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Professor Andrea K. Bjorkland interviews Claus Von Wobeser at the 30th Annual ITA Workshop and Meeting in Dallas.

Ananda Burra reports.

Claus Von Wobeser was precocious. As a law student in Mexico, he wrote a thesis analyzing Mexico's then-new investment law, passed by the Mexican Congress. The young Von Wobeser thought the law was unconstitutional as the Mexican Constitution did not grant the Congress the power to pass it. Understandably, his professor didn't think much of this young student's radical proposition. That was only until he read the thesis. Shortly thereafter, the thesis was sent to luminaries at the Congress. And then the Mexican Constitution was amended to fix the very problem the future founding partner of Von Wobeser y Sierra had discovered. Von Wobeser's oral history interview with Professor Andrea Bjorkland on June 21, 2018, the latest of a regular series the Institute for Transnational Arbitration has been organizing with prominent senior practitioners, was peppered with such anecdotes. They were delivered with a self-deprecating sense of humor, but they also gave a glimpse into what has truly been a remarkable life in arbitration.

Von Wobeser was born and raised in Mexico to parents of German extraction. In his telling, that German name almost put Von Wobeser's doctorate from the Sorbonne at peril. Not content with forcing a revision of the Mexican Constitution before he was out of law school, Von Wobeser wrote a doctoral thesis in his mid-20s that questioned the legality of French foreign exchange controls within the framework of the 1958 Rome Convention. The exacting and brilliant French scholar, Philippe Fouchard, sat on Von Wobeser's committee and apparently took umbrage at this young German's temerity to criticize French currency policy. Von Wobeser disabused him of this misconception: he was Mexican and had always been so. He completed his doctorate successfully. It just so happened that the European Court of Justice would go on to rule exactly as he had predicted, striking down French exchange laws. Von Wobeser was clearly ahead of the curve.

His path to arbitration was winding, however, as it was for many prominent arbitrators of his generation. He started life as a corporate lawyer, first at the Goodrich Law Firm in Mexico City—then the largest firm in the city—and later in the eponymous firm he founded with his law school classmate and friend. Disputes work came quickly, though. He was sent off to helm Goodrich's office in Paris in his mid-20s—he got his doctorate while running a full-time law practice—and was invited to lunch with the great Yves Derains. Shortly thereafter, Von Wobeser had been appointed to the ICC's arbitration court, the first Latin American so named. Unusually, his first appointment as counsel came years later in a commercial matter and he remains to this day one of the most sought after arbitrators in the business. He has now participated in dozens if not hundreds of matters.

Von Wobeser's footprint on international arbitration has been profound. Not only has he built up one of the premier practices of its kind in Mexico, training generations of lawyers in the process, Von Wobeser has played integral parts in some of investment arbitration's most important decisions. When asked to pick the one he feels has been most influential, Von Wobeser mentioned *Inceysa v. El Salvador*. That is an undoubtedly important decision: as he noted, *Inceysa* has now been cited or relied upon by over 20 arbitral decisions and its holding on the influence of fraud on an investment dispute is widely considered formative to a whole plethora of cases involving illegality or abuse of process in international arbitration. Professor Bjorkland noted that it has spawned its own literature—one of her student's is currently writing a thesis on it!

The luncheon interview gives senior arbitrators an opportunity to reflect on their careers and the development of the field, speaking generally about their experiences and beliefs about the role arbitrators play in international dispute settlement. For Von Wobeser, an arbitrator's first responsibility is not to draft decisions with a view to them becoming influential, or even to strive to develop the law; as an arbitrator, his first responsibility is resolving the dispute placed before him by the parties, and to do so with integrity. When asked whether he thought investment arbitration was facing a major crisis in these days of global upheaval, Von Wobeser demurred. Things need to change, he agreed, but that change will develop gradually. He faults recent efforts to upend the investor-State dispute settlement system as potentially throwing the baby out with the bathwater. The alternatives States now propose—an investment court, a return to diplomatic protection, or some other radical notion—are fundamentally flawed because they will not be able to deliver what parties wish from arbitration: a fair and effective resolution of their dispute by the best people in the business. Von Wobeser's career, ever since he discovered his calling in arbitration, has been dedicated to fulfilling that promise.

These interviews also give younger professionals in this field a chance to learn lessons from those who have shaped it. This one was no different. Von Wobeser has said there is "no recipe for success in legal practice; just a set of best practices to follow," the first and most important of which is to "work very very hard." Nobody could have accused Von Wobeser of doing anything else. In one of the most amusing exchanges of the interview, Von Wobeser recounted that his most challenging first assignment was seemingly mundane: to obtain a permit for his company's vice-president to hunt bighorn sheep in Baja California. His colleagues certainly thought it a fool's errand: only twenty permits were granted and over 500 applications submitted. One year later, after visiting the permit office every single day, Von Wobeser had the permit and, in short order, had the ear of some of the most important people in the company. For Von Wobeser, no matter was too small as a young lawyer and he urges young lawyers today to similarly keep their focus on doing excellent work for every matter they are tasked with. He remains a lawyer's lawyer and clearly loves his job. Listening to him describe his career, it is clear he would never have wanted to do anything else.

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