



INTERNATIONAL
CHAMBER
OF COMMERCE

INTERNATIONAL
COURT OF
ARBITRATION®

INTERNATIONAL
CENTRE
FOR ADR

ICC ARBITRATION

CICA Seminar: Construction Disputes Resolution – Dec. 12, 2019

Laetitia de Montalivet,
Director, Arbitration & ADR, Europe

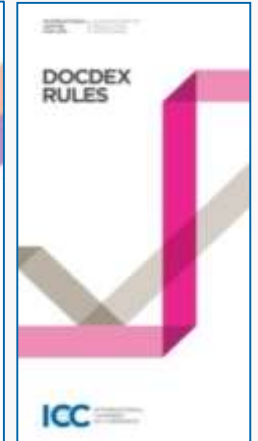
Leading
Dispute
Resolution
Worldwide

ICC DISPUTE RESOLUTION SERVICES

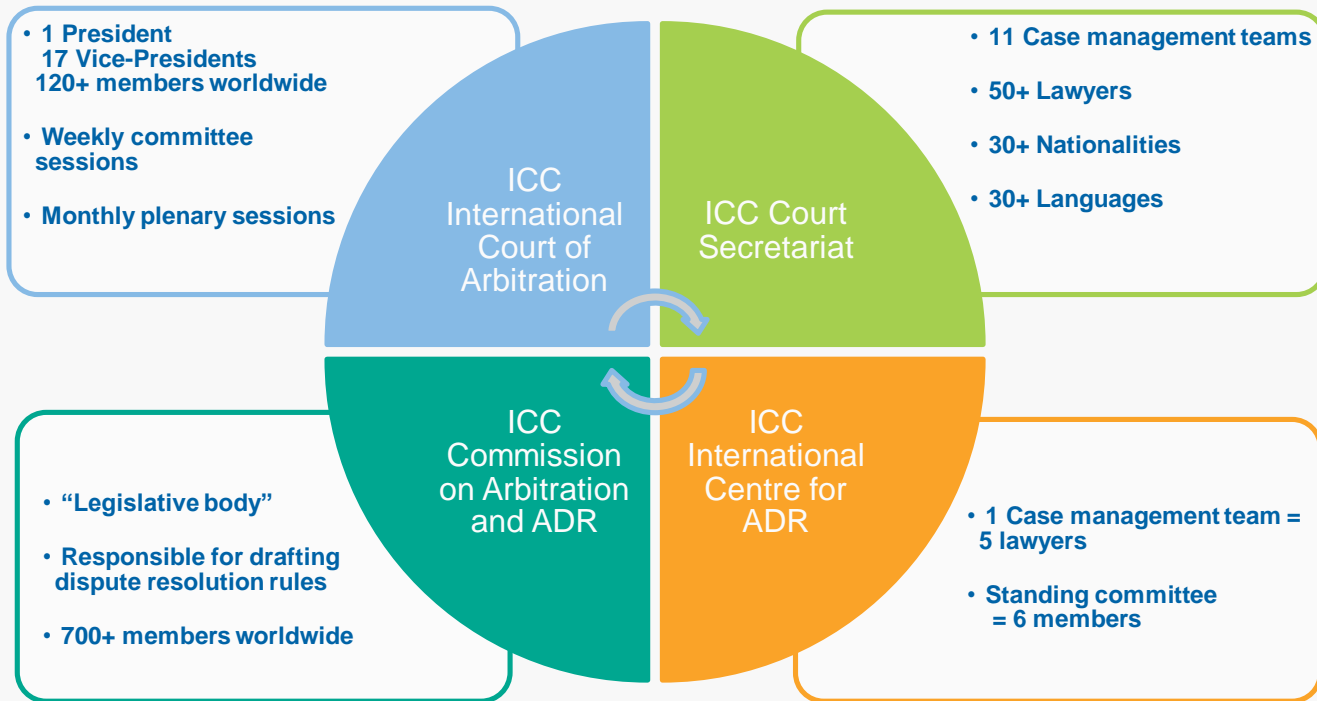
ICC International Court of Arbitration



ICC International Centre for ADR



WORLD CLASS ADMINISTRATION & EXPERIENCE



THE INTERNATIONAL COURT OF ARBITRATION

International Court of Arbitration (HQ in Paris)	Arbitral Tribunal (any place in the world)
<ul style="list-style-type: none">▶ Does not settle itself disputes▶ Supervises the work of the Arbitral Tribunals and administers the proceedings▶ Constitution of the Arbitral Tribunal▶ Controls time limits under the Rules▶ Award scrutiny▶ Fixes arbitrator's fees and administrative expenses	<ul style="list-style-type: none">▶ Decision on the merits of the case▶ Management of the case in consultation with the parties▶ Principles of rapid, diligent and contradictory process▶ Drafts the terms of reference, renders procedural orders and awards▶ Decides on the allocation of costs among the parties

THE INTERNATIONAL COURT OF ARBITRATION

Founded in 1923

To date: 24 000+ cases

Court sessions are in English, special sessions are held in other languages

Members of the Court are appointed for a renewable three-year term by the World Council of the ICC

Composition

One President: Alexis Mourre

17 Vice-Presidents

194 Members from 116 countries and territories

Sessions

Committee sessions

Weekly

3 Court members

All type of decisions

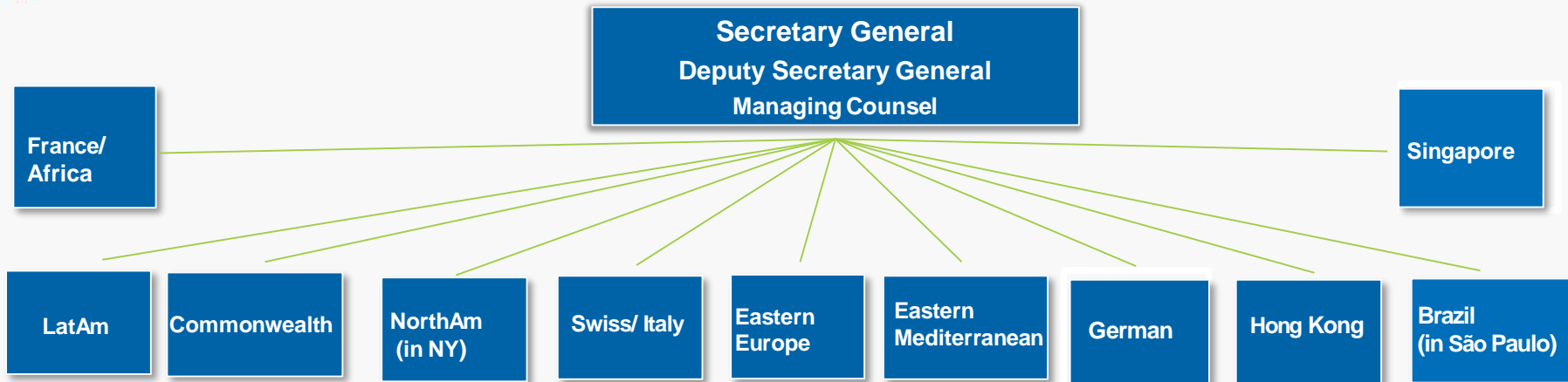
Plenary sessions

Monthly

Open to all Court members

Challenges, majority awards, States

THE ICC SECRETARIAT



Composition

- Approx. 80 staff members
- Diverse nationalities & languages
- One counsel, several deputy counsel per team

Mission

- Daily case administration
- Contact with parties, arbitrators
- Advice on practices, briefings and recommendations to the Court
- Communication with parties and Arbitral Tribunals
- General info on application of the Rules



STANDARD ICC ARBITRATION CLAUSE

*“All disputes arising out of or in connection with the present contract shall be finally settled under the **Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules**”.*

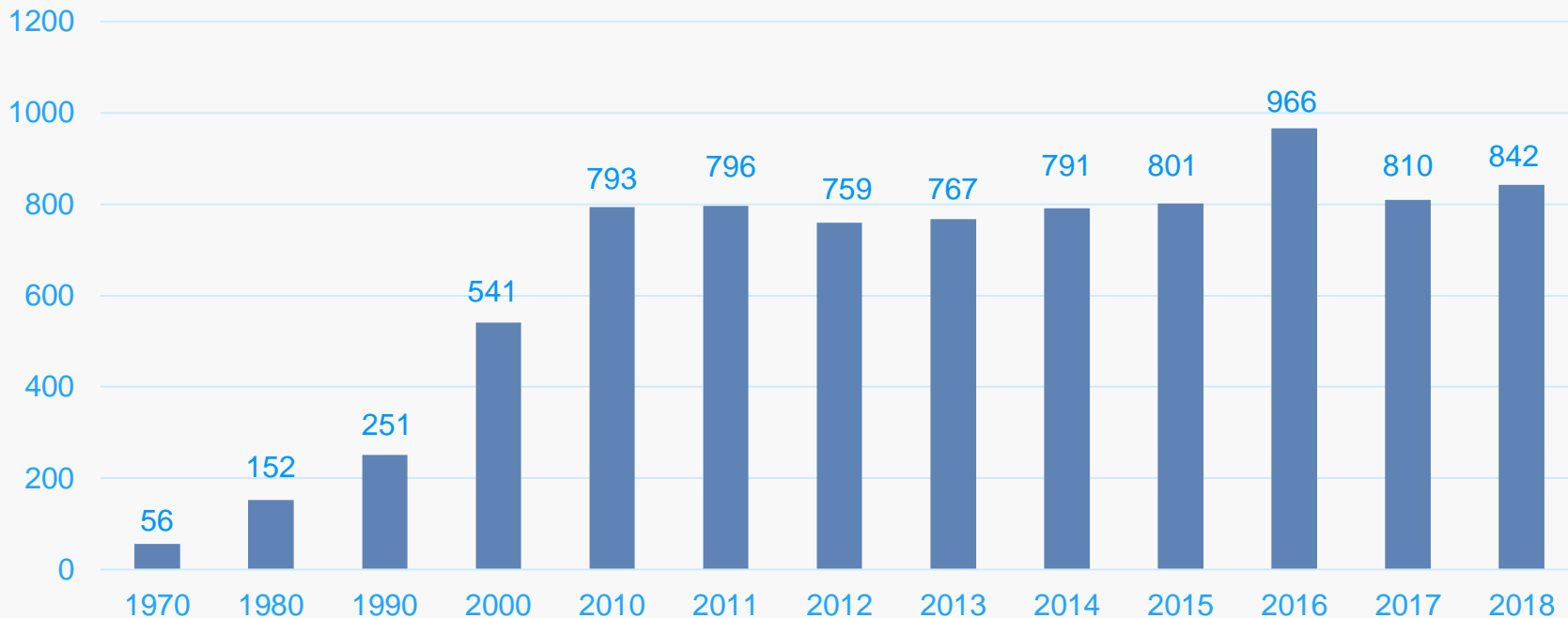
Suggestions:

- ▶ Place of arbitration
- ▶ Language of arbitration
- ▶ Applicable law
- ▶ Number of arbitrators (1 or 3)

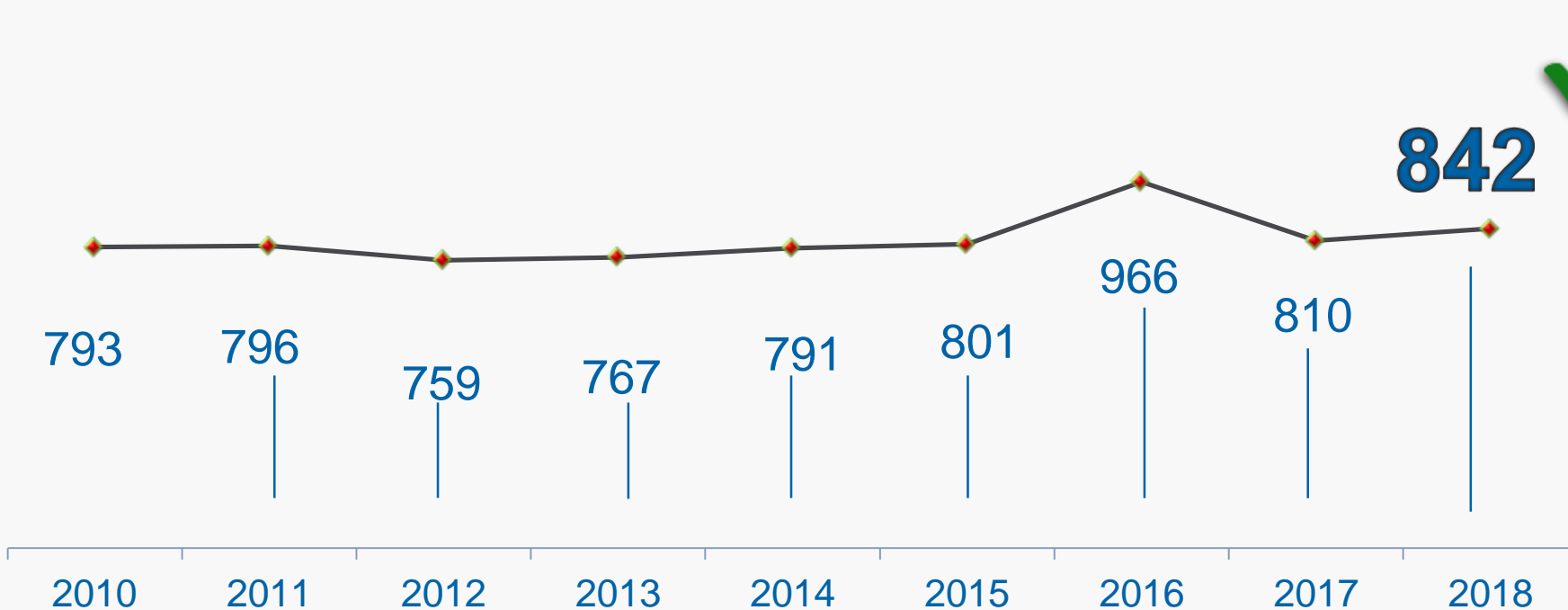
Emergency Arbitrators and Expedited Procedure Provisions apply according to conditions provided by the Rules.

HISTORY

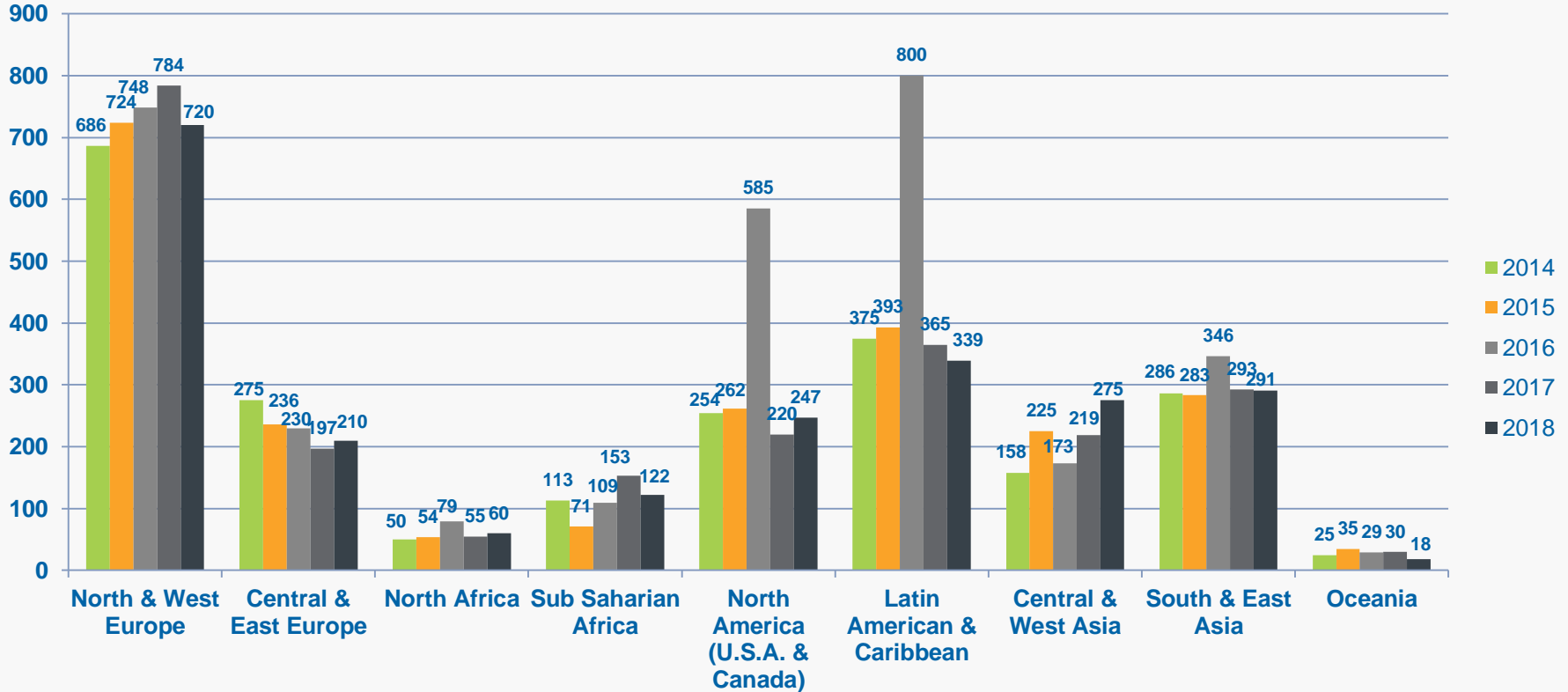
Number of cases registered by year



REGISTERED CASES PER YEAR



YEARLY BREAKDOWN OF ICC ARBITRATIONS BY REGIONAL ORIGIN OF PARTIES



GENERAL STATISTICS (2018)

24 000+

- Cases administered

842

- New cases filed

1603

- Pending cases

599

- Awards issued

1484

- Arbitrators confirmed or appointed

GENERAL STATISTICS (2018)

14,8%

- Cases involving States or State entities

108

- Cities as place of arbitration (in 60 countries)

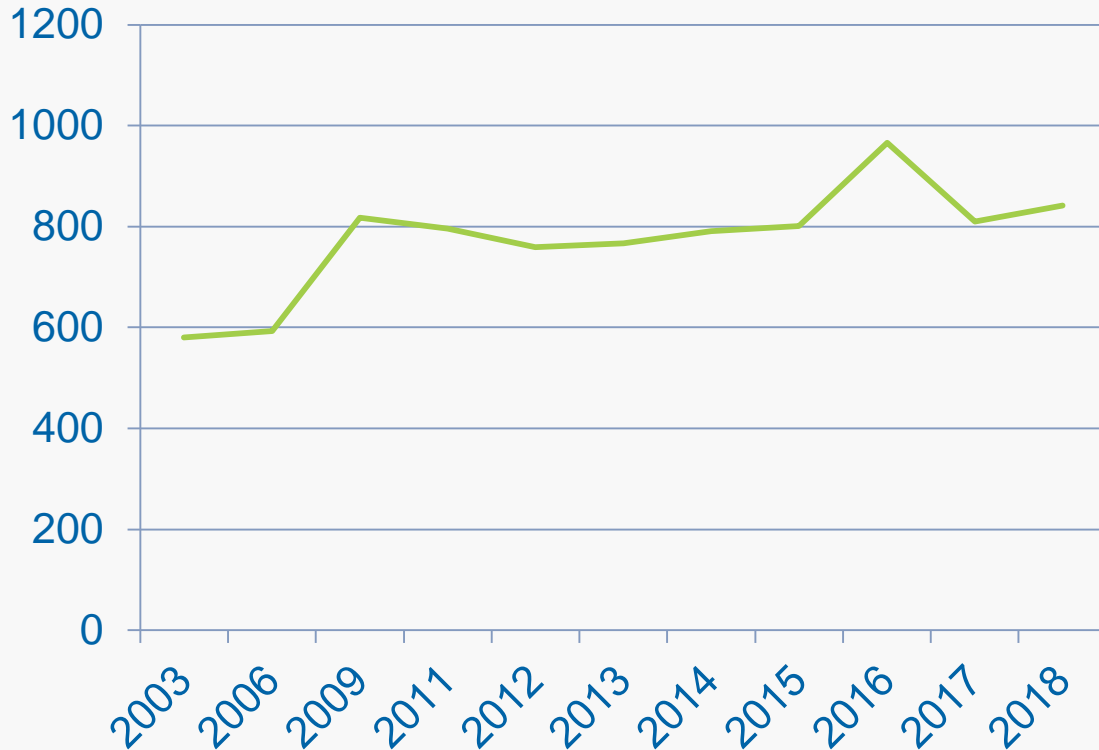
2282

- Parties coming from 135 countries

24

- Emergency Arbitrator Applications (98 up to date)

TREND IN NUMBER OF CASES REGISTERED BY YEAR



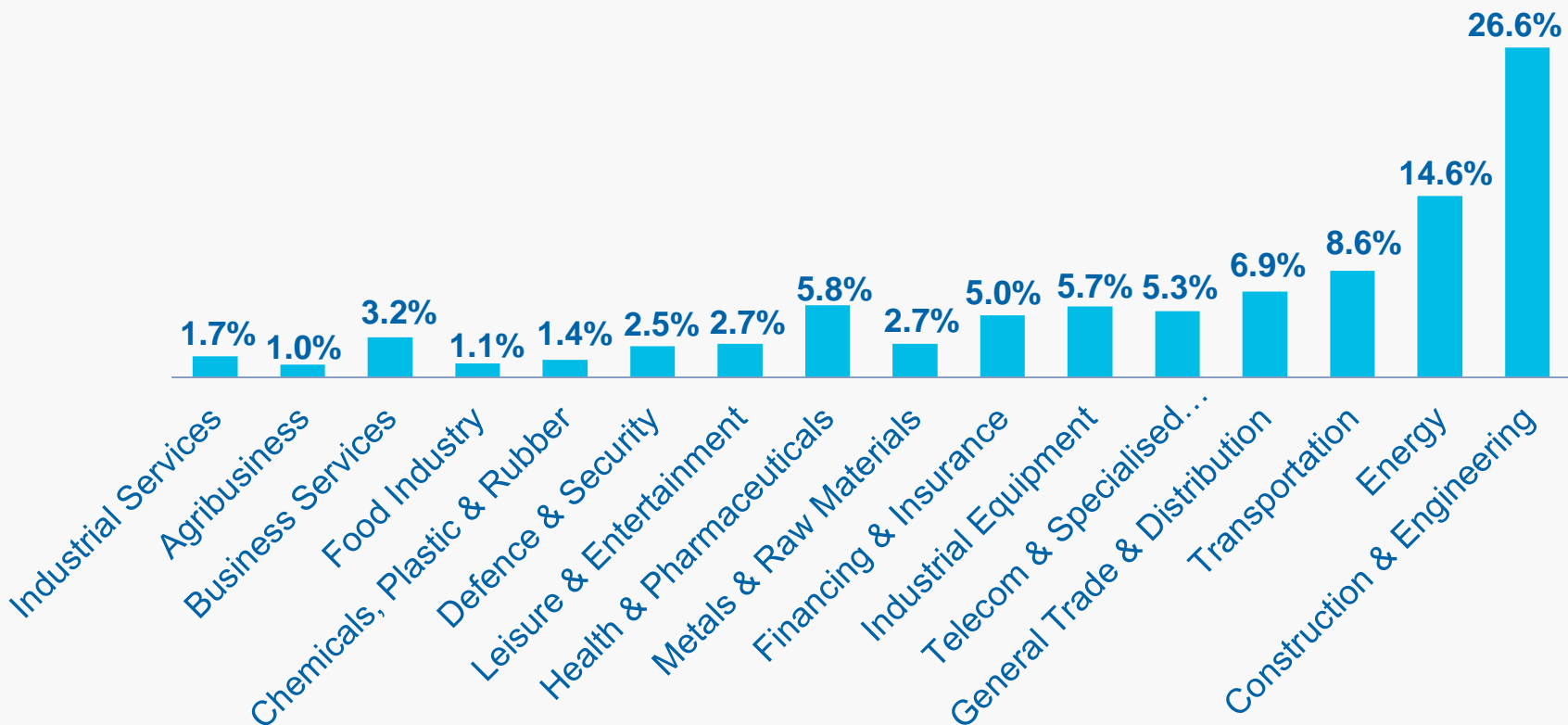
Number of new cases filed in 2018 **842**

Including **24** applications for Emergency Measures

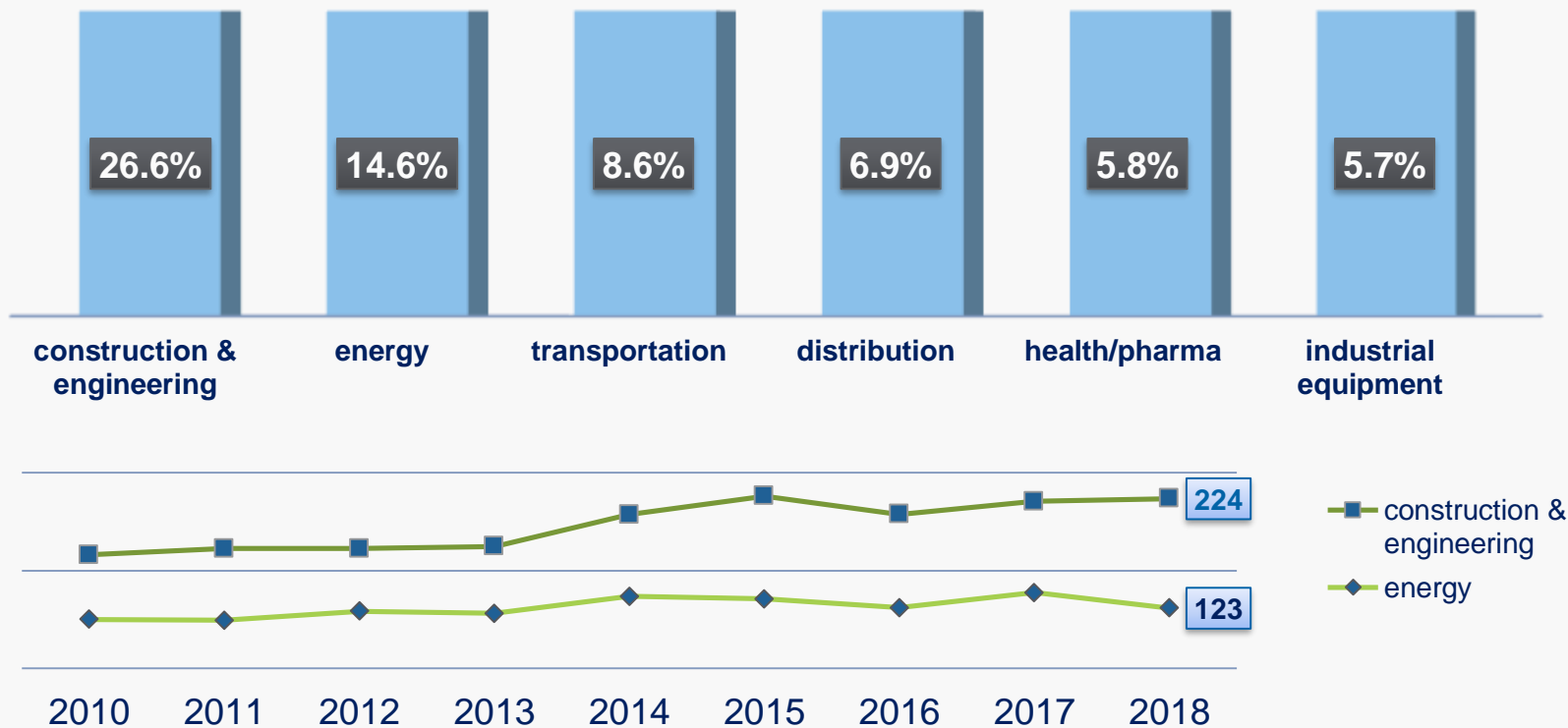
1 603 pending cases

14,8% of cases involving states or state entities

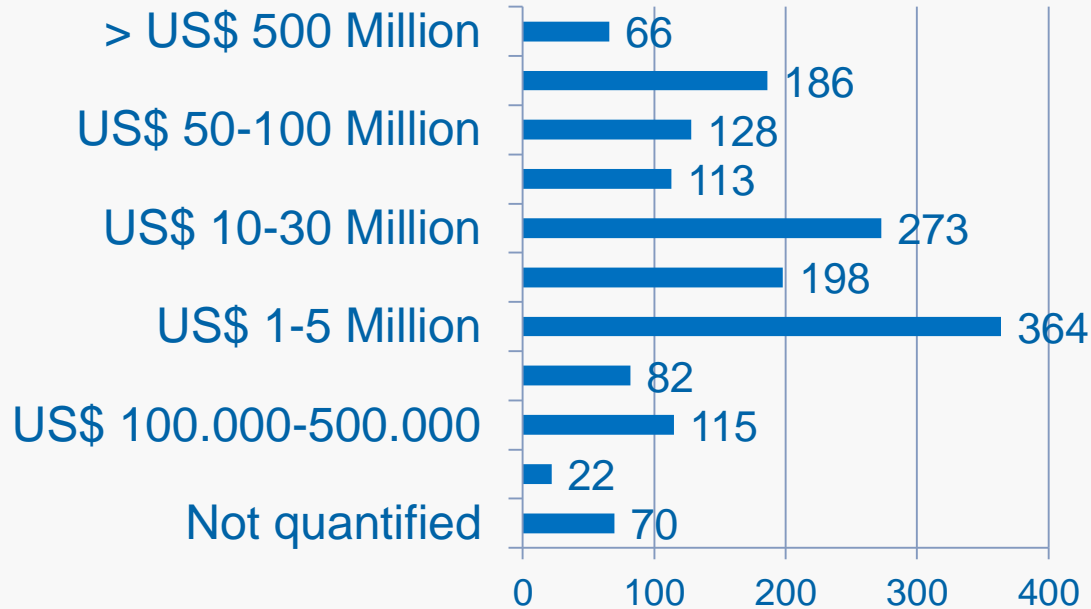
BREAKDOWN OF 2018 ICC ARBITRATIONS BY ECONOMIC SECTOR



MAIN SECTORS - TRENDS



AMOUNTS IN DISPUTE IN PENDING CASES AS OF JANUARY 2019

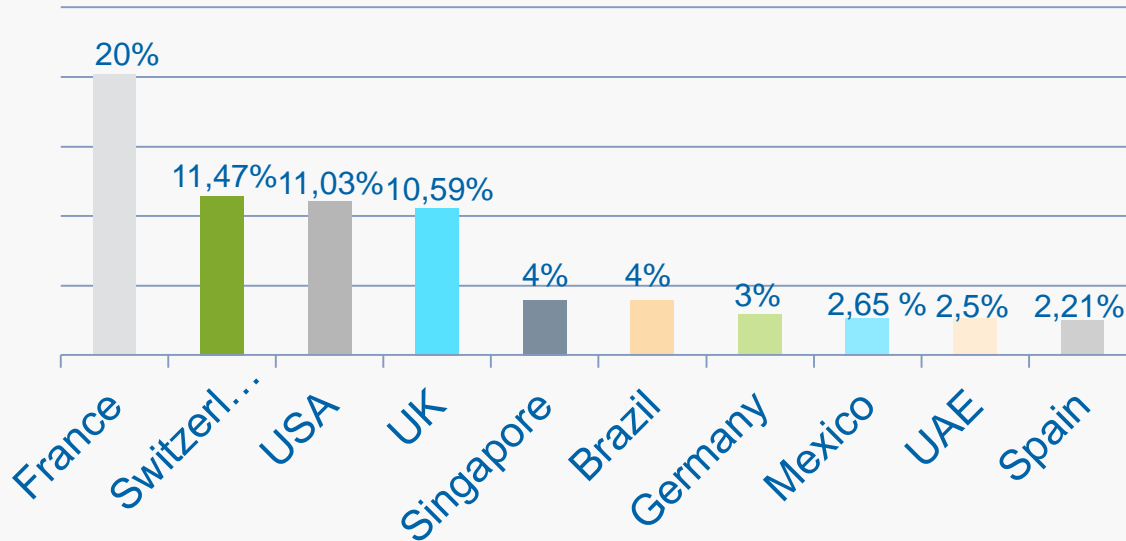


Average amount in pending cases: US\$ 131 546
145

Amount in dispute < US\$ 2 million in 21% of cases

PLACES OF ARBITRATION IN 2018 ICC ARBITRATIONS

- Place of arbitration fixed by the Court in 8,1% of cases
- Ranking of top 10 countries



Place of arbitration in 2008

50 countries

93 cities

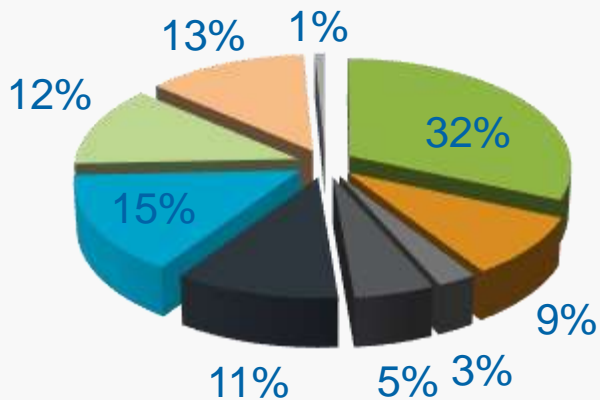
Place of arbitration in 2018

60 countries

108 cities

ORIGINS OF PARTIES IN ICC ARBITRATIONS

2018



- North & West Europe
- Central & Eastern Europe
- North Africa
- Sub-Saharan Africa
- North America
- Latin America & Caribbean
- Central & West Asia
- South & East Asia
- Oceania

Number of parties in 2008 1758 parties

120 countries

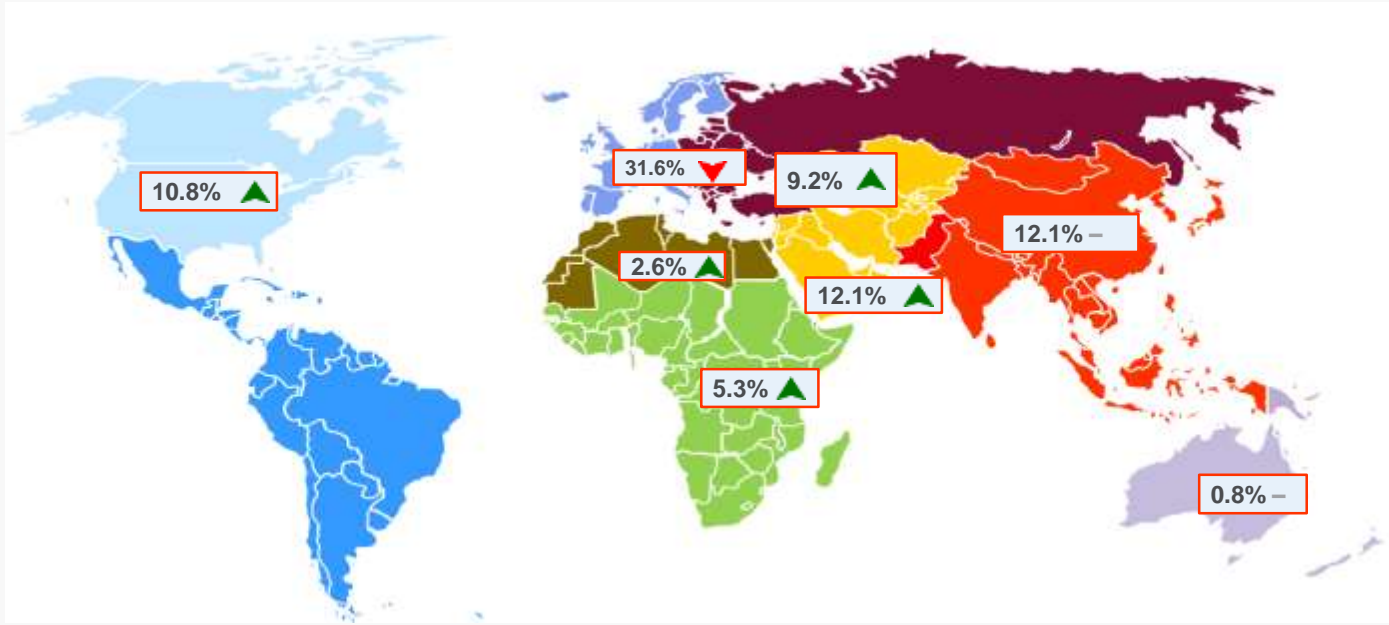
Number of parties in 2018 2282 parties

135 countries

32,7% of cases with more than two parties

25% of cases with parties of same nationality

PARTIES



- 2018 2,282 parties
- 135 countries
- 33% (or 275) of new cases are multiparty
- 25% of cases involve parties of same nationality
- 15% of cases involve States or SoEs

Notable increase in parties from the Middle East and Central Asia

In all other regions, changes – if any – have been less significant

ORIGINS OF PARTIES: TOP 10 GENERAL RANKING

2016		
1	USA	554
2	US Virgin Islands	269
3	Belize	135
4	France	124
5	Brazil	123
6	Germany	115
7	Mexico	105
8	Spain	88
9	Italy	84
10	Rep. of Korea	82

2017		
1	USA	194
2	Germany	128
3	France	124
4	Brazil	115
5	Spain	102
6	Italy	73
7	China PR (HK)	69
8	UK	68
9	Rep. of Korea	59
10	Netherlands	57

2018		
1	USA	210
2	France	139
3	Brazil	117
4	Spain	110
5	Germany	95
6	Italy	87
7	Mexico	71
8	UAE	69
9	United Kingdom	69
10	Turkey	62

ORIGINS OF PARTIES: TOP RANKINGS

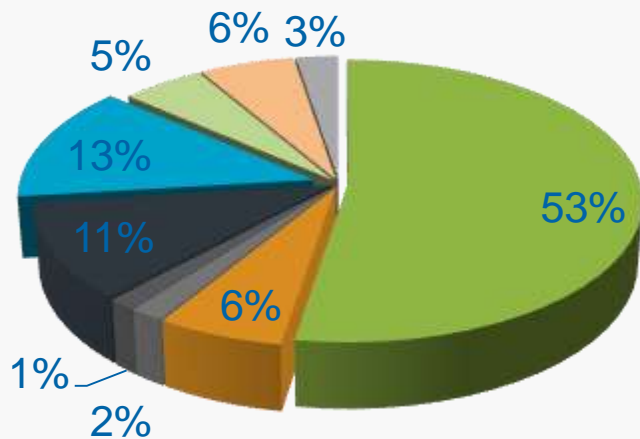
2017			
1	USA	8.3%	194
2	Germany	5.5%	128
3	France	5.4%	124
4	Brazil	5%	115
5	Spain	4.4%	102
6	Italy	3.2%	73
7	China PR (HK)	3%	69
8	UK	3%	68
9	Rep. of Korea	2.6%	59
10	Netherlands	2.5%	57

2018				
1	USA	9.2%	210	▲
2	France	6%	139	▲
3	Brazil	5.1%	117	▲
4	Spain	4.8%	110	▲
5	Germany	4.1%	95	▼
6	Italy	3.8%	87	▲
7	Mexico	3.1%	71	<i>new</i>
8	UAE	3%	69	<i>new</i>
8	UK	3%	69	▲
				<i>new</i>
10	Turkey	2.7%	62	

China PR (/HK SAR), Korea, the Netherlands, Saudi Arabia and India complete the 2018 top 15 ranking with numbers in the 50s.

ORIGINS OF ARBITRATORS IN ICC ARBITRATIONS

2018



- North & West Europe
- Central & East Europe
- North Africa
- Sub-Saharan Africa
- North America
- Latin America & Caribbean
- Central & West Asia
- South & East Asia

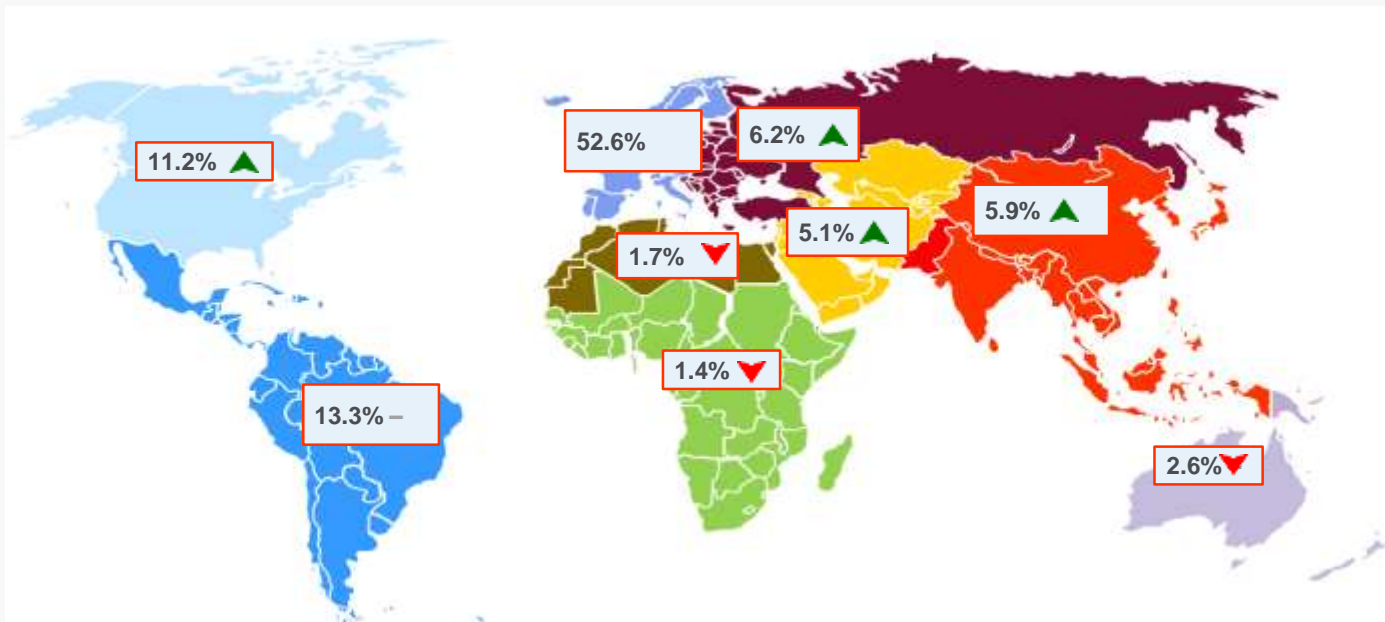
2008 1156 arbitrators

74 countries

2018 1484 arbitrators

87 countries

ARBITRATORS



2018

1,484 appointments and confirmations

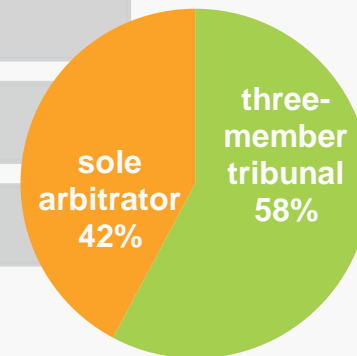
1,021 individuals ▲

87 countries ▲

Increase in arbitrators from North America and Asia

Minor drops in other regions save LatAm

CONSTITUTION OF TRIBUNALS



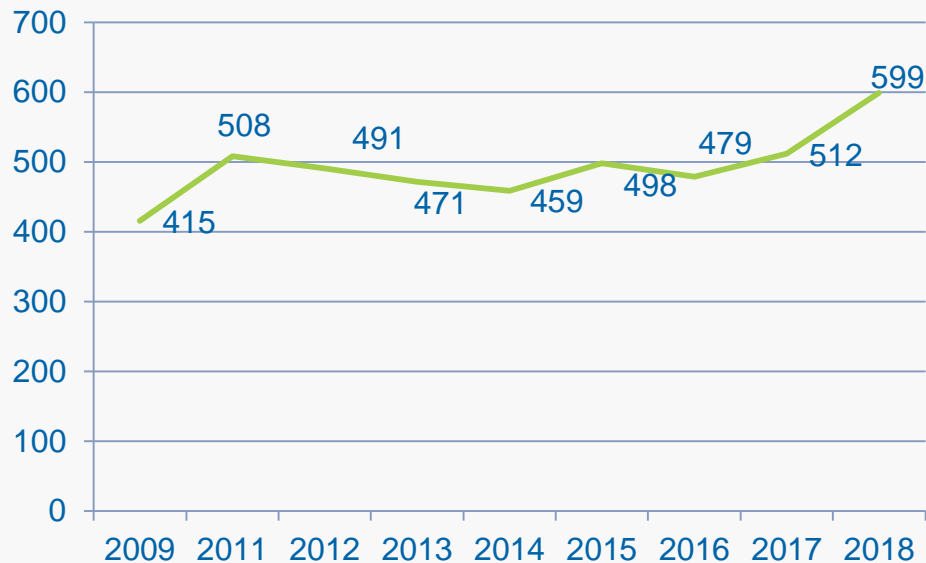
2018

Very slight drop in party nominations

As more arbitrators served in 2018, Court appointed slightly more arbitrators than in 2017

GENERAL STATISTICS: AWARDS

Trend in number of awards approved by year

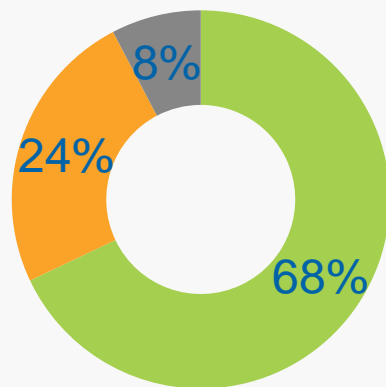


Number of Awards Approved in 2018

599

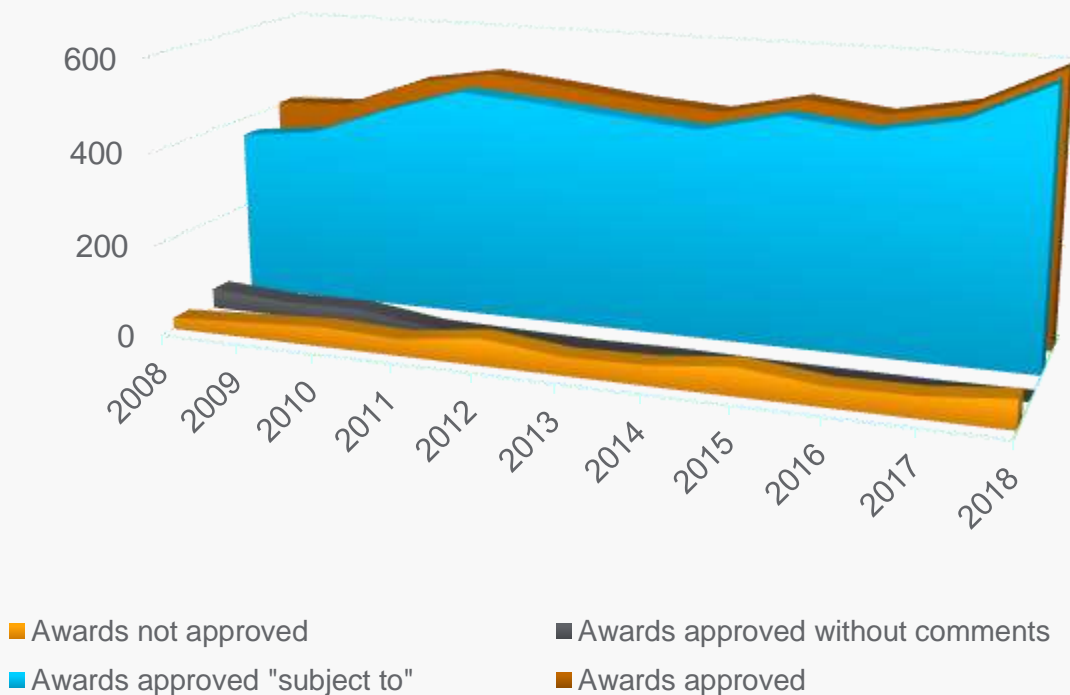
2018 AWARDS

- ▶ 599 awards approved
- ▶ 99,6% of the approved awards were approved with comments (“subject to modification”)
- ▶ 63 awards sent back (10,5% of awards)



- Final Awards
- Partial Awards
- Awards by Consent
- 4th Qtr

SCRUTINY OF AWARDS: TRENDS 2008-2018



2008:

407 Awards

25 not approved

363 approved "subject to"

44 approved without comments

2018:

599 Awards

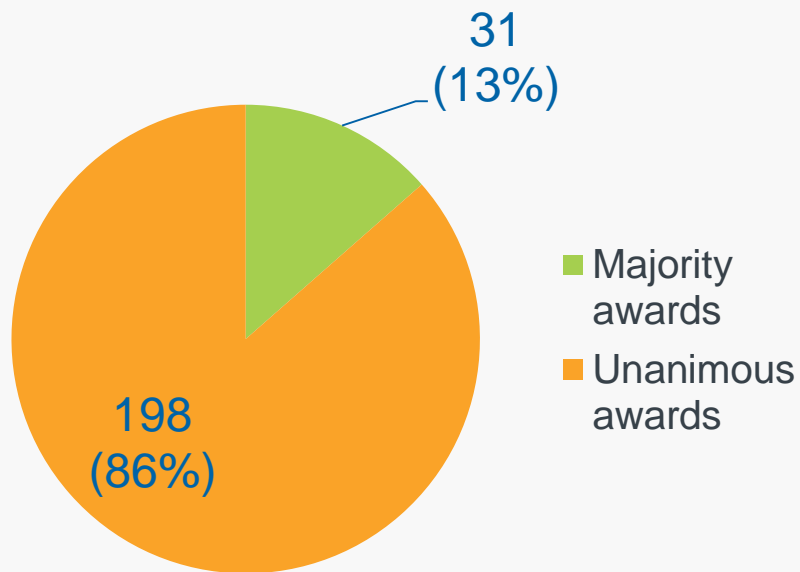
63 not approved

595 approved "subject to"

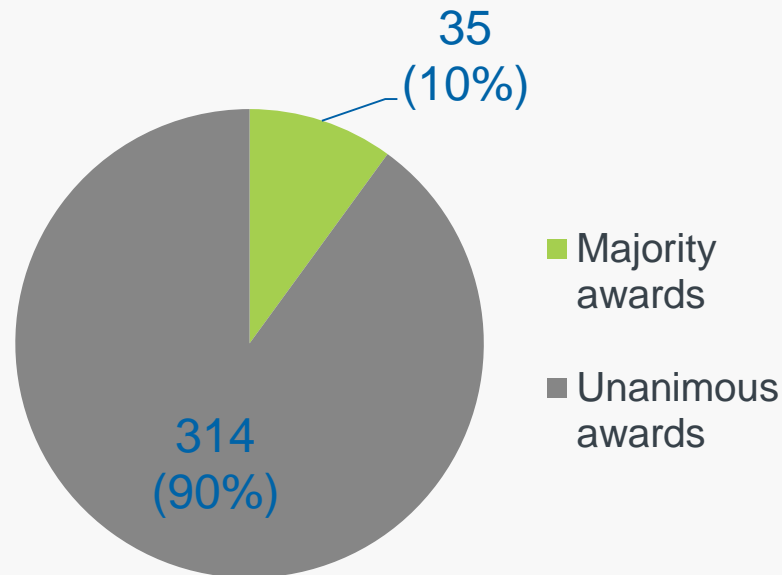
4 approved without comments

MAJORITY AWARDS: TREND 2008-2018

2008



2018



ICA ADMINISTERS ARBITRATIONS UNDER THE RULES

- Prima facie jurisdiction over parties and/or claims (art. 6(4) i) ii))
- Consolidation of cases (art. 10)
- Place of arbitration (art. 18)
- Number of arbitrators/ confirmation/ challenge/ replacement (art. 12-15)
- Advances on costs/ separate aoc/ arbitrators' fees (art. 37 & Appendix III)
- Approval TOR if lack of signature or lack of participation of one party (art. 23(3))
- Scrutiny of award (art. 34)

SCRUTINY OF AWARD (ART. 34): PROCEDURE

Before signing any award, the arbitral tribunal shall submit it in draft form to the Court.



The Court may lay down modifications as to the form of the award and, without affecting the arbitral tribunal's liberty of decision, may also draw its attention to points of substance.



No award shall be rendered by the arbitral tribunal until it has been approved by the Court as to its form.

- ▶ **Art. 32(2):** The award shall state the reasons upon which it is based
- ▶ **App. II, Art. 6:** When the Court scrutinizes draft awards, it considers, to the extent practicable, the requirements of mandatory law at the place of the arbitration
- ▶ **Art. 42:** In all matters not expressly provided for the Rules, the Court and the AT shall act in the spirit of the rules and make sure that award is enforceable at law.

- ▶ More information on www.iccarbitration.org
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 - > Careers & internships
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