she said, the UNCITRAL law applies without modification including, for example, the UNCITRAL provisions for competence-competence.

Ms. Davis inquired regarding international conventions. Mexico has ratified the New York and Panama Conventions without reservations. It has also ratified the Montevideo Convention. She pointed out that most of the arbitration work in Mexico is under the NY Convention, however.

Ms. Flores Rueda noted that awards must be supported by reasoning unless the parties agree. However, under certain expedited rules, awards without reasoning are acceptable. Practitioners should note that there is a three-month limit on applications to set aside an award.

Her cases usually involve evidentiary hearings though recently, most of the hearings are virtual. She finds virtual hearings work well. She believes it is useful to delegate procedural decisions to the panel chair, and she likes to give the parties flexibility to agree on procedure but does not leave them to do as they like. Ms. Flores Rueda likes the IBA Rules but regards them as advisory and does not always follow them to the letter.

She noted that she felt Mexico is a good seat for international arbitration as is Peru, Brazil and Colombia. In the US, she thinks Florida, New York and Texas are attractive seats.

As for non-Mexican arbitrators and counsel working in Mexico, she advised that there are no restrictions on foreign arbitrators and that foreign practitioners can appear as counsel in arbitrations in Mexico. She noted that there are a few subjects, e.g., marital rights, which are not arbitrable under in Mexican law, there are no restrictions regarding the arbitration of business cases. She advised that Mexico being a civil law country courts are rarely called upon to assist in obtaining evidence and would not necessarily be sympathetic to applications for such assistance. Also, in Mexican arbitrations, confidentiality is not automatic. A separate confidentiality agreement is required.

Asked about tips for US practitioners in Mexico, Ms. Flores Rueda noted that she believes US lawyers are sometimes premature in their requests for documents leading to a failure to properly justify those requests. As for US practitioners appointed as arbitrators sitting in Mexico, she noted that some knowledge of civil law could be useful, but not a lot is required. It may also be useful to be aware of culture, but the approach is basically the same.

Adjournment

Mr. Clinkscale adjourned the meeting at 12:10 PM.

This 11th day of March 2022.

/s/ Shelby R. Grubbs, Secretary