

DIRECTOR GENERAL'S REPORT

(November 2009)

The most significant development at the LCIA in the past 12 months has undoubtedly been the establishment of *LCIA India*.

However, those 12 months, and the earlier months of 2008, have also seen the steepest rise in casework referrals in the history of the institution.

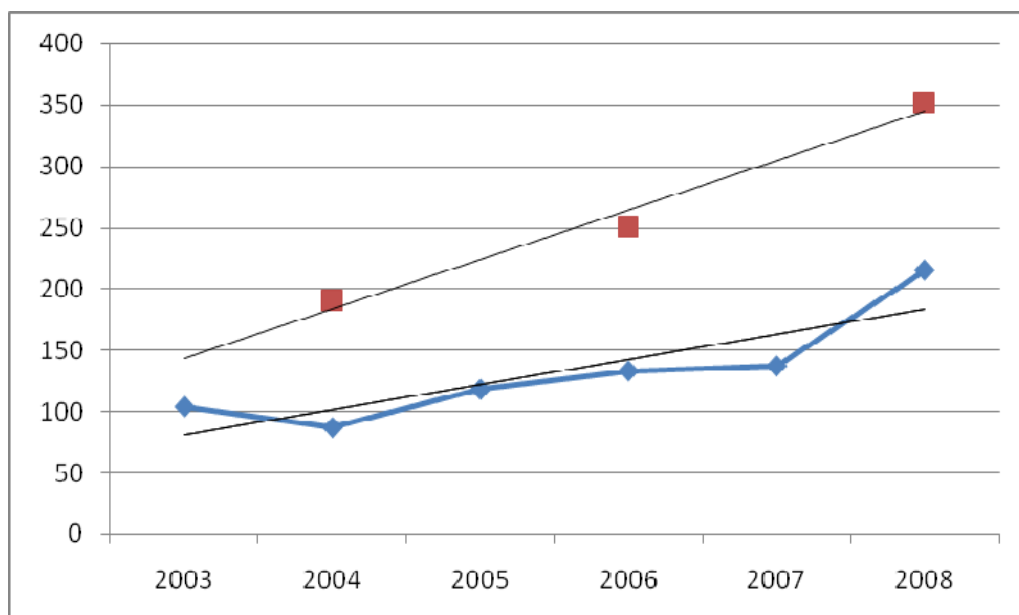
2008 closed with 215 disputes having been referred to the LCIA for arbitration (plus a further 6 for mediation), representing an increase of some 56% over the number of disputes referred in 2007.

At the time of writing (20 November 2009) 243 disputes have been referred for arbitration so far this year (plus a further 10 for mediation), as compared to 163 disputes referred for arbitration at the same date in 2008; an increase of 40% over the 12 month period.

The LCIA is not, of course, alone among the leading arbitration institutions in experiencing a dramatic growth in its caseload, at a time when exceptional economic circumstances inevitably generate an exceptional number of disputes. Nor should we be surprised if the economic recovery that is beginning to show signs of real momentum, leads in due course to a levelling off, and quite possibly a decline, in case numbers in the coming years.

However, and although any business would naturally be pleased to see such significant growth, the LCIA, which exists to lend support to business and commerce, will be among the first to celebrate the return to economic growth, even if this is at some cost to the growth in its own, countercyclical, business.

By way of a summary, therefore, the 352 cases filed during our most recent biennial monitoring period (2007/2008) represent an increase of 40% as compared to the previous 24 month period, with the annual trend line in a much steeper upward curve.



Nature of contracts

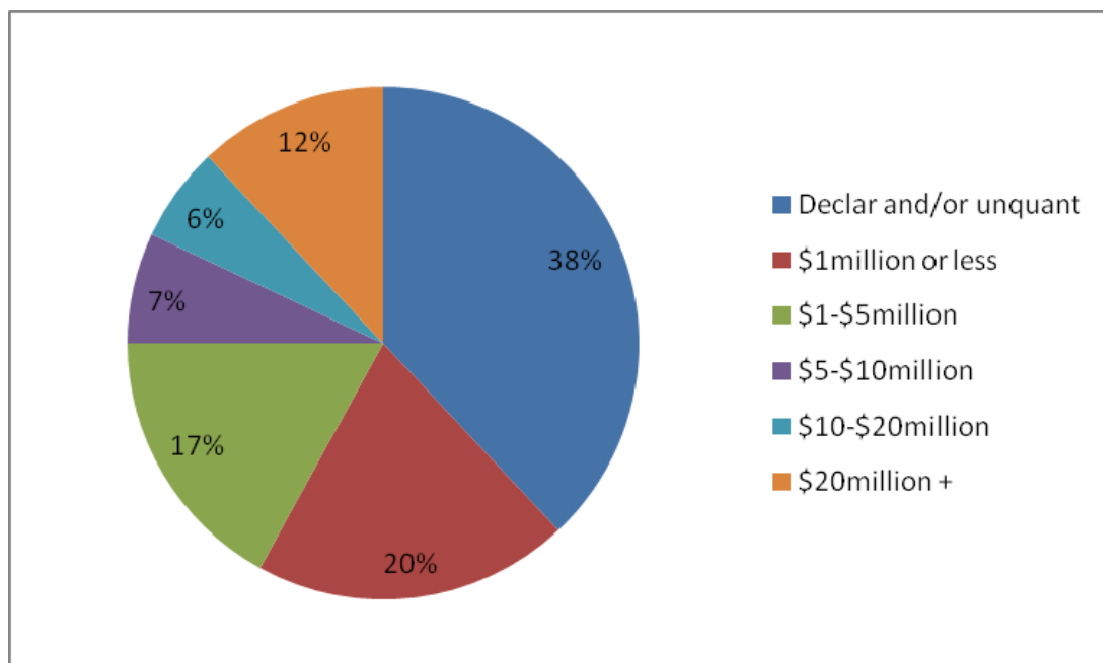
There is, as usual, a very wide variety of contracts underlying the disputes that are referred to the LCIA, including, for example, aircraft licensing, deeds of guarantee, marketing, IT, IP, infrastructure, and construction. However, the largest categories in 2008 referrals were commodity transactions (in steel and carbon products in particular), accounting for almost 30% of referrals that year, followed by the broad category of joint ventures and shareholders' disputes, at a little over 20%, and loan or other financial agreements at around 15%.

Sums in issue

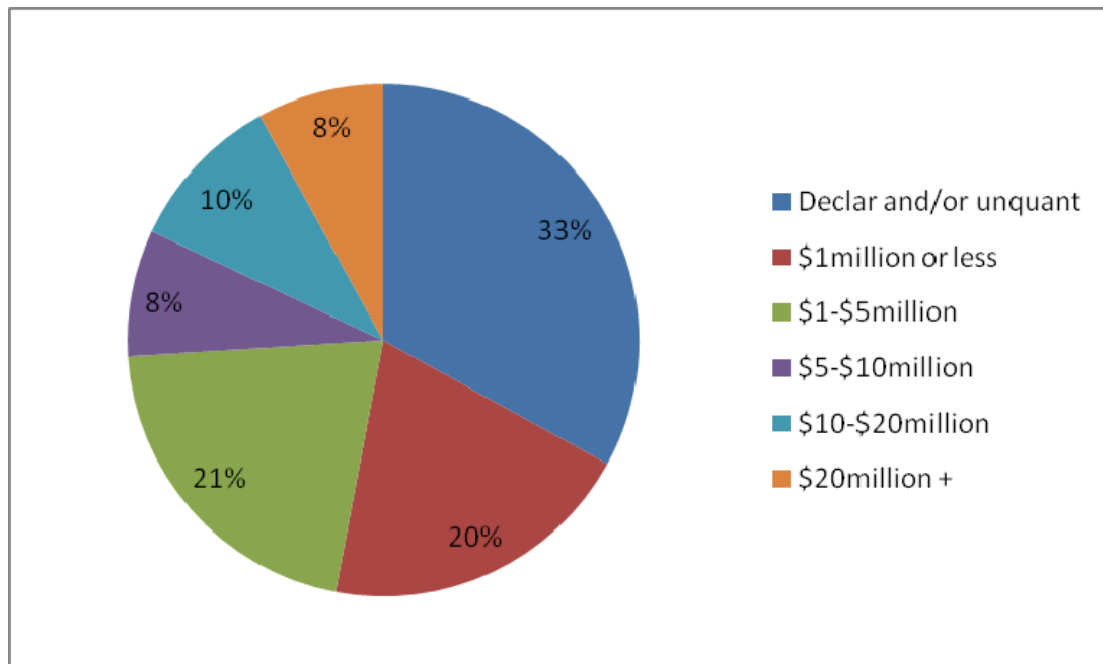
There was some increase in 2008, from 33% to 38%, in the number of referrals in which Claimants did not quantify their claim in the Request for Arbitration, and/or sought declaratory relief. This might, in part, be a function of fast-moving economic circumstances, in which Claimants are primarily concerned to register their arbitration, and leave over the quantification of their claim, in the knowledge that this does not, under the LCIA system, affect the fees and expenses of the institution and of the tribunal.

The percentage of claims valued at US\$1million or less, in 2008, remained the same as in 2007, at 20%; with a decline in the percentage in the US\$1million-to-US\$5million bracket, and in the US\$10million-to-US\$20million bracket, the latter being matched by an increase in the percentage of cases in the US\$20million-plus bracket.

2008



2007

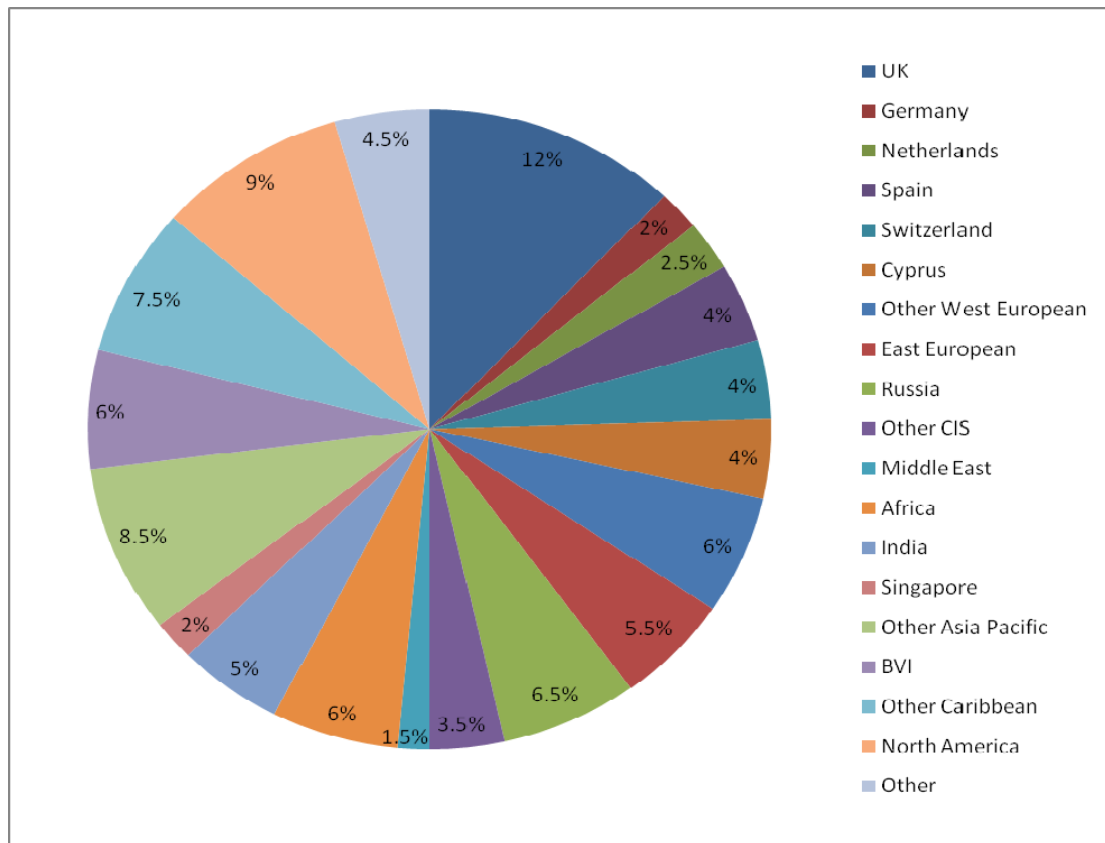


The parties

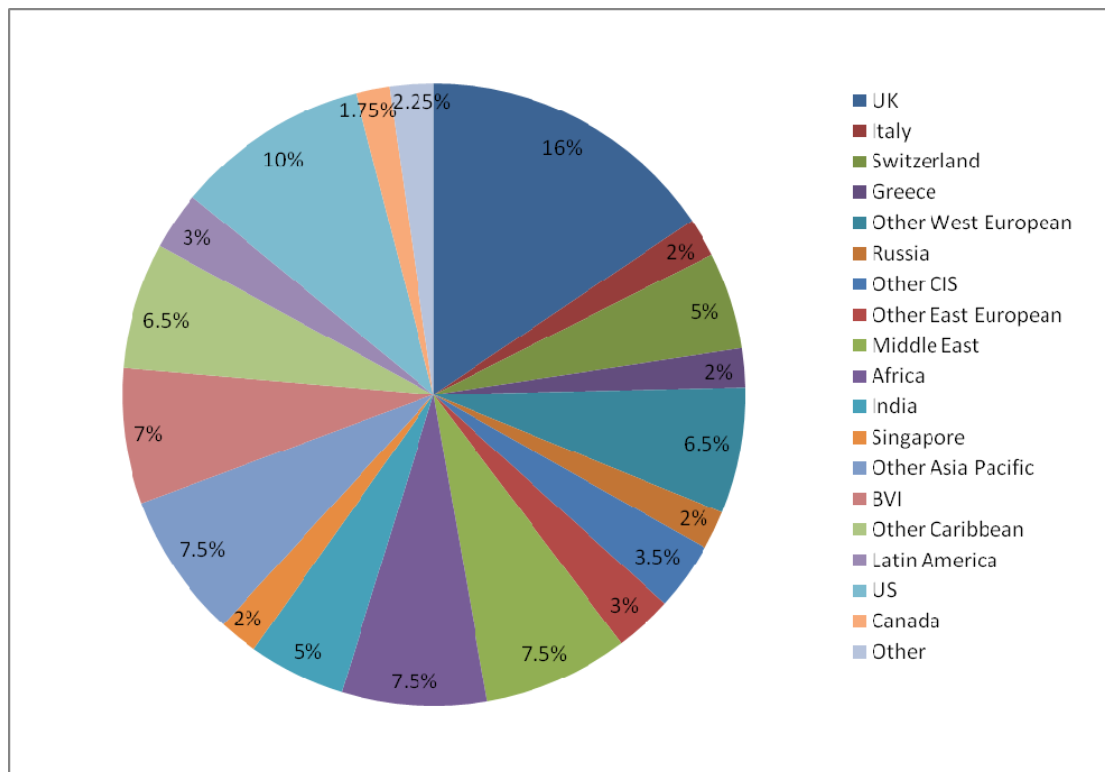
The following charts show the nationality of all parties, Claimants and Respondents, in cases referred in 2008 and in 2007.

Although these percentages are calculated on substantially-increased absolute numbers, we have seen a further decline in the percentage of UK parties, which now stand at just 12% of the total. There was, in 2008, a marked increase in the percentage of European parties, East and West, and a significant decline in parties from the Middle East, whilst the percentage of parties from the Caribbean, and from the Asia Pacific region remained steady as between those two years.

2008



2007



The Tribunals

During the course of 2008, the LCIA Court made a total of 284 individual appointments of arbitrators, to a total of 142 tribunals, of which exactly half were sole arbitrators and the other half three member tribunals. 23 of these tribunals were appointed in cases that had been referred to arbitration in 2007. The remaining 119 tribunals were appointed to cases commenced in 2008.

Of these 284 individual appointments, 190 were UK nationals, of whom 56% were selected by the parties 30% by the LCIA Court and 14% by the party nominees. Of the remaining 94 individuals who were not UK nationals, 37% were selected by the parties; 51% by the LCIA Court; and 12% by the party nominees.

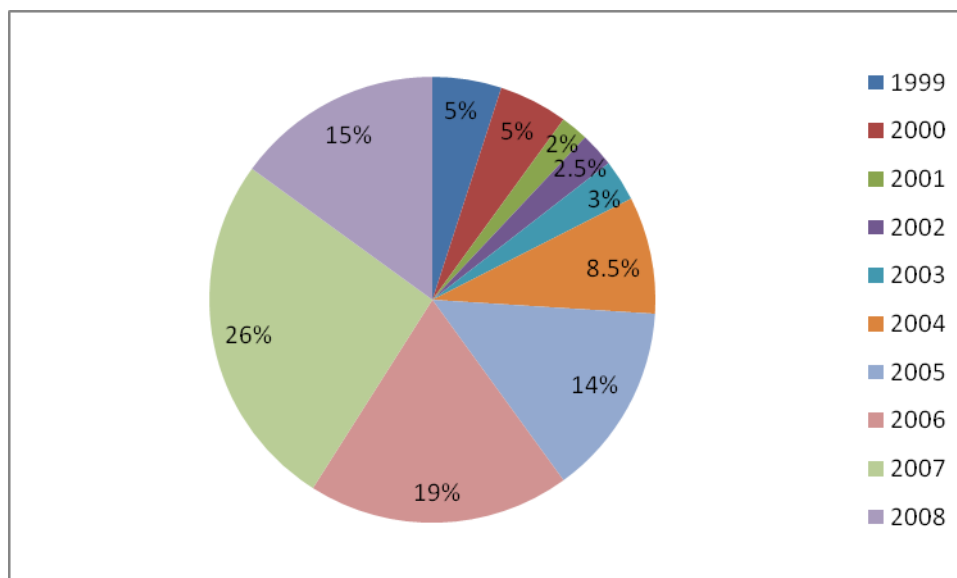
The nationalities other than UK were Argentinean; Australian; Austrian; Belgian; Brazilian; Bulgarian; Canadian; Chinese; Columbian; Czech; Dutch; French; German; Indian; Irish; Mauritian; Mexican; New Zealand; Nigerian; Pakistani; Polish; Russian; Singaporean; Slovakian; South African; Swedish; Swiss; Turkish; UAE; and US.

Although English arbitrators clearly predominate, English parties are very much in the minority, and this domination, therefore, appears simply to flow from the parties' choice of a neutral venue and, in the great majority of cases, English substantive law as well as English procedural law.

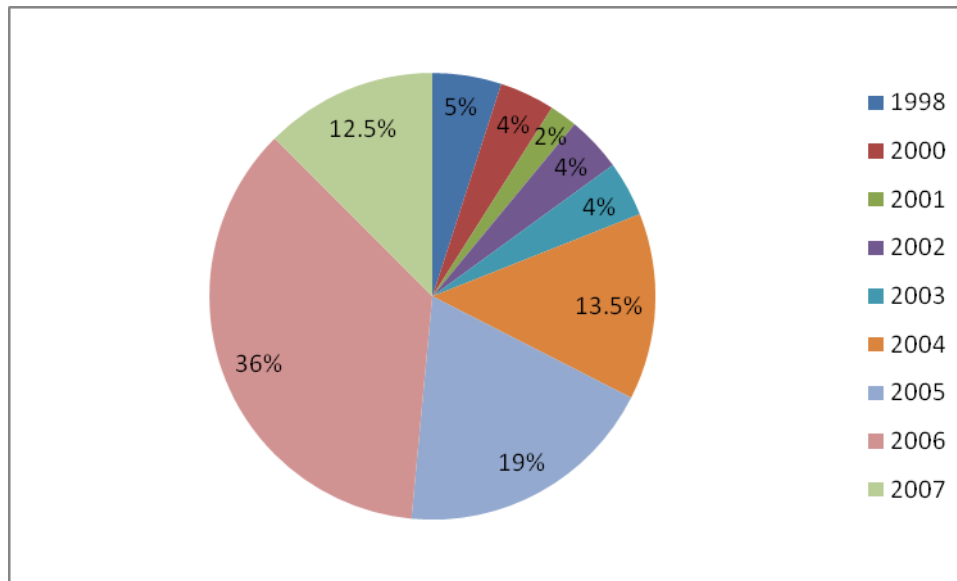
Contract dates

The dates of the contracts in dispute in cases filed in 2008 (where known), and the parallel dates for 2007, are shown in the following two charts. There has been a slight shift in the number of disputes arising in the current and two previous years, and those arising from earlier contracts, from around $\frac{2}{3}$ / $\frac{1}{3}$, in 2007, to 60/40 in 2008.

2008



2007



2009

I have referred, at the beginning of this brief report to the continuing growth in the number of disputes referred to the LCIA, a good proportion of which growth can realistically be attributed to the prolonged global economic crisis. It is not, therefore, yet possible to strip away the credit-crunch element of casework development to reveal the true underlying trend, though all indications are that this trend is upwards. As the airlines are apt to say in these straitened times, *"we know that you have a choice"*, and the LCIA will never be complacent about its position among the leading arbitral institutions but will continue to focus on providing relevant, cost effective and efficient administrative services to the business community that it serves.



Adrian Winstanley
Director General