

FACTS AND
FIGURES

2017
CASEWORK
REPORT

125
YEAR ANNIVERSARY



ABOUT THE LCIA

The LCIA is one of the world's leading international institutions for commercial dispute resolution.

The LCIA provides efficient, flexible and impartial administration of arbitration and other alternative dispute resolution proceedings, regardless of location and under any system of law.

The LCIA provides access to the most eminent and experienced arbitrators, mediators and experts, with diverse backgrounds, from a variety of jurisdictions, and with the widest range of expertise. The LCIA's dispute resolution services are available to all contracting parties, with no membership requirements.

In order to ensure cost-effective services, the LCIA's administrative charges and the fees charged by the arbitrators it appoints are not based on the value of the dispute. Instead, a fixed registration fee is payable with the Request for Arbitration, and the arbitrators and LCIA apply hourly rates for services.

In addition to its dispute administration services, the LCIA conducts a worldwide program of conferences, seminars, and other events of interest to the arbitration and ADR community, operates a membership program for over 2,200 members from over 80 countries, and sponsors the Young International Arbitration Group (YIAG), a group for members of the arbitration community aged 40 or younger, with over 10,000 members.

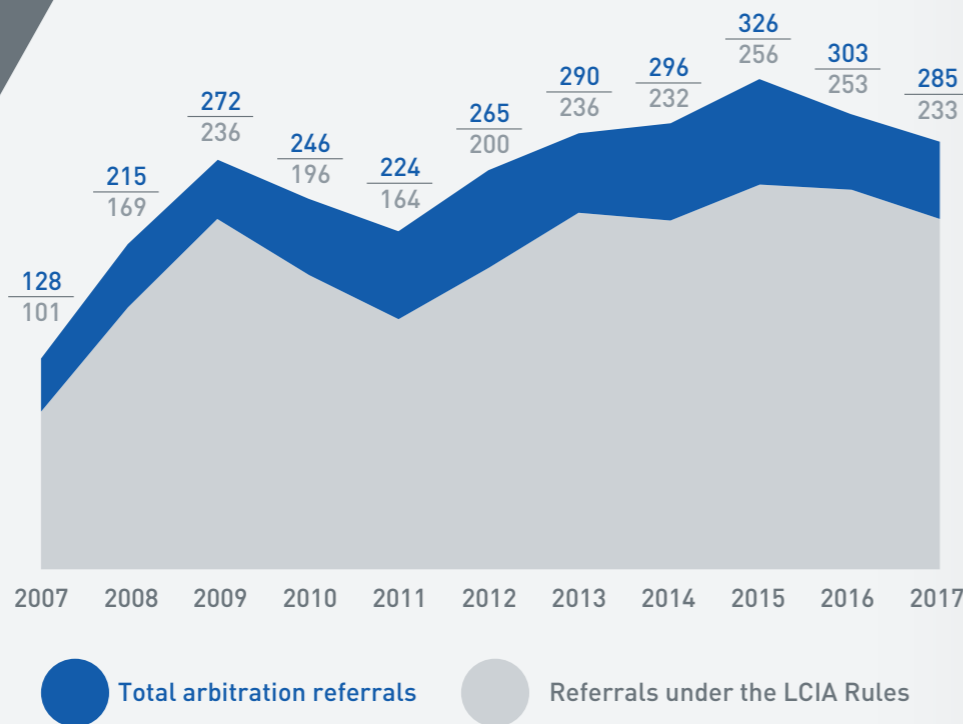
EXECUTIVE SUMMARY

A stable and diverse caseload in 2017

- In 2017, the LCIA received 285 arbitration referrals, 233 of which were under the LCIA Rules.
- The vast majority of parties (over 80%) came from outside the United Kingdom, with an increasingly significant number from the United States.
- English law and a London seat continue to be popular choices for this diverse mix of parties. English law is the applicable law in 85% of arbitrations under the LCIA Rules, and 94% are seated in London.
- Disputes relating to banking and finance, energy and resources, and transport and commodities made up over half of all disputes under the LCIA Rules. Claimants were most commonly from the energy and resources sector or banking and finance sector, with respondents most commonly from the energy and resources sector.
- The proportion of higher value claims further increased: 31% of claims were for amounts over USD 20 million, up from 28% in 2016 and 18% in 2015.
- Gender diversity of arbitrators once again improved: 24% of appointments were of women, up from 21% in 2016 and 16% in 2015.
- While parties have shown encouraging improvements in the gender diversity of their selections, the LCIA still leads the way, selecting women 34% of the time (double the rate of both parties and co-arbitrators).
- Challenges were once again rare in LCIA arbitrations in 2017. The LCIA continues to be committed to providing transparency in relation to challenges, as shown by its recent launch of an online database of anonymised challenge decisions.
- Statistics regarding tribunal secretaries are being provided for the first time, following the launch of the LCIA's new tribunal secretary procedures. 38 tribunal secretary appointments were made, involving tribunal secretaries from a wide variety of countries.
- Applications for security for costs were the most common application for interim relief, as well as being the most often successful: tribunals approved 32% of applications for security for costs.

CASELOAD

In 2017, a total of 285 arbitrations were referred to the LCIA. 233 of these were referred under the LCIA Rules. In respect of the remaining 52 referrals, the LCIA acted as appointing authority or provided administrative services for arbitrations under the UNCITRAL Rules, or provided fundholding services for UNCITRAL or other ad hoc arbitrations.



The chart above shows a steady increase in referrals to the LCIA over the last 11 years. The temporary increase in the overall number of referrals in 2015 is a result of the higher numbers of non-LCIA Rules arbitrations referred that year.

13 requests for mediation or some other form of alternative dispute resolution were referred to the LCIA, making a total of 298 referrals to the LCIA in 2017.

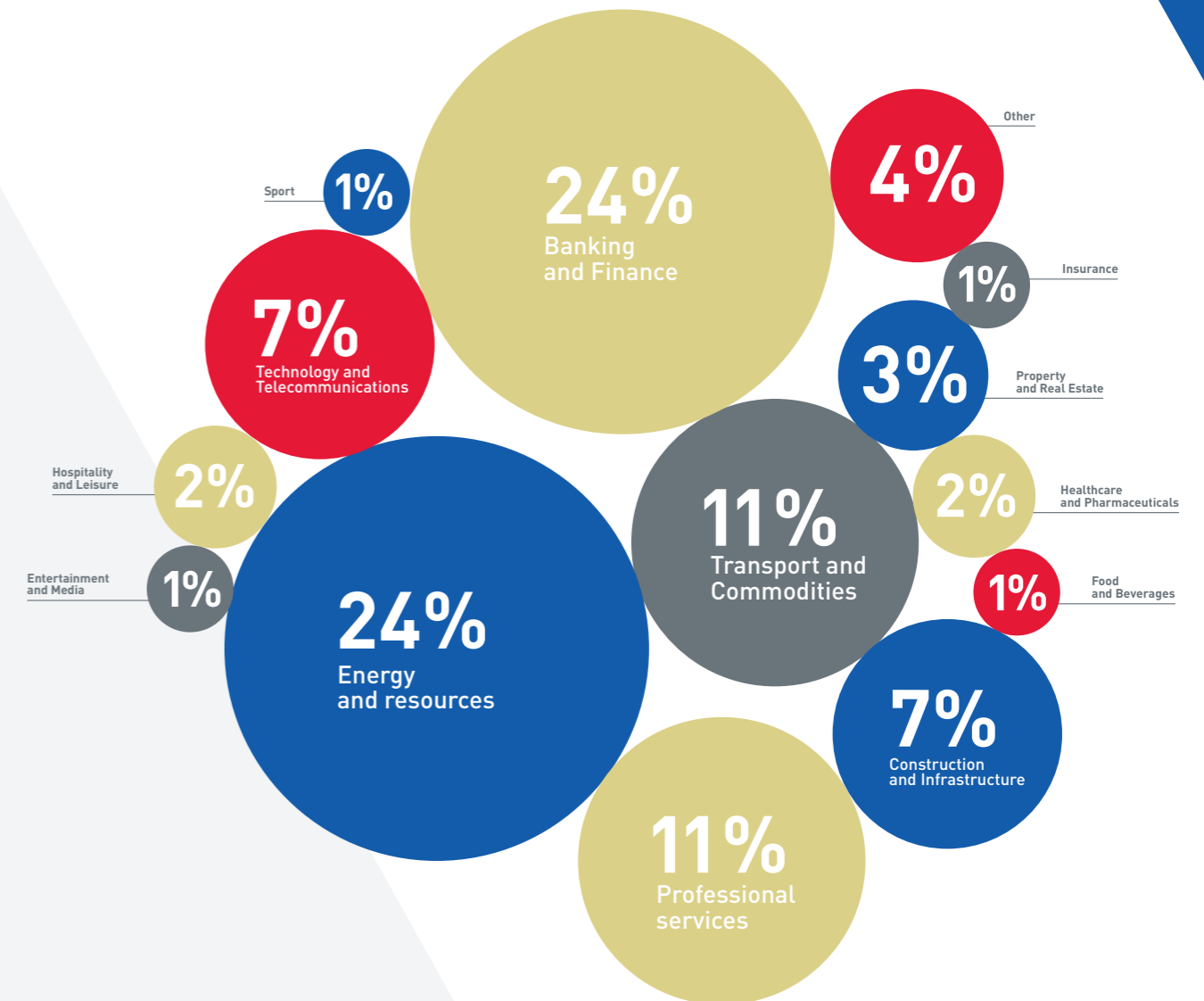
INDUSTRY SECTORS

By dispute

In 2017, banking and finance and energy and resources disputes continued to make up the bulk of arbitrations referred to the LCIA, with a considerable number of transportation and commodities arbitrations.

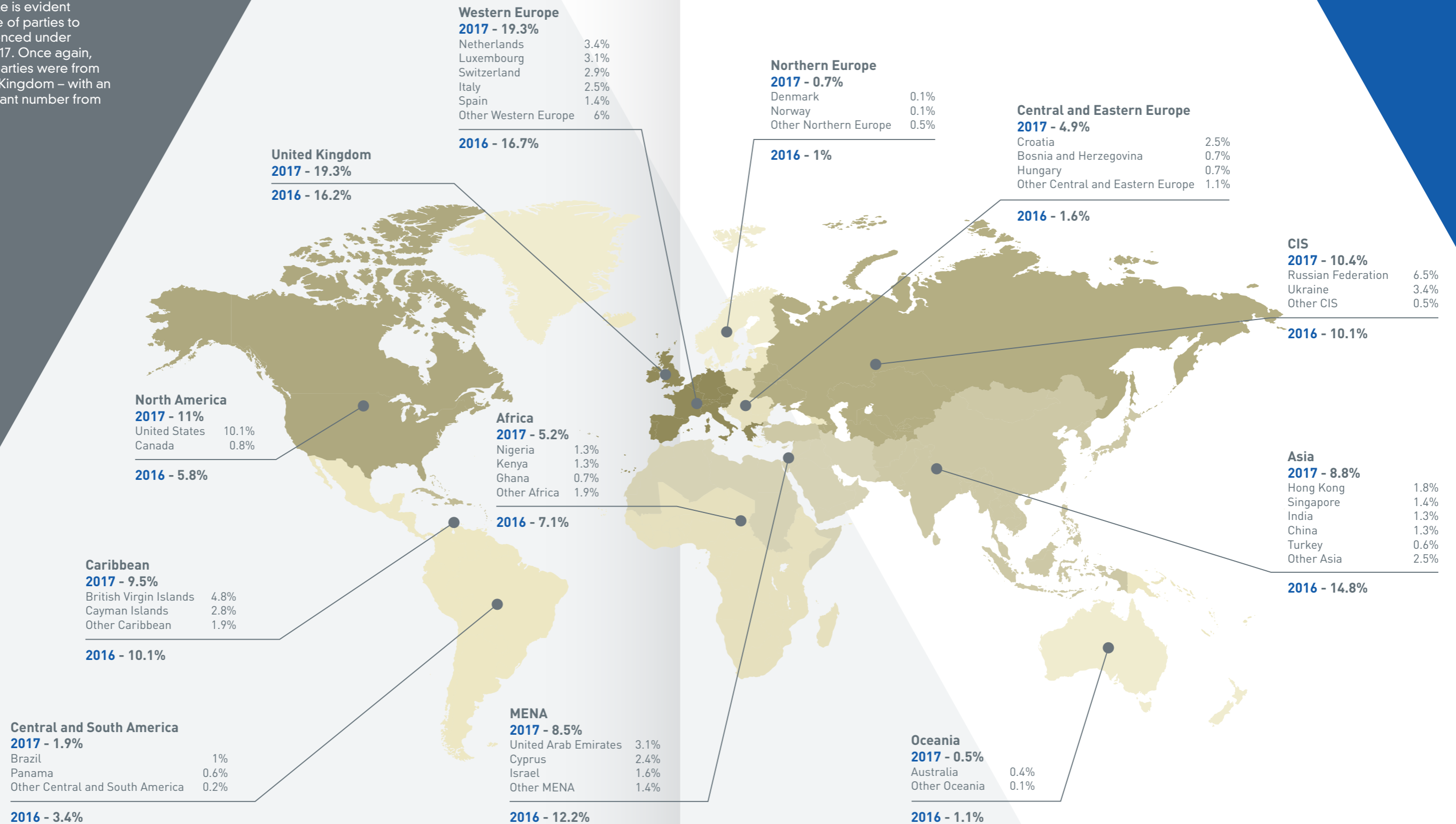
The most substantial changes in industry sector breakdown from 2016 are professional services arbitrations, which doubled from 5% to 10%, and construction and infrastructure arbitrations, which halved from 15% to 7%. These changes, however, are likely due to annual fluctuations rather than long term trends.

The industry sectors of claimants and respondents tend to mirror those of the dispute as a whole. However, parties from the banking and finance sector in LCIA arbitrations are significantly more often claimants (23% of claimants) than respondents (9% of respondents). Overall, respondents were most likely to be from the energy and resources sector (34% of respondents), although claimants from that sector were also well represented (24% of claimants).



PARTIES

The international nature of the LCIA's caseload and profile is evident in the diverse range of parties to arbitrations commenced under the LCIA Rules in 2017. Once again, more than 80% of parties were from outside the United Kingdom – with an increasingly significant number from the United States.



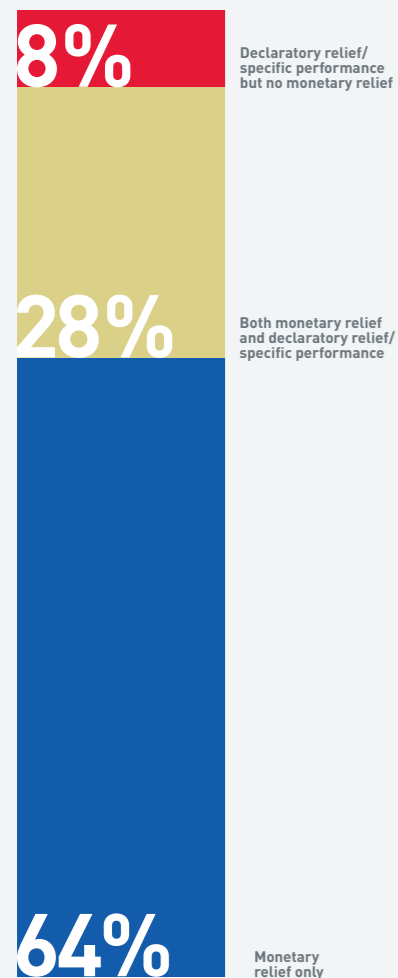
RELIEF SOUGHT

In 2017, 36% of Requests for Arbitration filed under the LCIA Rules sought declaratory relief or specific performance.¹ In most of those Requests (79%), monetary relief was also sought.

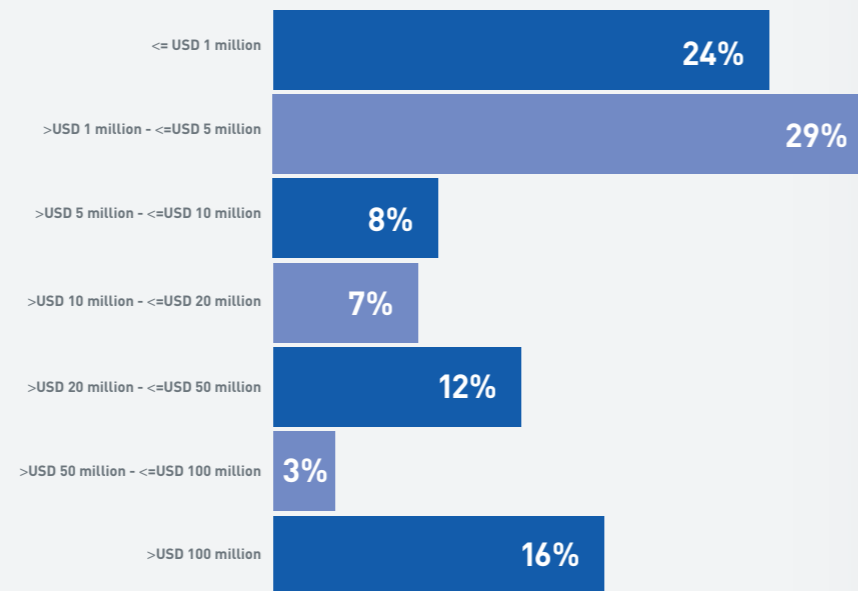
Unquantified sums were claimed in 17% of Requests filed in 2017. The below right chart sets out the breakdown of quantified sums claimed in Requests. From 2016 to 2017 there was a slight increase in the proportion of claims over USD 20 million.

The figures for claims provide a snapshot as at the date the arbitration is commenced with the LCIA. Claimants may later quantify unquantified claims, or amend and increase already quantified claims, and respondents may submit their own claims in a Response or in a Statement of Defence and Cross-claim.

Type of relief sought



Sums claimed

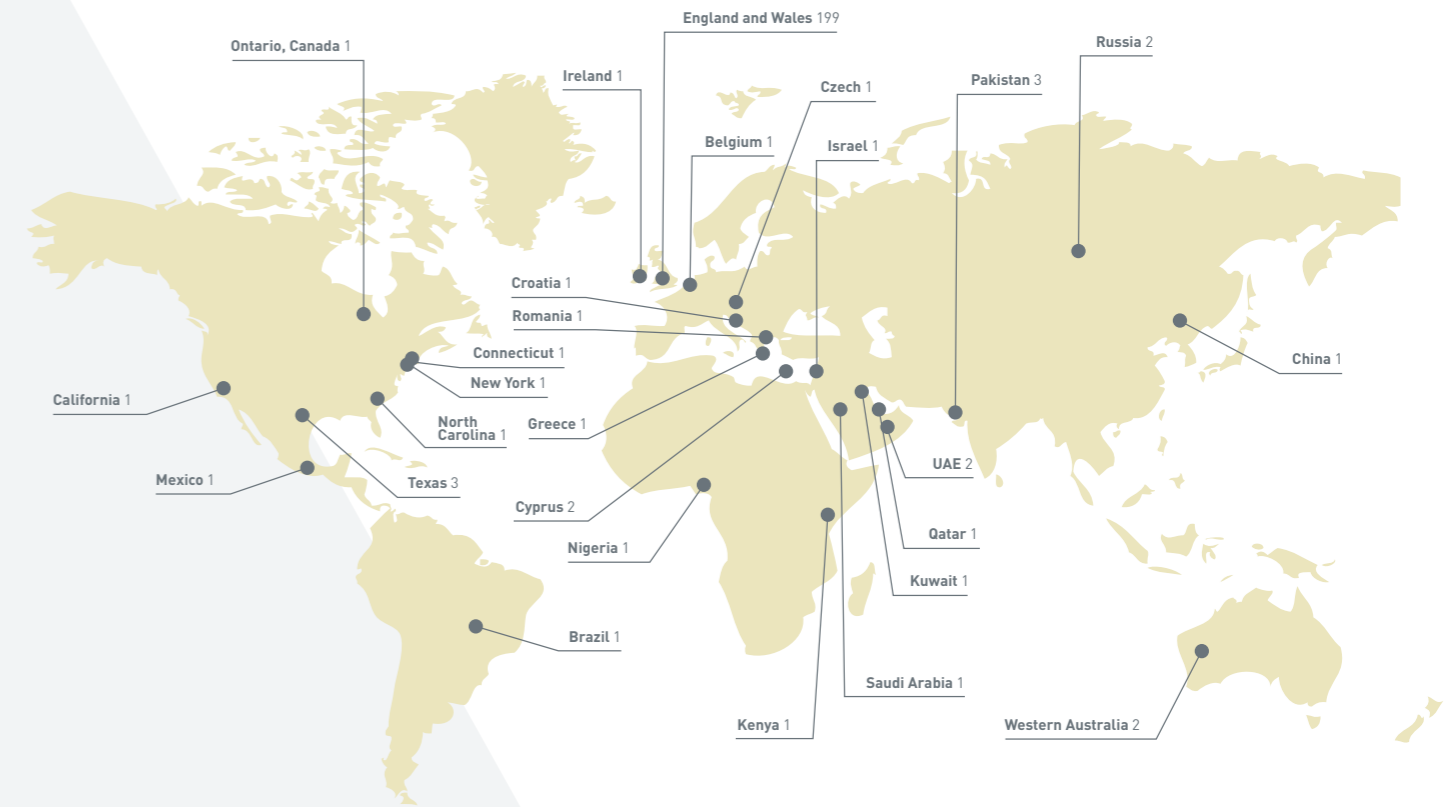


1. Declaratory relief was sought in 32% of Requests for Arbitration, specific performance in 7%, and both declaratory relief and specific performance in 3%.

APPLICABLE LAWS

English law was the most frequent contractual choice of law by the parties in disputes submitted to arbitration under the LCIA Rules in 2017, being the applicable law in 85% of arbitrations.

The following map shows a breakdown of the applicable law (where applicable law was determined by the underlying contract).



SEATS

London was the preferred seat in the majority of arbitrations commenced in 2017 under the LCIA Rules, with 94% of arbitrations being seated in London.²

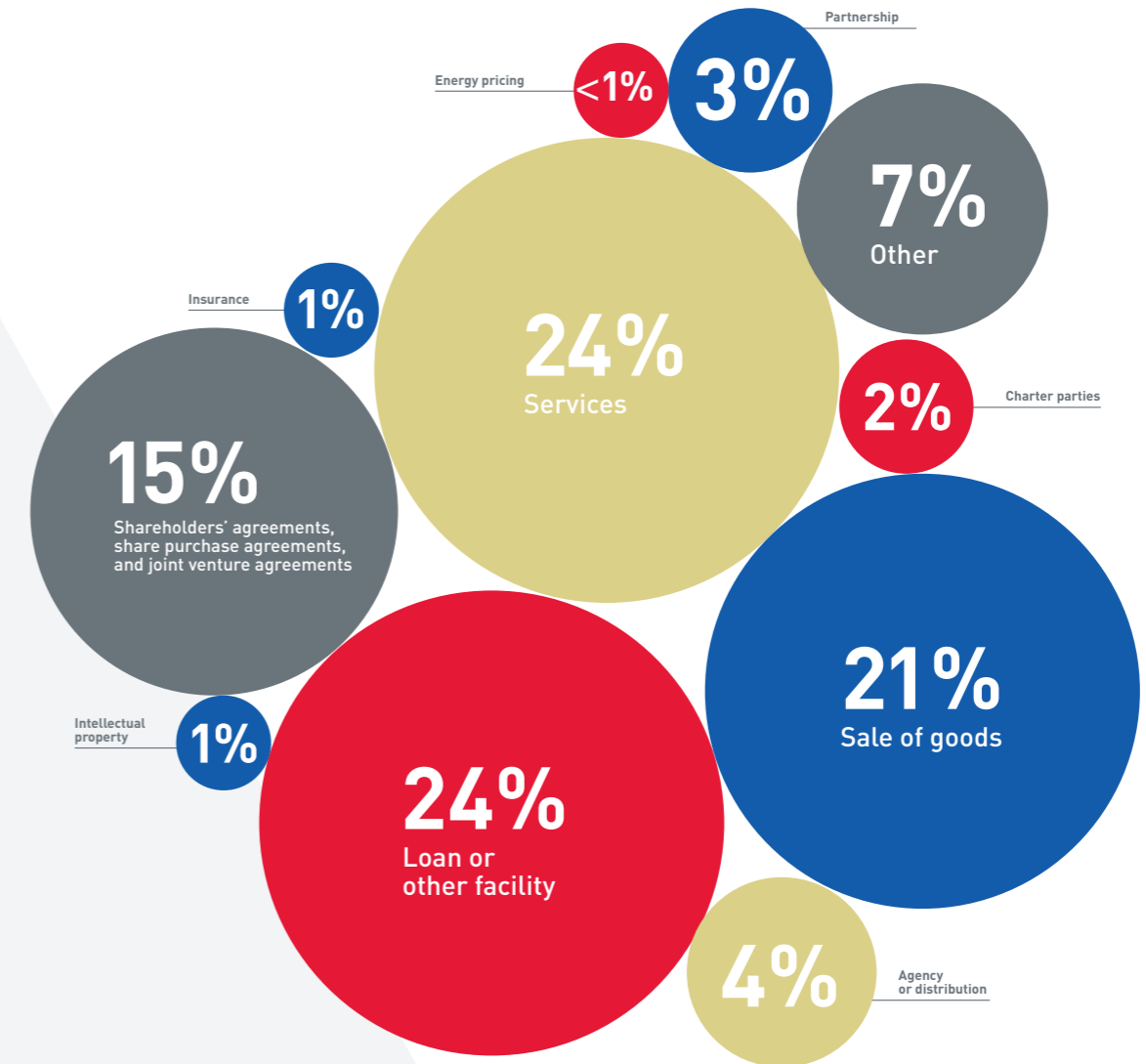
The following map shows a country-by-country breakdown of the seats of arbitration in 2017, as chosen by the parties or determined by the tribunal.



2. This includes a number of arbitrations where the default seat is London because no express choice was made by the parties and no determination was made by the Tribunal that the seat should be elsewhere: LCIA Rules 2014 Article 16.

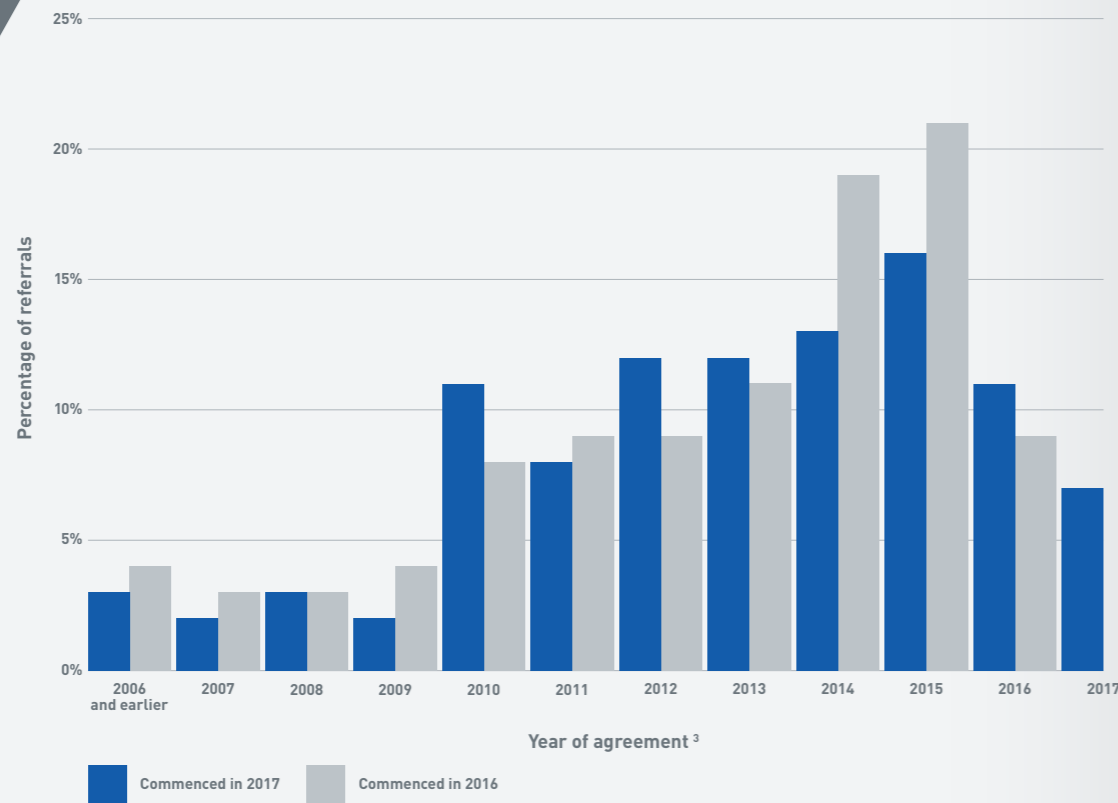
AGREEMENT TYPES

The nature of the agreements underlying arbitrations under the LCIA Rules remained diverse in 2017. The majority of disputes concerned loan agreements, service agreements, and sale of goods agreements. This reflects a substantial increase from 2016 in the number of disputes relating to loan agreements: from 13% to 24%.



AGREEMENT DATES

The majority of referrals made in a given year are in respect of agreements concluded in the seven years prior to the referral being made, with referrals most often made within three years of the contract date.



3. Where year of agreement is known.

ARBITRATORS

Appointments

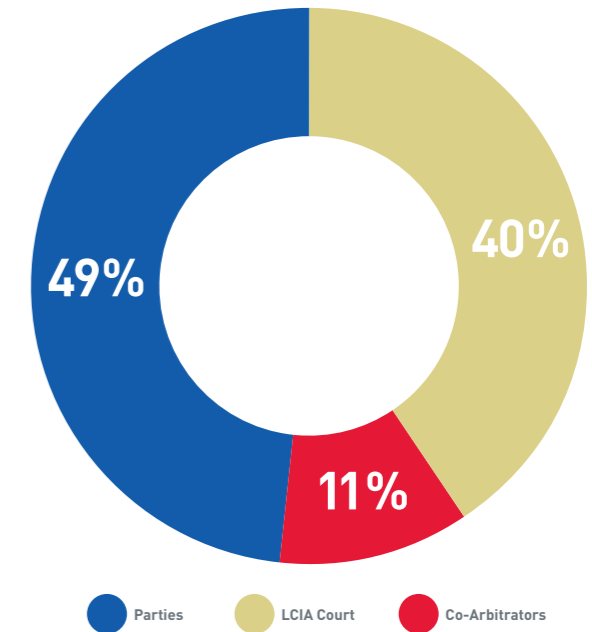
During the course of 2017, the LCIA made a total of 412 appointments of 241 different arbitrators. Of the 412 appointments made in 2017:

- 408 were appointments in arbitrations conducted under the LCIA Rules:
 - 315 to three-member tribunals;
 - 71 of sole arbitrators;
 - 2 to a two-member tribunal; and
 - 20 of replacement arbitrators for both three-member tribunals (15) and sole arbitrators (5); and
- 4 were appointments in arbitrations conducted under the UNCITRAL Rules, or in other ad hoc arbitrations.

69% of these appointments related to arbitrations commenced in 2017, 29% to arbitrations commenced in 2016, and 2% were of replacement arbitrators in arbitrations commenced before 2016.

Long term data shows fluctuating preferences for three-member tribunals and sole arbitrators. The appointments made in 2017 reflect a slight preference for three-member tribunals as compared to sole arbitrators (60% vs 40%), almost unchanged from 2016, during which 62% of appointments were to three-member tribunals and 37% were of sole arbitrators.⁴

Selection method



Under the LCIA Rules, the default position is that the LCIA selects the members of the tribunal, unless the parties have agreed otherwise (whether by arbitration clause or later agreement).⁵

4. In 2016, 6 appointments were to two-member tribunals, accounting for the remaining 1% of appointments.

5. LCIA Rules 2014 Article 5.6-5.9. Note also that if there are three or more parties to an arbitration, and they have agreed that each party is to nominate an arbitrator, but the parties cannot agree as to whether they constitute two distinct "sides", the LCIA Court will select and appoint the arbitrators to ensure proceedings continue efficiently: LCIA Rules 2014 Article 8.

FIRST-TIME APPOINTEES

17% of appointments made in 2017 (68 of 412) were of candidates not previously appointed in arbitrations administered by the LCIA.



First-time appointees as a percentage of all arbitrators selected

LCIA Court
Parties
Co-Arbitrators

The LCIA selects proportionally more sole arbitrators and chairs than the parties. For such arbitrators, the LCIA Court usually looks for prior experience in an LCIA arbitration. As a result, the LCIA's figures for first-time arbitrators are lower than that of the parties, who select a considerable proportion of co-arbitrators.

CHALLENGES

The number of challenges to arbitrators remained low in 2017, with fewer still successful challenges.

In February 2018, the LCIA published on its website digests of challenge decisions made by the LCIA Court from 2010 to 2017,⁶ complementing the earlier publication of challenge decision summaries in 2011. This latest release marks the establishment of an online database of challenge decision digests, which will be periodically updated as new decisions are made. It is the LCIA's hope that users will find these digests a useful research tool, and one which illustrates the effectiveness of the LCIA's challenge procedure.

TRIBUNAL SECRETARIES

In 2017, tribunal secretaries were appointed in 38 arbitrations conducted under the LCIA Rules, comprising 26 male and 12 female appointees.

11 of the appointments were made in arbitrations with sole arbitrators, while 27 of the appointments were made in arbitrations with three-member tribunals.

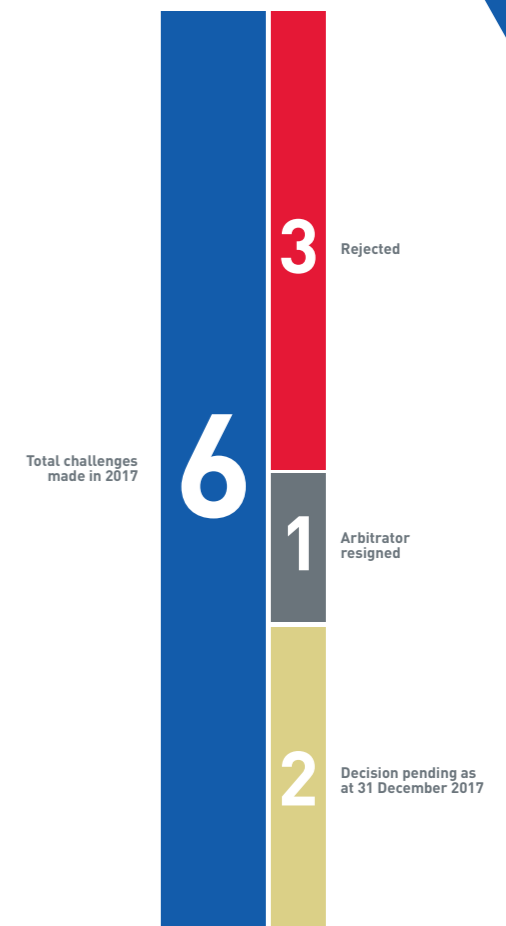
As with arbitrators, the nationalities of the tribunal secretaries were varied, and included Indian, Irish, British, Portuguese, Italian, Canadian, German, Australian, Kenyan, Singaporean, Spanish and Brazilian.

In October 2017, the LCIA published a revised version of its Notes for Arbitrators, with a revised section on tribunal secretaries.

These revisions emphasise the need for communication and consent in respect of the use of tribunal secretaries. To ensure this, tribunals are now explicitly required to seek consent from the parties in respect of the key elements of the tribunal secretary role: the tasks the tribunal secretary will carry out, any remuneration they are to be paid, and the actual individual who will be fulfilling the role. Further information about the revisions can be found on the LCIA's website.⁷

6. <http://www.lcia.org/News/lcia-releases-challenge-decisions-online.aspx>

7. <http://www.lcia.org/News/lcia-implements-changes-to-tribunal-secretary-processes.aspx>



APPLICATIONS

Expedited formation of tribunal and appointment of emergency arbitrator

In 2017, there were a total of 16 applications for expedited appointment of a tribunal under Article 9A of the LCIA Rules 2014. Of the 16 applications, 4 were granted, 11 were rejected, and 1 was superseded.

These figures are similar to those of 2016, during which 15 applications were made, with 2 granted, and 2014, during which 10 applications were made, with 3 granted. 2015 stands as an outlier, with 30 applications made and 12 granted.

The LCIA also received 1 application for the appointment of an emergency arbitrator under Article 9B of the LCIA Rules 2014, which was rejected by the Court.

Joinder and consolidation

Multi-party and multi-agreement arbitrations

Multi-party and multi-agreement arbitrations are common at the LCIA:

- of the 233 arbitrations commenced under the LCIA Rules in 2017, over a third (90) involved more than two parties. Those 90 arbitrations involved a total of 565 parties, with 21 involving over 10 parties each;⁸ and
- of the 233 arbitrations commenced under the LCIA Rules in 2017, 52 involved disputes under more than one agreement.

While joinder or consolidation does not occur in most such arbitrations, rigorous provisions exist in the LCIA Rules to cater for those in which it does.

Joinder

In 2017, 9 applications were made in arbitrations under the LCIA Rules for the joinder of a third party. 7 were granted by the relevant tribunal and 2 were rejected.

Of the 2 applications pending at the time of the 2016 Casework Report, 1 was granted while the other remains pending.

Successful applications for joinder tended to be made in arbitrations where:

- the efficacy of relief sought in the final award depended on the third party being bound; and/or
- the rights or liabilities of the third party would potentially be impacted by the outcome of the arbitration.

Consolidation

In 2017, 22 applications for consolidation were made in arbitrations under the LCIA Rules. Of the applications that were decided, almost all were granted (10 applications).⁹ Only 1 application was rejected, and only then on the basis that the Court did not have jurisdiction.¹⁰

The remaining 11 applications were either not decided (6 applications), whether because the application was withdrawn, the arbitration ended, or a separate agreement was entered into by the parties, or were pending at the end of the year (5 applications).

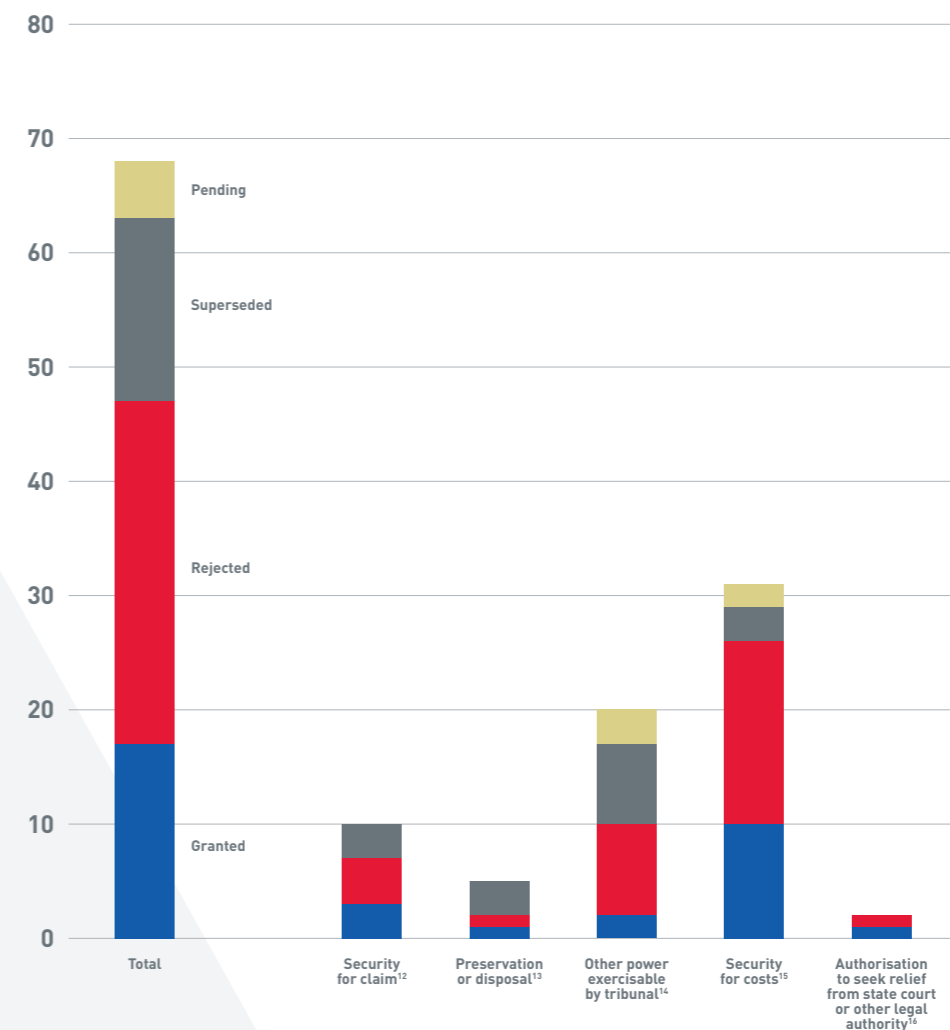
8. Those 21 arbitrations included two sets of multiple related arbitrations.

9. Three by the LCIA Court under LCIA Rules 2014 Article 22.6 where no tribunal had yet been appointed, 7 by the relevant tribunal under Article 22.1(ix) where all parties had consented.

10. The application was made under LCIA Rules 2014 Articles 22.1(ix) and 22.1(x) and would not, in any case, have fallen within Article 22.6. The applicant reapplied for consolidation in early 2018 following constitution of the Tribunal. This application will be included in the figures for 2018.

Interim relief

In 2017, 68 applications for interim and conservatory measures under Article 25 of the LCIA Rules (involving 58 arbitrations) were made.¹¹ Tribunals granted the relief in 17 instances and rejected the application in 30 others.



Almost half of the applications were for security for costs under Article 25.2 of the Rules, of which 32% were successful (10 of 31). Security for costs applications therefore had the highest success rate of all types of applications (other than authorisation to seek relief from state courts or other legal authorities, for which only 2 applications were made).

11. Where an application for interim relief was sought in the same arbitration on a different occasion, this is counted as a separate arbitration.

12. LCIA Rules 2014 Article 25.1(i), LCIA Rules 1998 Article 25.1(a).

13. LCIA Rules 2014 Article 25.1(ii), LCIA Rules 1998 Article 25.1(b).

14. LCIA Rules 2014 Article 25.1(iii), LCIA Rules 1998 Article 25.1(c).

15. LCIA Rules 2014 Article 25.2, LCIA Rules 1998 Article 25.2.

16. LCIA Rules 2014 Article 25.3(ii).



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