

Director-General's Review of 2004

Round-up

2004 was another eventful year for the LCIA.

In March, we moved, together with the International Dispute Resolution Centre, to our new home at 70 Fleet Street, doubling the size of our accommodation. The additional space for staff, equipment and document management has proved most welcome indeed, as our activities on all fronts have grown apace.

In April, we were very pleased to welcome Matthew Sillett onto the LCIA Secretariat staff, as Deputy Registrar, a role in which he has already become well known to many of our members.

In May, we bade a fond farewell to Bola Ajibola, Marc Blessing, Eva Horvath, Arthur Marriott, Rusty Park and Charles Renfrew, after many years loyal service on the Court. Karl-Heinz Böckstiegel was, at that time, made an Honorary Vice President of the Court, whilst David Rivkin stepped into the crucial role of Vice President, to replace Rusty Park.

In July, Jan Paulsson succeeded Gerold Herrmann as President of the Court and, in August, we welcomed José Astigarraga, Mark Baker, Laurent Lévy and Fidelis Oditah as Members of the Court.

In October, we recognised the retirement from the LCIA Board of Ken Rokison and Johnny Veeder, after 15 years loyal service, during which each had served as Chairman of the LCIA Board. We welcomed, in their place, Peter Leaver and David St John Sutton.

Our conference department, headed as ably as ever by Irene Bates, put on their usual excellent programme of conferences, as to which more anon.

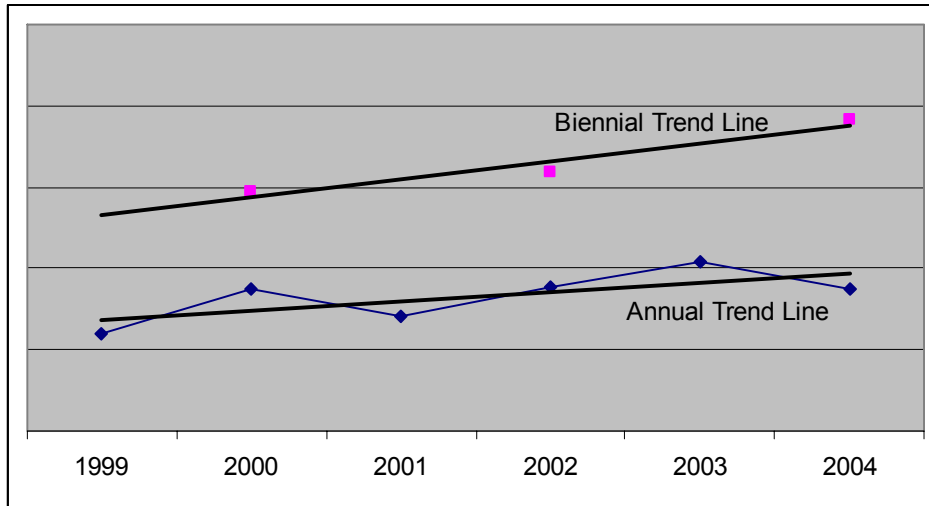
On the wider conference circuit, there were, as ever, many worthwhile arbitration events held around the world, and generally extremely well attended, bearing testimony to a still dynamic and developing field of law and practice. One of the most notable of these was a most rewarding ICCA conference in Beijing in May, held under the presidency of the then-President of the LCIA Court, Professor Gerold Herrmann.

The UNCITRAL Working Group on Arbitration, chaired by LCIA Court member, Jose Maria Abascal, continued its work on the amendment of the Model Law, concerning which a report appears on the cover of this Newsletter, whilst Spain became the latest country to adopt the Model, albeit with a number of interesting variations.

Casework referrals

Although we saw a levelling-off in casework referrals in 2004, the quality, complexity, and value of cases ensured a busy time for the Secretariat staff.

And despite the softening in the absolute number of referrals in 2004, as against 2003, the 191 cases filed during our biennial monitoring period, showed a 23% increase in arbitrations commenced in 2003/2004, as compared to the previous twenty-four month period.



Underlying the versatility, and universal applicability, of arbitration, the types of contracts out of which 2004 referrals arose were as wide and varied as ever, from share sale and purchase agreements, to the sale and supply of raw materials; from a variety of joint ventures, to major construction and infrastructure projects; from engineering drawing and design, to oil and gas exploration; from banking to insurance.

Once again, we undertook, in 2004, a range of administrative roles in non-LCIA cases, typically providing a fundholding facility in otherwise *ad hoc* cases, or taking over an administrative role in arbitrations which had begun under the UNCITRAL Rules.

We also acted as appointing authority and/or administrator in a number of construction adjudications and expert determinations.

Sums in issue

In around 33% of the new cases filed in 2004, the Claimants sought a combination of unspecified damages and declaratory relief, though the value of these cases generally proved to be very substantial as the proceedings progressed. Of the remaining 68% of referrals, in which damages were quantified in the Request, around one third of Claimants filed claims for sums in excess of US\$5million. The value of counterclaims typically doubled the financial stakes.

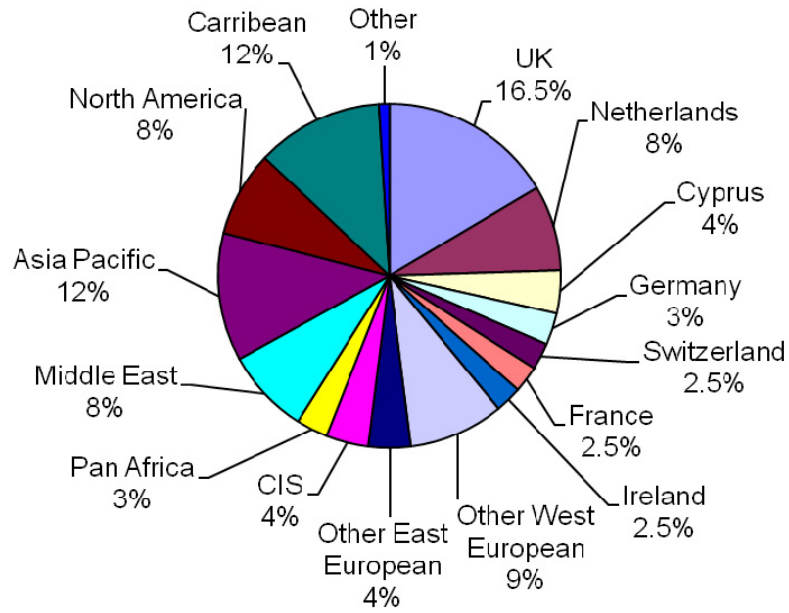
The parties

There was the usual wide range of nationalities among the parties involved in cases referred in 2004.

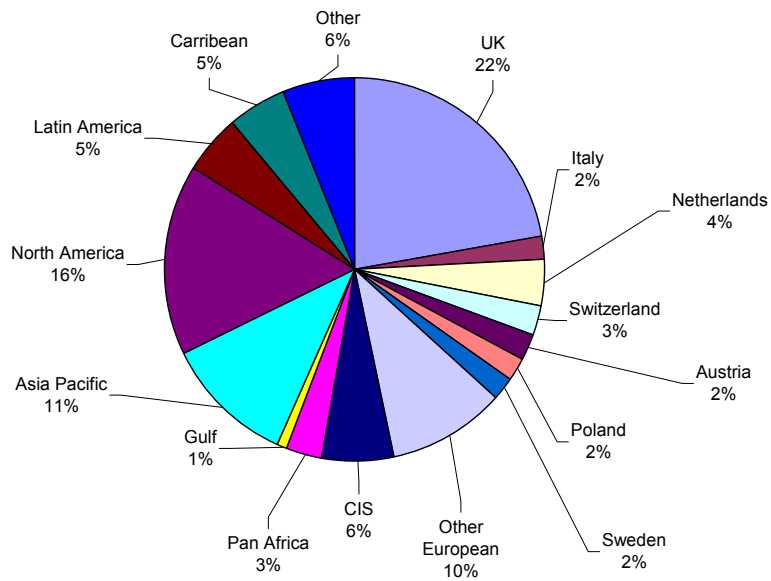
The following two charts show, in percentage terms, the nationalities of all parties, Claimants and Respondents, in cases referred in 2004 and in 2003, respectively. Although one year's figures hardly constitute a trend, changes of note between the two years are the decline in the number of UK parties, from 22% to 16.5% and in North American parties, from 16% to 8%, and the increase

in the total number coming from broader Europe, from 25% to 35.5%, and in the numbers from the Middle East, from 1% to 8%.

2004



2003



The Tribunals

(2003 figures are shown in brackets for comparison.)

During the course of 2004, the LCIA Court made a total of 150 (148) individual appointments of arbitrators, to a total of 83 (64) tribunals, marking a shift in favour of one-member Tribunals when compared to 2003. 31 (17) of those tribunals were appointed during the year in cases that had been referred to arbitration in 2003 (2002). The remaining 52 (47) were appointed to determine cases commenced in 2004 (2003).

The parties, or the party-nominated arbitrators, nominated 82 (97) of the 150 (148) individuals, sometimes from lists proposed, at the parties' request, by the LCIA. The LCIA Court directly selected the remaining 68 (51), in cases in which there was either no express provision for party nomination, or where a party, or parties, defaulted.

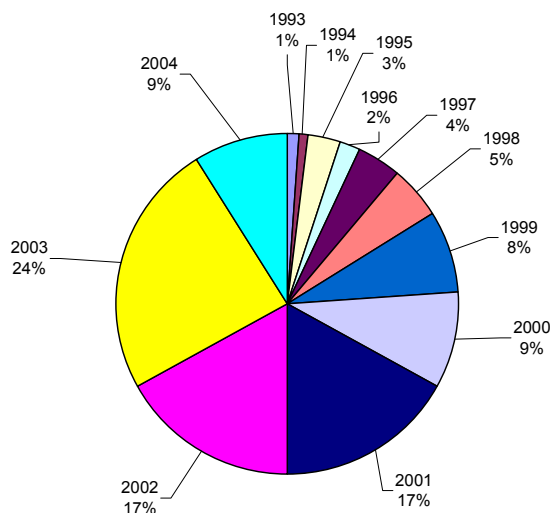
68% (64%) of the 82 arbitrators nominated by the parties, that is 56 (62) individuals, were of UK nationality. 57% (49%) of the 68 (51) arbitrators nominated by the Court, that is 39 (25) individuals, were of UK nationality. So the percentage of the arbitrators nominated both by the parties and by the Court, who were of English nationality, increased slightly in 2004, doubtless because of the consistency of the applicability of English law, both procedural and substantive, to a high proportion of the arbitrations brought to the LCIA and because of the preponderance of non-UK parties.

Other nationalities appointed during 2004 included American, Australian, Austrian, Bermudian, Canadian, Danish, Dutch, Egyptian, French, German, Irish, Italian, Lebanese, Malaysian, New Zealand, Nigerian, Swedish, Swiss and Syrian.

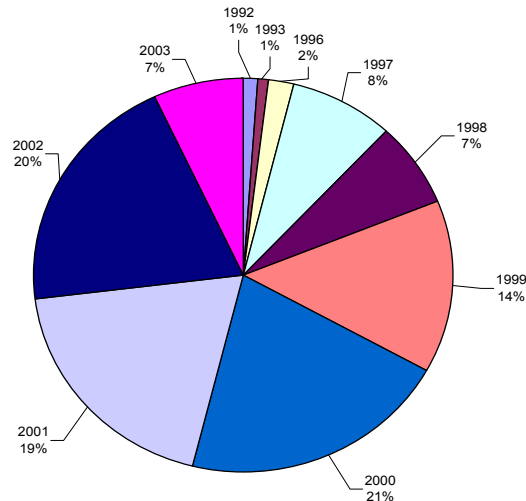
Contract dates

The breakdown of the dates of the contracts in dispute in year 2004 cases (where known) is shown in the following chart. Much as in 2003, for which the associated chart also appears below, half of the new referrals for the year were in respect of contracts entered into in the current year and in the two previous years.

2004



2003



Conferences and Symposia

We were, once again, delighted with the attendance at all of our symposia in the busy 2004 programme. Whilst the majority of delegates were existing members, many of very long standing, a good number were non-members who have since joined the LCIA Users' Councils.

We began the year in the warmth of Rio, with a traditional Tylney-style symposium, twinned with the IBA Arbitration Day, which was held in Sao Paulo. Both events were enthusiastically supported, providing excellent forums for stimulating discussions of developments in arbitration in Latin America.

In April, we were honoured and delighted to provide our support and administrative services for a colloquium, initiated by Michael Mustill, and held under the auspices of the Cambridge Centre for Corporate and Commercial Law.

Held in the historical grounds of St John's College, Cambridge, delegates were treated to a wealth of outstanding presentations by most eminent panellists, on the theme, "*International Economic Disputes – A Wider Perspective*".

The May Tylney Hall symposium bore all the hallmarks of excellence with which the event is associated, but was marked, in particular, by the retirement of Gerold Herrmann as President of the LCIA Court, at the conclusion of his three-year term of office.

May also found us in Beijing, with another traditional symposium, put on with the support of Vinson & Elkins, on the occasion of the 17th ICCA conference.

September saw another outstanding autumn Tylney, which, of the two events, is now the preferred option for many Tylney aficionados, and which was the first Tylney over which Jan Paulsson presided, as President of the LCIA Court.

In October, we hosted a highly successful symposium in Montreal, in cooperation with Ogilvy Renault, with contributions from an enviable list of panellists and participants.

Without pausing for breath, we moved on to Houston for another successful symposium, held, this time, in cooperation with Fulbright & Jaworski.

Our thanks go to all of those who so willingly and ably supported our conference programme, whether co-sponsors, speakers, or co-chairs of the Tylney-style symposia.

The Young International Arbitrators Group continues to grow apace, with the 200 new members joining in 2004 bringing total membership to over 1,000. YIAG themselves now run an excellent series of conferences, holding three in 2004, in Vienna, Tylney Hall and Houston.

Another busy programme is already under way this year, with conferences from Dubai to Delhi, from Geneva to Islamabad.

Looking forward

2005 has begun with an exceptional flurry of activity on the casework front, promising another busy year for the LCIA.

The LCIA will continue to put every effort into providing effective, and cost-effective, dispute resolution services, in support of the international trade and commerce, which, ultimately, has the potential to create stability, prosperity and interdependence among nations, notwithstanding the seemingly unremitting conflicts that beset too many people in too many regions of the world.



*Adrian Winstanley
Director General*