

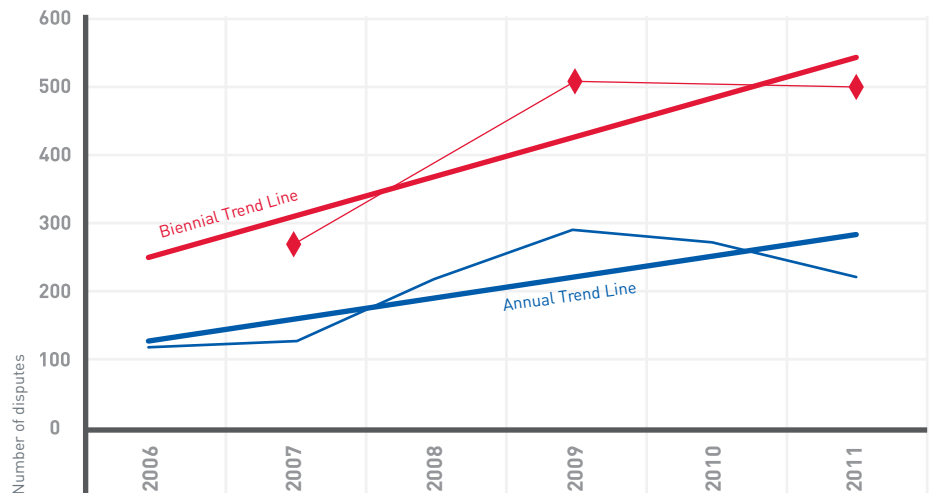


Director General's Report

Casework 2011

In common with most of the leading international arbitration institutions, the LCIA has seen considerable fluctuations in its core casework business over the past three years, as the ever-shifting global economic climate impacts upon the volume and nature of disputes arising from cross-border commercial contracts.

A total of 224 disputes were referred to the LCIA for arbitration, in 2011, (plus a further 13 for mediation or some other form of non-binding ADR); a decrease of 9% in the number of arbitrations, as between 2010 and 2011.



The 504 disputes referred during our most recent biennial monitoring period represent a decrease of 8.5% as compared to the previous 24 month period, roughly on par with the 12-month decline.

Nature of contracts

The nature of the contracts out of which referrals in 2011 arose was as diverse as ever, and included agreements relating to catering franchises; emissions trading; the sale and purchase of aircraft; construction and engineering; the sponsorship of sporting events; IT; insurance; loan and other financial arrangements; oil exploration; management services; the sale and purchase of shares; and the sale and purchase of commodities.

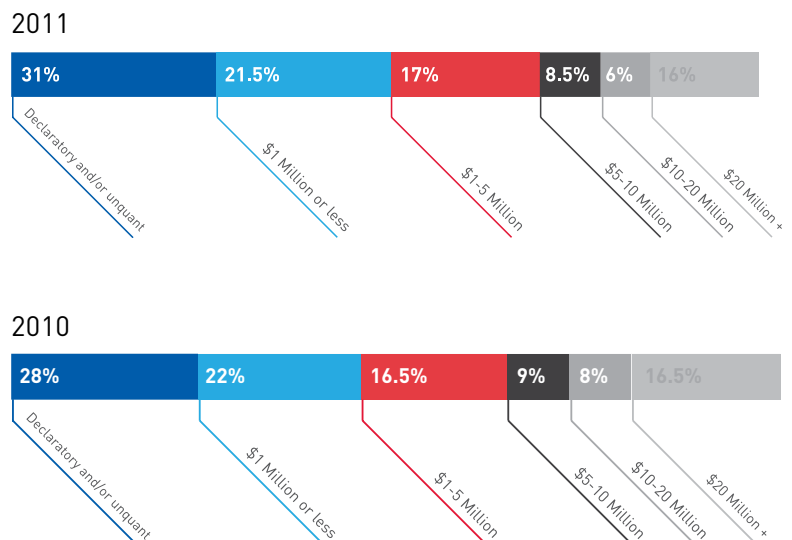
Looking at the three sectors that generally give rise to the most significant number of LCIA referrals, commodity transactions (in steel and carbon products in particular) accounted for 13% of 2011 referrals, as against just 6% in 2010; loan or other financial agreements, including guarantees, accounted for 17.5% of 2011 referrals, as against 11.5% in 2010; and joint ventures and shareholders' agreements accounted for 13% of 2011 referrals, as against 23% in 2010.

Sums in issue

The number of referrals in which Claimants did not quantify their claim in the Request for Arbitration and/or sought declaratory relief increased slightly in 2011, from 28% in 2010 to 31%; whilst the percentage of claims valued at between US\$10million and US\$20million dropped from 8% to 6%.

There was very little change in all other value brackets; with claims of US\$1million or less at 21.5% in 2011 as against 22% in 2010; claims between US\$1million and US\$5million at 17%, compared to 16.5% in 2010; claims valued between US\$5million and US\$10million at 8.5%, as against 9% in 2010; and claims valued at US\$20million or more at 16% compared to 16.5% in 2010.

Many of these sums were substantially increased by the value of counterclaims.



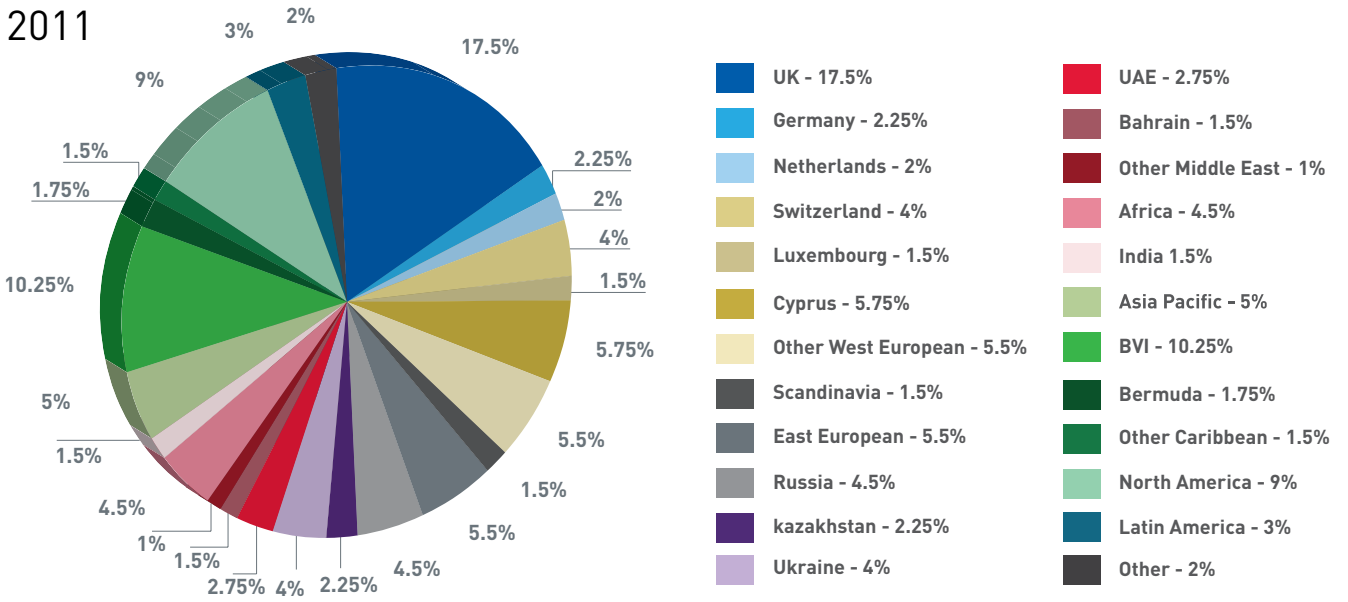


The parties

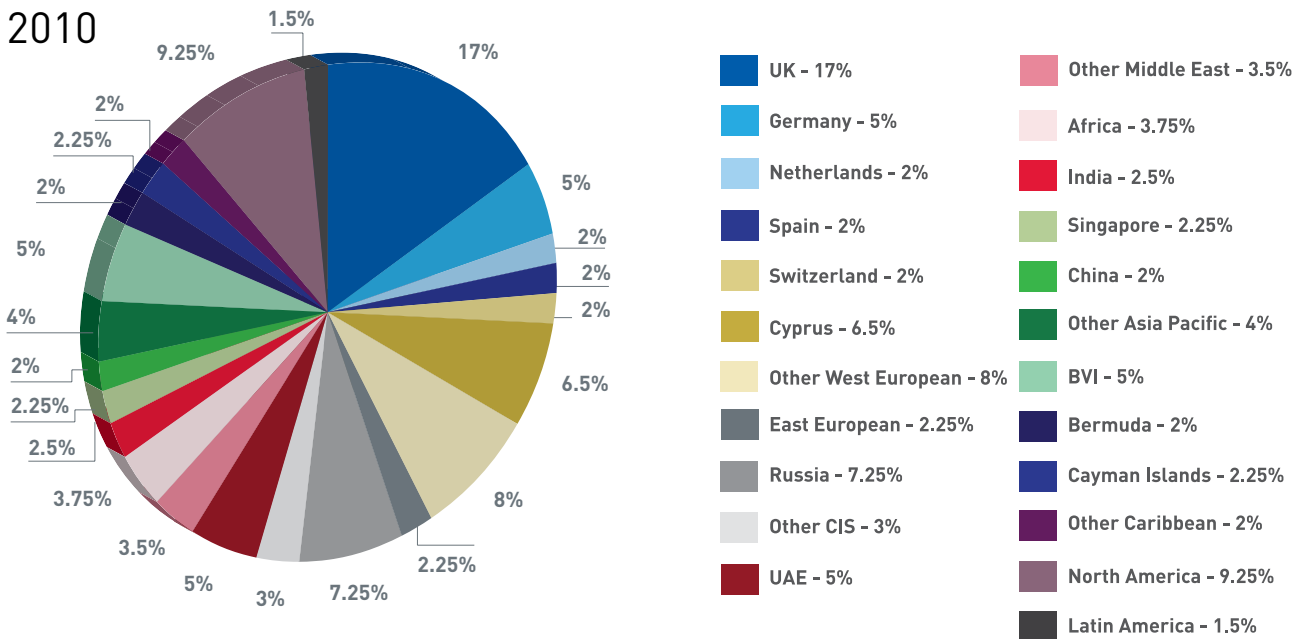
As ever, the international reach and standing of the LCIA is evident in the nationalities of the parties bringing their disputes to the LCIA in 2011, as the following chart shows¹. 2010 statistics are shown for comparison.

There has generally not been any great regional shift, though the decline in the number of parties from the Middle East and from Asia is worthy of note.

2011



2010



¹ The underlying cases include ten purely "domestic" arbitrations, involving UK parties only. A multi-party dispute involving a total of 33 UK parties has been reduced to only one party on each side, to avoid skewing the figures.



The Tribunals

[2010 figures are shown in square brackets for comparison.]

During the course of 2011, the LCIA Court made a total of 325 [344] individual appointments of arbitrators, to a total of 151 [168] tribunals, of which 64 [81] comprised of a sole arbitrator and 87 [87] of three arbitrators. 42 of these tribunals were appointed in cases that had been referred to arbitration in 2010; the remaining 109 in cases commenced in 2011.

In addition, the Court appointed another 11 individuals as replacements on previously-appointed tribunals, bringing the total number of appointments in 2011 to 336.

Of these 336 [344] individual appointments, 187 (55.5%) [206 (60%)] were UK nationals, of whom 111 (59.5%) were selected by the parties, 55 (29.5%) by the LCIA Court and 21 (11%) by the co-arbitrators. Of the remaining 149 [44.5%] [138 (40%)] individuals who were not UK nationals, 65 (43.5%) were selected by the parties; 64 (43%) by the LCIA Court; and 20 (13.5%) by the co-arbitrators.

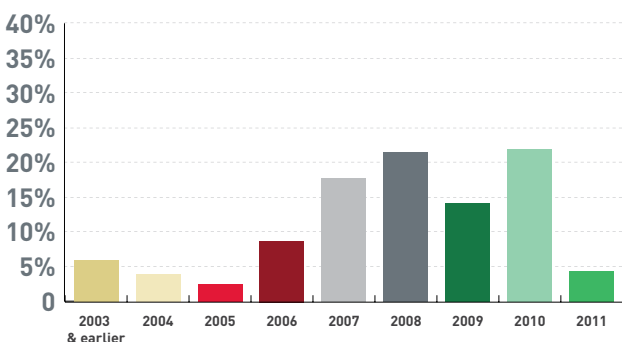
So the gentle swing between the preference for sole and three member tribunals continues, influenced, of course, by the nature and size of disputes. In 2009 the ratio was two thirds three member tribunals to one third sole arbitrator; in 2010, the ratio was almost precisely 50/50; and in 2011 the ratio tips back in favour of three-member panels. There has, however, also been a shift towards party nomination, with the parties selecting 52% of the arbitrators in 2011, compared to 41% in 2010.

The nationalities of arbitrators appointed in 2011, other than UK, were Australian; Austrian; Bangladeshi; Belgian; Canadian; Croatian; Dutch; French; German; Greek; Indian; Irish; Lebanese; Mauritian; Mexican; New Zealand; Nigerian; Russian; Singaporean; South African; Swedish; Swiss; Ukrainian and US.

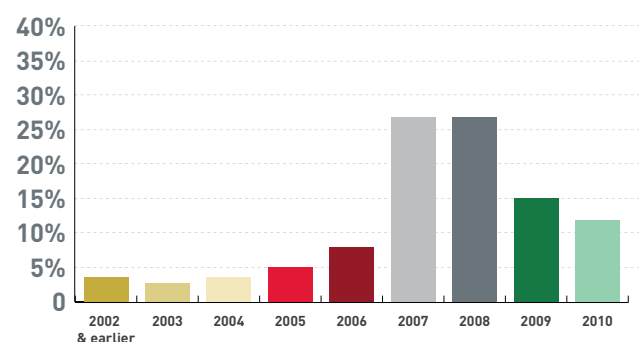
Contract dates

The dates of the contracts in dispute in cases filed in 2011 (where known), and the parallel dates for 2010, are shown in the following two charts.

2011



2010





Troubled times, shifting markets, and mixed fortunes

As I draft this report, the outlook for many of the world's economies is not good, as the green shoots of recovery that were seen (or imagined) last year struggle to survive.

The International Monetary Fund has warned that the world recovery "*which was weak in the first place*" is in danger of stalling. The IMF's forecast for global growth has been slashed; the Eurozone is projected to shrink half a percent this year; whilst economic activity in the US and Canada is expected to be sluggish, at best.

But all is not economic doom and gloom, and, though even the Chinese powerhouse is prone to occasional uncharacteristic stuttering, there is a better outlook for Brazil, India, South Korea and Japan, where policies for growth are having some success.

And whilst many countries are experiencing economic upheaval, a number of Arab countries have been experiencing, and are experiencing, much worse. I do not know who it was who coined the phrase the "*Arab Spring*", though undoubtedly with the "*Prague Spring*" of 1968 in mind. But the joys generally associated with Spring are most severely tempered by political and social uncertainty and, in some cases, by great suffering, and it must be said that the continuing seasonal analogies that one reads and hears in the media, with expressions of hope for the Summer to follow, seem inapt and unthinking at present.

However, there is no doubt that international relationships and cross border transactions will have a major part to play in the process of rebuilding infrastructure, economies and societies, and that the area of the law with which we are all engaged will, as ever, be a small but important part of that.

It is impossible, however, to predict whether the current phase of economic volatility will generate the sort of surge that the arbitral institutions experienced in 2009, on the back of the 2008 melt-down, or whether the fallout from that crash has led to a rethinking of attitudes to dispute resolution.

The LCIA will, nonetheless, continue to engage with the business and legal communities around the world with the hope and expectation that it can maintain the quality of services for which it has become renowned.

LCIA India continues to face considerable challenges, but also to enjoy significant progress as the prospects of an improving climate for arbitration in India appear to improve, as to which see the leading article on LCIA India's intervention in the case of *Kaiser Aluminium*, before a special Constitution Bench of the Supreme Court of India.

DIFC-LCIA also continues to make steady progress, as Dubai and the UAE manage to maintain enviable stability in a troubled region.

Within the coming months, the rules of LCIA-MIAC will be published; key local personnel recruited; and the premises opened for business.

As ever, therefore, we look forward to engaging with the members of the LCIA Users' Councils, in correspondence, through arbitration proceedings, and at one or other of the conferences that make up our programme for this year.



Adrian Winstanley