

CIArb winner puts focus on Canada and new safe seat index

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Janet Walker

Arbitrator and Osgoode Hall Law School professor **Janet Walker** has spoken about the development of arbitration in Canada and its potential as “a world-class arbitral seat” as she was honoured by the Chartered Institute of Arbitrators’ Canadian branch – as well as providing insights into a forthcoming safe seat index compiled by GAR and CIArb.

Speaking at the Albany Club in Toronto, where she was awarded the branch’s annual award for distinguished services in arbitration recently, Walker said it was “an honour to be recognised for contributions that I have made to collective initiatives to develop and promote international commercial arbitration in Canada”.

She went on to give a history of the Canadian international commercial arbitration community from 2000, when she was admitted to the roster of the ICC Canadian National

Committee, then the only permanent national professional organisation dedicated to international arbitration, as one of just 38 members (and only two women).

“When I was admitted it was primarily based in Montreal and Toronto, with annual general meetings alternating between the two. However, under the successive presidencies of **David Haigh**, **Ben Greenberg**, **Gerry Ghikas** and **Barry Leon**, it spread its membership across the country and began holding AGMs also in Vancouver and Ottawa,” she said.

In 2002, members of ICC Canada introduced a small informal symposium ahead of the AGM that has grown to be a significant annual conference with 200 or more attendees from a dozen or more countries, she said.

And in 2006, they helped establish the Young Canadian Arbitration Practitioners, “which has since gone from strength to strength as an organisation supporting the development of the careers of younger members of the profession”.

Alongside all this, ICC Canada has “established a proud tradition of contributing to the work of the ICC Commission and the ICC Court,” Walker said.

Walker also spoke of Canadian teams’ success in the Vis International Commercial Arbitration Moot in Vienna, having coached the Osgoode team for 13 years including to victory in 2004.

“All the Canadian teams have excelled, and it is a tribute to **Anthony Daimsis** in coaching the teams from Ottawa [University] that they are virtually unsurpassed in their history of success,” she says.

In 2006, she said Canada played host to ICCA Montreal, which was organised by **Babak Barin** – now Justice Barin of Quebec Superior Court – and **Marc Lalonde** – one of “the largest commercial arbitration events to date in Canada”. The next IBA International Arbitration Day will be in Montreal.

Walker also spoke about the launch of the Toronto Commercial Arbitration Society, which grew out of an informal supper club she formed with others to discuss developments in the field; and of the first North American branch of CIArb in Toronto. The Canadian branch was launched later, as were branches for individual Canadian cities.

2012 marked the opening of Arbitration Place in Toronto, which she said has raised the city’s profile for international arbitration hearings “under the inspired leadership of **Kimberley Stewart**”. At the time, the consulting firm Charles River Associates was commissioned to study the economic impact of arbitration in Toronto and estimated that the approximately 425 arbitrations that occurred annually in the city contributed some US\$265 million to the economy.

“The news today is full of the global flux in trading patterns and the effect it is having on dispute resolution,” Walker said. Among them, she highlighted how “shifting US immigration and foreign policies have resulted in hearings being held in Toronto in cases where visa access to the US has become difficult.”

She also mentioned how China's main arbitral provider, CIETAC, has recently opened its first foreign outpost in Vancouver.

In the past year, she said she has pursued an initiative with GAR and CIArb "to establish an index of the world's arbitral seats" based on the CIArb Centenary Principles for safe seats of international arbitration", compiled by a working group led by **Lord Goldsmith QC** of Debevoise & Plimpton and her husband, Australian arbitrator **Doug Jones**.

"Thanks to a rigorous assessment based on input sought from around the world by GAR, a highly respected assessment panel and a renowned advisory board overseen by Peter and Doug, the first six seats have been assessed and the index will be launched this November," she said.

Walker described how the assessment process had taught her more about the seats on which it focused and opened her eyes to how few people "have a genuinely global perspective on arbitral seats," with most confined by their own experience. Given "shifting trading patterns" and the need to consider new seats, an index such as this "could, in time, become a much used reference," she said.

Toronto and other Canadian cities have yet to be added to the index but how they would fare? "We would do well," Walker said – noting that they are safe, clean and relatively inexpensive with well-functioning infrastructure to support the logistical needs of business people; offer world-class hearing facilities at Arbitration Place; and have a multicultural reputation.

"Further we have the UNCITRAL Model Law, and indeed, the newest version," she said.

Walker went on to speak about the "high standing" of the Canadian legal profession and the lack of restrictions on it, which she said will help Canada make its name as a centre for international arbitration.

But she said richer and deeper knowledge of international arbitration across a broad sector of the legal community is needed, "not just the capacity to step up to the mark and learn what is needed if called upon to participate in an arbitration, and not just expertise among a small group of specialists."

Working on the index, she said she had noticed that this is common to all the greatest arbitration centres – adding that CIArb can help Canada to build broad knowledge of the field so that it becomes a go-to jurisdiction.

Walker was introduced by the president of CIArb's Canada branch Paul Tichauer, who listed her many attainments including a degree from Osgoode and doctorate in law from Oxford; admission to the Bar of Ontario; and teaching assignments all over the world. She's also been the editor of a guide to Canadian conflicts of law for 15 years, he said.

Tichauer further offered an insight into how Walker combined family life with her career, telling how she took a different child with her to Oxford each term she was there.

The award was presented by the global CIArb president **James Bridgeman** and by CIArb Canada's newly appointed patron, **Beverley McLachlin**, who has recently stepped down

as Canada's chief justice to work as an arbitrator and mediator at Arbitration Place in Toronto and Ottawa.