

Kluwer Arbitration Blog

ICSID's New Secretary-General

Luke Eric Peterson (Investment Arbitration Reporter) · Sunday, March 1st, 2009

As reported several [months ago](#) – and confirmed [last week](#) – the International Centre for Settlement of Investment Disputes (ICSID) has a new Secretary-General.

Meg Kinnear comes to the post after working for nearly two and a half decades as a lawyer for the Canadian Government. Of that time, the last decade has been spent heading up a division which coordinates all of Canada's international trade and investment litigation & arbitration.

It's hardly been a care-free tenure.

In recent years, Canada has been hit with a large number of investor-state claims under NAFTA Chapter 11. Last time I checked, there were some dozen claims in arbitration – or likely headed in that direction.

Such a caseload puts Canada in the top tier when it comes to governments handling large numbers of treaty-based investment arbitrations.

And unlike some governments which farm out their substantial arbitration caseloads to outside law firms, Canada – as with Argentina – handles the bulk of the heavy-lifting itself. Indeed, Canada has gone on a hiring spree of late, as the Government brings in a battalion of new arbitration lawyers.

Added to her formidable arbitration responsibilities Ms. Kinnear has also been in charge of coordinating Canada's cases – both defensive and offensive – at the World Trade Organization Dispute Settlement Body and she has quarterbacked several arbitrations with the United States over softwood lumber disputes which have been a perennial splinter under the thumbnail of Canada's forestry sector.

This much is certain: Ms. Kinnear will come to ICSID with experience of juggling a vast caseload.

That will help, as ICSID had some 124 cases pending at last glance.

However, her duties will also include the registration phase – which screens claims prior to putting them onto the ICSID's docket.

I hear regular laments from claimants' counsel about the time it can take for ICSID to register new arbitration requests. While most everyone praises the staff at the ICSID's permanent secretariat, there is generalized grumbling about the administrative “bottlenecks” that prevent cases from being

registered in a timely manner.

Yet, as a more public institution – and as a part of the World Bank group – some of this perceived inefficiency may be the flip-side of accountability, particularly as the Centre strives to be responsive to a wider community than your typical commercial arbitration facility.

As most arbitration observers will know, the ICSID has been the object of particular scorn from left-leaning governments in South America. In some respects, this is natural: the Centre that has handled the lion's share of hot-button disputes – from the Argentine financial crisis cases to the Aguas del Tunari (Bechtel) v. Bolivia water war – has also earned a full helping of scrutiny and criticism.

(One irony, however, is that antipathy towards the ICSID has started to drive some politically-contentious investor-state arbitrations into venues which are even less open and publicly-accountable)

Certainly, Meg Kinnear will have her hands full as she takes the reins of an institution which has been buffeted by criticism from claimant's counsel and respondent-governments alike.

But, unlike her predecessors, at least she will have the luxury of devoting *both hands* to her tasks: thanks to changes made last year, the office of ICSID Secretary-General is now a full-time post, rather than a part-time job for the World Bank's General Counsel.

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