

2020 **WAW**



WASHINGTON  
ARBITRATION WEEK

**WAW**

**2020**

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1ST EDITION

Thursday, December 3rd

## **Infrastructure Disputes in International Arbitration (4:00pm – 5:30pm)**

Infrastructure projects—whether they be ports, highways, railroads, airports or others—benefit from and are often made possible by foreign investment. Notwithstanding detailed structural planning, those projects entail risks, including, finance, design, construction, completion, operation, environmental and social risks. These risks may compromise the development and completion of the project and result in disputes that can be submitted to international commercial or investment arbitration. These disputes are handled depending on whether the parties are private persons, State-owned companies or sovereign States, and whether the dispute is contract or treaty-based, or sometimes both.

Infrastructure disputes may be significantly complex due to the types of risks that they involve, their fact-intensive nature, the number of parties involved with the project, and the financing involved.

One factor that will further increase that level of complexity and reverberate for many years is the consequences of COVID-19. The pandemic is affecting the continuity and pace of the execution of infrastructure projects, disrupting supply chains, human capital, and contractors.

This Panel will discuss the aforementioned aspects of infrastructure disputes under contracts and treaties. Panelists will also consider the parties involved in the dispute, and in the context of treaty arbitration, they will address issues of attribution to the State of acts of State-owned enterprises and private parties.

## Speakers

### Meagan Bachman

Meagan Bachman is a partner at Crowell & Moring LLP. Her practice focuses on construction contract disputes and other complex commercial issues in both arbitration and litigation. She has served as lead and co-lead counsel on a number of international arbitrations and mediations involving large infrastructure projects. In addition to her disputes advocacy work, Meagan regularly counsels clients on contract matters relating to major construction and infrastructure projects, including disputes avoidance and early resolution of disputes.



### Don Harvey

Mr Harvey is the founder and managing director of Secretariat International. Secretariat International specialises in providing independent expert advice on construction projects in the areas of programming/scheduling (delay and disruption) contract review, programme assessment, cost/damages and productivity/inefficiency. Mr Harvey has over 20 years of experience in the construction industry managing projects and advising clients on issues involving project and contract administration, claim preparation, delay, cost, disruption and productivity analyses. Through his years of experience as a construction project manager and as an expert consultant, Mr Harvey has developed a detailed knowledge of construction, project management, scheduling and cost controls.



## Speakers

### Michael D. Nolan

Michael D. Nolan is a partner in the Washington, DC office of Milbank and a member of the firm's Litigation & Arbitration Group. A partner since 1998, Mr. Nolan is a broadly experienced litigator with particular expertise in cross-border disputes. Mr. Nolan's cases have involved financial and securities transactions; commercial contracts; energy, infrastructure and mining; telecommunications and satellites; real estate and construction; hospitality and gaming; insurance; taxation; patents, trademarks and intellectual property licenses; and bankruptcy and financial restructuring.





## Moderator

### Ian Laird



Ian A. Laird, Partner at Crowell & Moring in Washington D.C.. Ian is co-chair of the firm's International Dispute Resolution Group and represents a range of clients in international arbitration proceedings involving disputes between corporations and foreign sovereign governments. For over 20 years, Ian has counseled parties in investment arbitrations under the provisions of NAFTA, CAFTA-DR, the Energy Charter Treaty (ECT), and other international investment agreements, typically applying the arbitration rules of ICSID or UNCITRAL.



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