

ICSID Arbitration Tribunal ordering Argentina to pay \$405 million

Arbitration Law Bulletin

Issue KP15-04
April, 2015

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ICSID Arbitral Panel rendered a decision where Argentina has to pay US\$405 million to the French company Suez, who saw their contract for water and drainage provision cancelled in 2006.

The ICSID did not recognise the moral damage for breach of the contract, the Panel just recognised the investment itself. On this perspective for the French company the decision was an adverse ruling, considering that amount just corresponding one-third of Suez's claim.

Argentina's finance minister Axel Kicillof announced that Argentina going to appeal the recent decision.

Highlights:

- In a failed water-privatization scheme, Suez had originally demanded a settlement of US\$1.2 billion due to breach of contract.
- The latest decision comes more than a year after the government was forced to pay US\$500 million to pay private corporations at the ICSID through bonds.

ICC case - Panama Canal

The agency responsible for the operation and management of the Panama Canal - The Panama Canal Authority (ACP) - has filled an ICC Arbitration proceeding to review a \$233 million decision by the **Dispute Board*** to the consortium expanding the waterway.

About Dispute Board:

- A DB or Dispute Board is different than an Arbitration Proceeding, although is also an ADR - Alternative Dispute Resolution - method; a DB is established generally at the beginning of the contractual relationship between many contracting parties that concur in a project. The aim is to have the members of the DB "on call" to help parties resolve disputes as they arise during the execution of the project.

The sum in question was awarded to the consortium late last year, after the Dispute Board resolved that canal administrators had "unfairly" manipulated the authority's contract to avoid the consequences of their "negligence" in a dispute over cement quality.

The consortium *Grupo Unidos por el Canal* claimed it was unable to obtain basalt a key ingredient in cement, of the kind and quantity the canal authority said would be available at the start of construction. Therefore, the group filed a \$463 million suit against the Panama Canal Authority.

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The DB board awarded the consortium \$233 million of the \$463 million originally claimed. The board also found the canal authority at fault for “unjustified” delays as a result of a series of untimely responses to the consortium’s concerns over the basalt.

The canal authority has challenged the Dispute Board’s conclusions and has requested the case be heard before the third and final arbiter, the ICC Arbitration Proceeding.

Highlights:

- According to the contract, a penalty of \$300,000 per day will be applied if the consortium cannot complete its work on time. The consortium, however, has argued that it is not at fault.
- Canal officials have said that the flooding the locks may begin in the last quarter of 2015 with tests lasting six months. The ACP is looking at inaugurating the expanded canal early in the second quarter of 2016

Challenge to the \$1.6 billion ICSID Award

A New York district court rejected the Venezuela's claim to reduce interest subject of the \$1.6 billion award that the ICSID Panel had ordered Venezuela to pay Exxon Mobil Corp in compensation for nationalizations.

The ICSID award includes \$1.4 billion for expropriation of the Cerro Negro project, \$179.3 million for expropriation of the smaller La Ceiba project and \$9 million in compensation for production and export curtailments

- Venezuela has been facing over 20 major arbitration awards, most stemming from high-profile nationalizations under the polarizing late socialist president Hugo Chavez.
- Exxon's assets in Venezuela, which included 425 million barrels of proved reserves net to the company, had a remaining net book value of \$750 million, according to the company's filings to the U.S. Securities and Exchange.

The LCIA Arbitration on Arricano case

The London Court of International Arbitration tribunal on March 31 ruled that Arricano Real Estate Plc had satisfied the conditions required by the relevant agreements and previous awards in this arbitration case made on Aug. 17, 2014, in its attempt to execute the call option of Assofit Holdings Limited.

The LCIA Arbitral Tribunal has declared that Arricano has satisfied the conditions to execute its call option to complete the purchase of the remaining 50.03% stake in the Sky Mall shopping located on the centre of Kiev.

Arricano confirmed its desire and financial ability to buy a majority stake in Sky Mall shopping centre from Stockman Interhold affiliated with Andriy Adamovsky under the conditions stipulated by the arbitration tribunal.

- The company placed funds in the account of an independent third party required to execute the call option in full before Jan. 1, 2015.
- Arricano currently has a 49.97% stake in the Ukrainian shopping centre, which was opened in 2007, with the remaining stake held by Stockman Interhold SA.

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