

FACTS AND FIGURES

2016: A ROBUST CASELOAD



The London Court of International Arbitration



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 ADR proceedings, regardless of location and under any system of law. Typically, over 80% of parties in LCIA cases are not of English nationality, which reflects the institution's truly international character.

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 tribunals it appoints – are not based on the monetary value of the dispute. A fixed registration fee is payable with the Request for Arbitration, and the arbitrators and LCIA apply hourly rates for services.

EXECUTIVE SUMMARY

A robust caseload in 2016

- An increasing diversity of cases/parties (European, Russian/CIS, African, US), with more than 80% of parties non-UK.
- Our predominant sectors are banking & finance, energy & resources, shipping & commodities/transport, and construction & infrastructure (including a noteworthy number of marine construction cases).
- Sums in dispute remain broadly comparable with last year, with some increases at each end of the scale.
- An increasing diversity of arbitrators in regard to gender, nationality and first-time appointees.
- In terms of gender diversity, 20% of arbitrators appointed in 2016 were female. Such appointments are primarily attributable to LCIA nominations. Going forward, a further increase will not be sustainable without additional input from nominating parties.
- The predominance of English arbitrators reflects the popularity of English law and London as a seat, even among parties of diverse nationalities: nearly half of all participants in the 2015 *Queen Mary/White & Case International Arbitration Survey: Improvements and Innovations in International Arbitration* preferred London as a seat, with 42% of participants linking seat preference to the law governing the substance of the dispute.
- The number of arbitrator challenges remains small, with only one upheld (in part).
- A reduced number of (successful) requests for expedited appointment, possibly because the LCIA's appointment mechanism already ensures a speedy appointment.
- Only one application for emergency arbitration, which was rejected, as was a request for expedited appointment in the same case. The claimant's subsequent request for a court order pursuant to Section 44 of the *Arbitration Act 1996 (UK)* was also rejected.

CASELOAD 2016

In 2016, a total of 303 arbitrations were referred to the LCIA. 253 of these were referred to the LCIA under the LCIA Rules. In respect of the remaining 50 referrals the LCIA acted as appointing authority or provided administrative services for arbitrations under the UNCITRAL Rules, or provided fundholding services for UNCITRAL or ad hoc arbitrations.

Additionally, eight Requests for Mediation or some other form of ADR were referred to the LCIA, bringing the total referrals to 311.

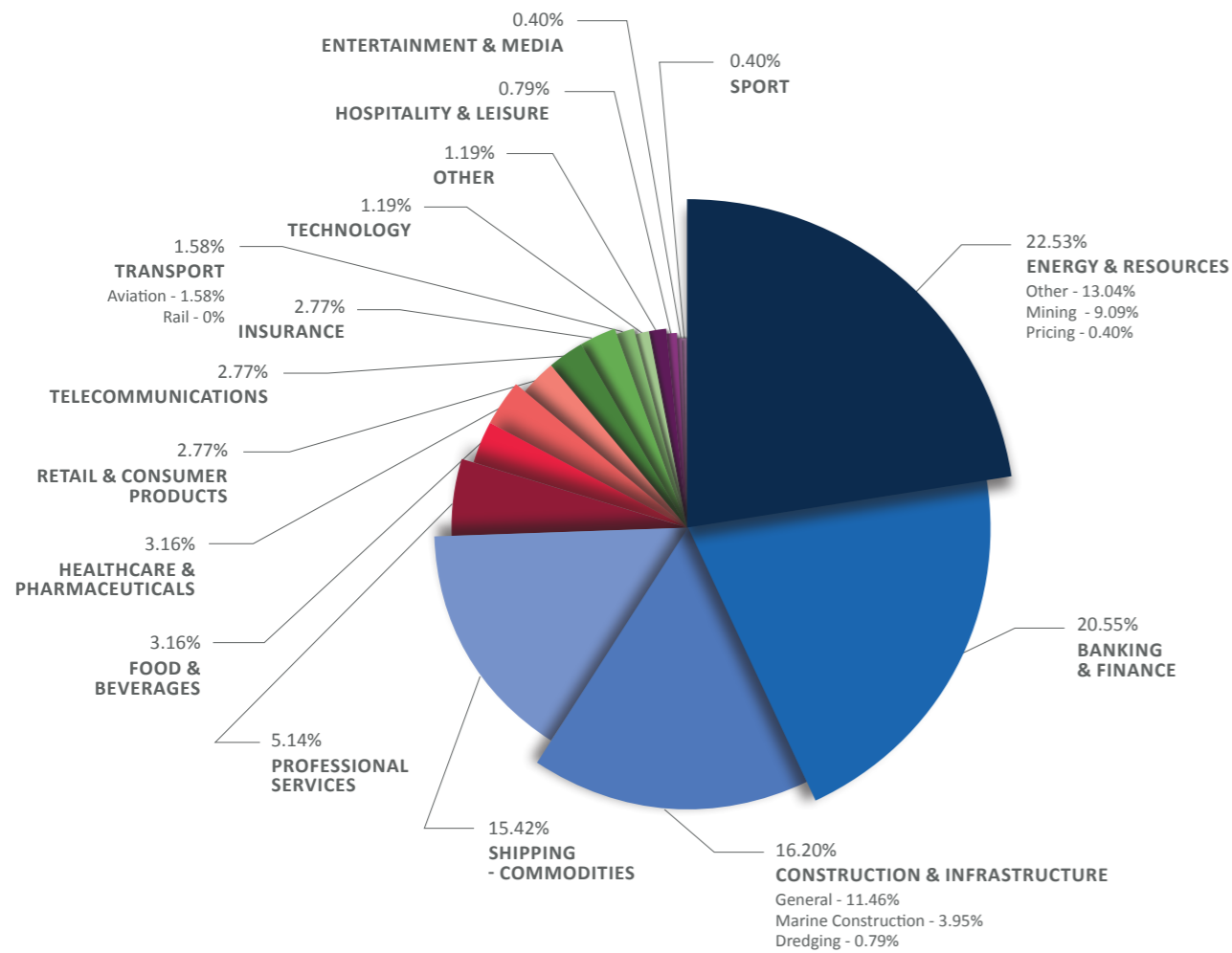
The 643 disputes referred during the most recent biennial monitoring period of 2015/2016 represent an increase of just over 1.4% as compared to the 24 month period of 2014/2015, in which a total of 634 disputes were referred to the LCIA.



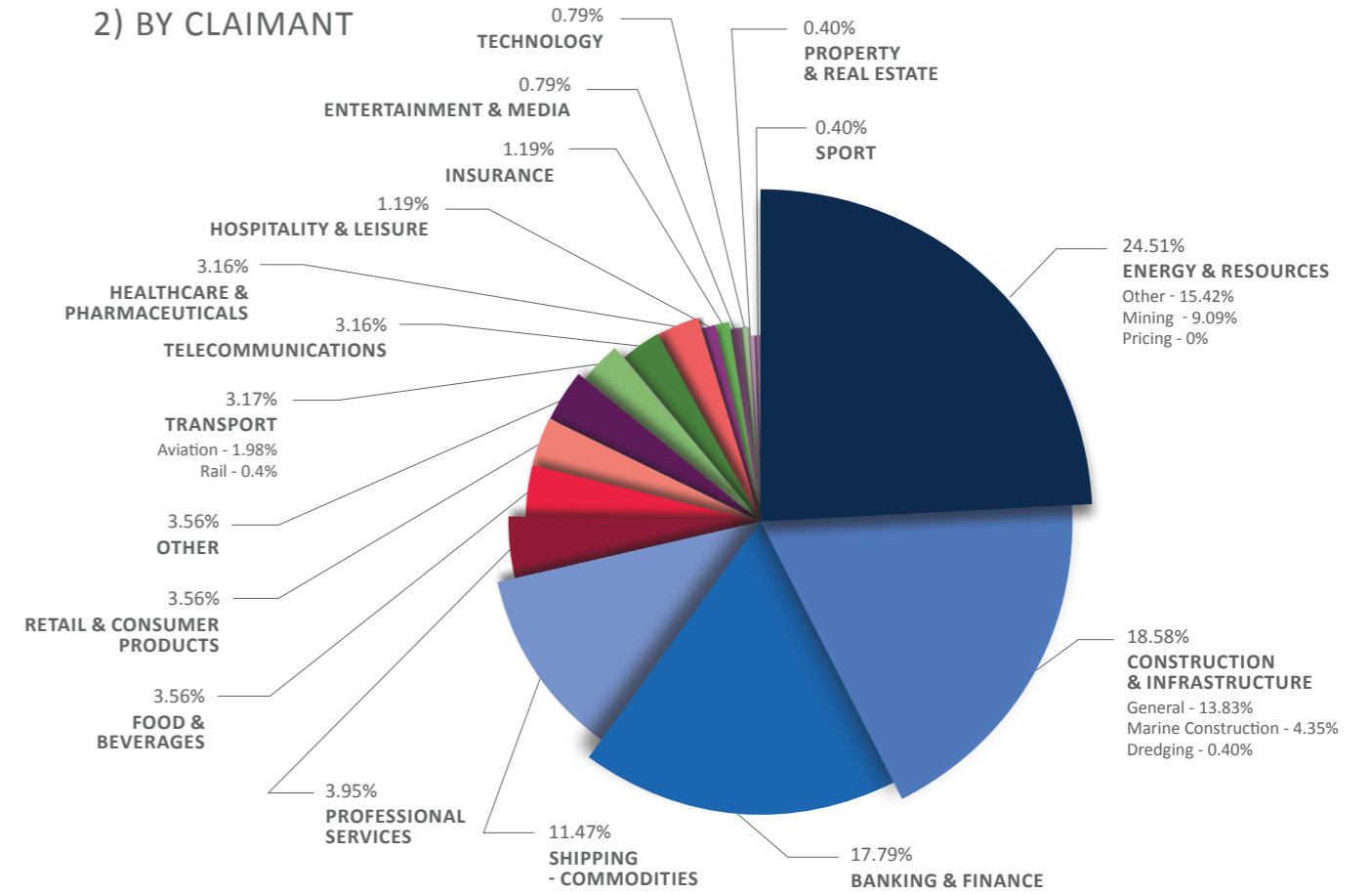
TRENDING INDUSTRIES

The industry sectors for arbitrations commenced under the LCIA Rules in 2016 broken down by 1) dispute, 2) claimant, and 3) respondent are as follows:¹

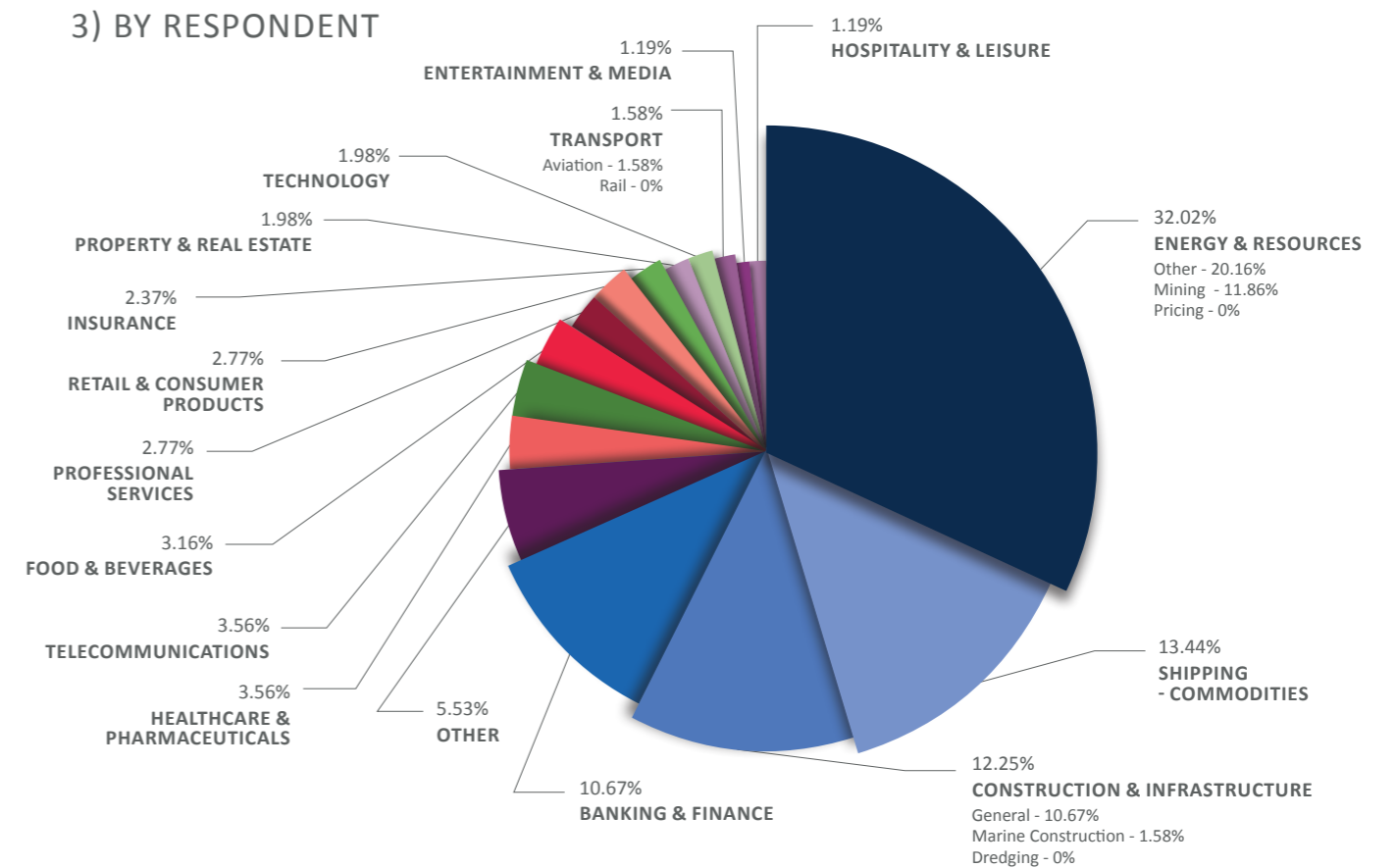
1) BY DISPUTE



2) BY CLAIMANT



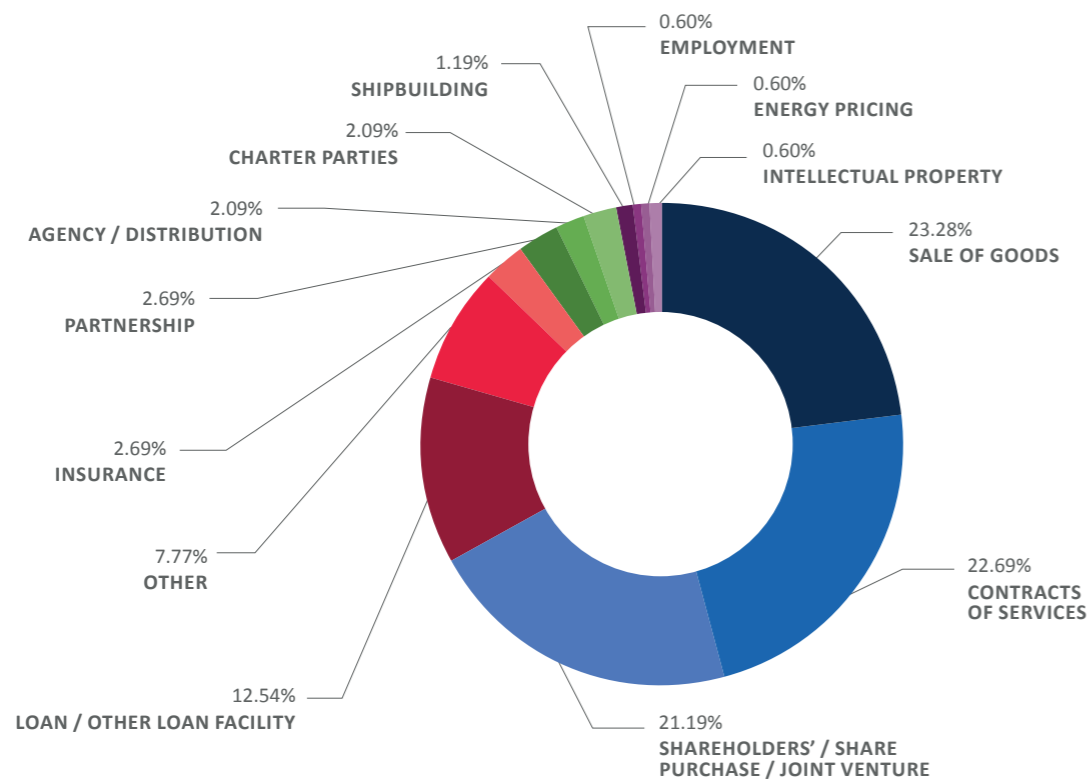
3) BY RESPONDENT



¹ Where an arbitration had more than one Claimant/Respondent, the sector recorded is the dominant industry sector for all claimants or respondents in the arbitration.

NATURE OF CONTRACTS

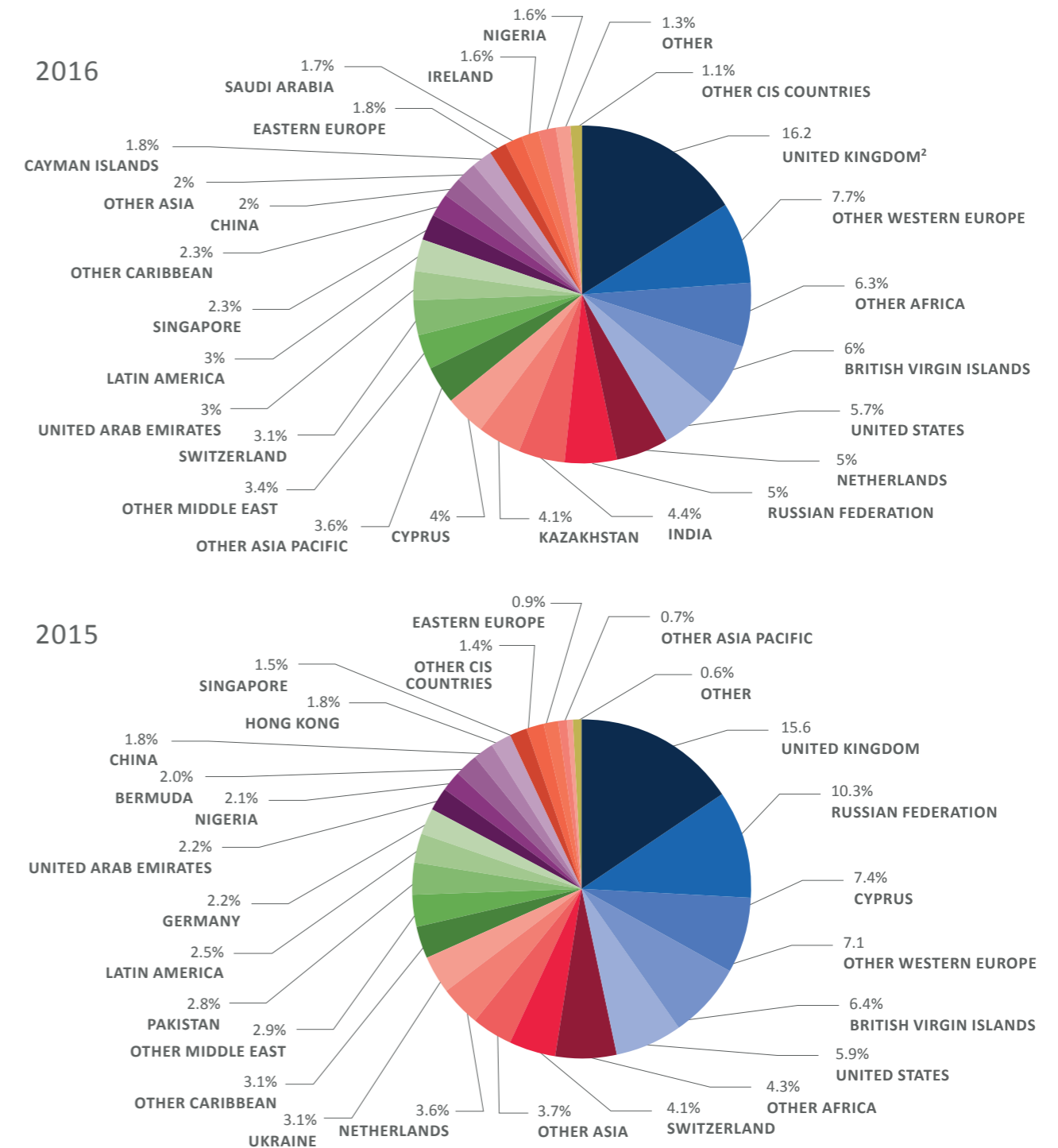
The nature of the contracts underlying arbitrations under the LCIA Rules remained diverse in 2016. The majority of disputes concerned sales of goods, followed by contracts for services, shareholders' agreements, and loan facilities.



THE PARTIES

The international nature of the LCIA's caseload and profile is evident in the nationalities of the parties to arbitrations commenced under the LCIA Rules in 2016.

2015 statistics are shown for comparison.



² The UK figures shown in this chart include 19 purely domestic arbitrations with a total of 57 parties, including one case in which 14 Respondents were involved.

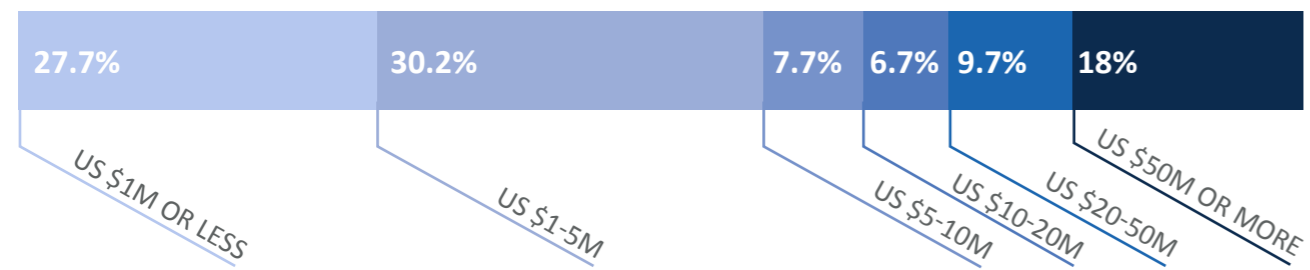
SUMS IN ISSUE

In 2016, 29% of Requests for Arbitration filed under the LCIA Rules sought declaratory relief or specific performance (declaratory relief was sought in 28% of Requests, specific performance in 6.7%, and both declaratory relief and specific performance in 5.9%).

In 67.6% of those cases, the Claimant also sought monetary relief. In total, Claimants advanced claims for both monetary and non-monetary relief against Respondents in 18.9% of the Requests for Arbitration filed with the LCIA in 2016.

Unquantified sums were claimed by Claimants in 11.9% of the Requests filed in 2016. The following chart sets out the breakdown of sums claimed in 2016, where such sums were specified in the Request:

PERCENTAGE OF REQUESTS



SUMS CLAIMED

As in previous years, some quantified claims were accompanied by a claim for unquantified damages. Accordingly, the above breakdown underrepresents the amounts sought.

Further, many of the sums shown above were substantially increased by the value of counterclaims by Respondents, or by Claimants subsequently amending their claim in the Statement of Claim.³

³ Unlike the LCIA's costs and duration analysis, which considers claims presented in submissions such as the Statement of Case and Statement of Defence, the above figures represent a snapshot of the claim at the time the Request is filed.

THE TRIBUNALS

During the course of 2016, the LCIA made a total of 496 appointments of 276 different arbitrators, an increase from 2015, during which the LCIA made a total of 449 appointments of 227 different arbitrators.

Of the 496 appointments made in 2016:

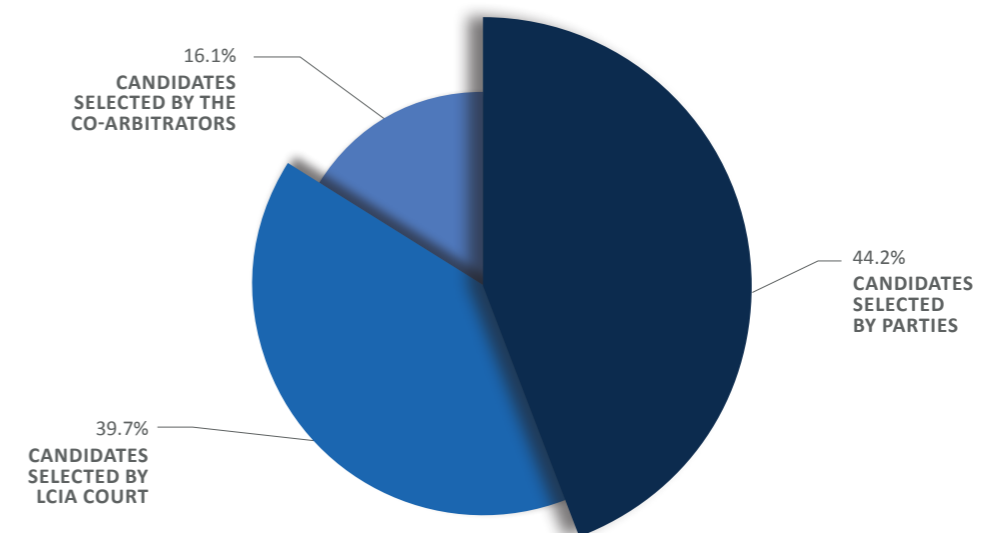
- 400 were to three-member tribunals in 141 arbitrations under the LCIA Rules (including 16 replacements);
- 6 were to two-member tribunals in 3 arbitrations under the LCIA Rules;
- 85 were of sole arbitrators in 83 arbitrations under the LCIA Rules (including 7 replacements);⁴ and
- 5 were appointments in UNCITRAL or other ad hoc arbitrations.

In terms of selection method:

- 219 (44.2%) were candidates selected by the parties;
- 197 (39.7%) were candidates selected by the LCIA Court; and
- 80 (16.1%) were candidates selected by the co-arbitrators.

In relation to diversity:

- 102 (or 20.6%) were female arbitrators; and
- 82 (or 16.5%) were candidates not previously appointed by the LCIA.



Approximately 69% of the appointments relate to arbitrations commenced in 2016, while 28% relate to arbitrations commenced in 2015.

⁴ Five replacement appointments are in respect of arbitrations in which an arbitrator was first appointed in 2015. The original appointments in these arbitrations are not captured in the 85 appointment total.

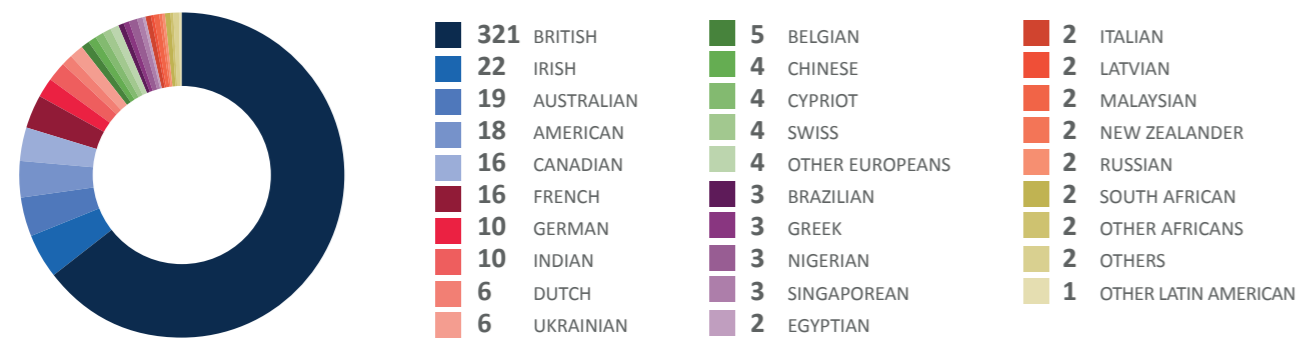
Challenges to Arbitrators

In 2016, a total of six challenges were made to arbitrators appointed under the LCIA Rules. Of those six challenges:

- the LCIA Court partially upheld one;
- the LCIA Court rejected three;
- one was withdrawn; and
- one was superseded as the parties agreed to replace the arbitrator.

Nationality of arbitrators

The LCIA appointed an international pool of arbitrators in 2016. The following chart shows the nationality of arbitrators appointed in LCIA referrals in 2016:⁵



Of the 496 appointments:

- 98 (19.8%) were non-British arbitrators selected by the Court;
- 52 (10.5%) were non-British arbitrators selected by the parties;
- 25 (5%) were non-British arbitrators selected by the co-arbitrators;
- 167 (33.7%) were British arbitrators selected by the parties;
- 99 (20%) were British arbitrators selected by the Court; and
- 55 (11%) were British arbitrators selected by the co-arbitrators.

Preference for three-member tribunals over sole arbitrators

Appointments made in 2016 reflect a preference for three-member tribunals (62%) as compared to sole arbitrators (37%), in contrast to 2015, during which 48% of appointments were to three member tribunals and 57% were of sole arbitrators.

However, such changes are not reflective of a trend towards three member tribunals. Rather, the past six years of data shows fluctuating preferences for three-member tribunals and sole arbitrators.

⁵ When the arbitrator is a dual national, only the first nationality was considered.

Break-down of who selects the arbitrators

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). In 2016, parties agreed in many cases to nominate arbitrators: of 496 individual arbitrator appointments, 219 or 44.1% were selected by the parties, 197 or 39.7% by the LCIA Court, and 80 or 16.1% by the co-arbitrators.

As compared to 2015, this shows a small decrease in the percentage of arbitrators selected by the Court (from 43.5% to 39.7%) and by the parties (from 45.4% to 44.2%), and an increase in the percentage of arbitrators selected by the co-arbitrators (from 11.1% to 16.1%).

Gender diversity of candidates

In 2016, of 496 individual appointments, 102 or 20.6% were of female arbitrators.

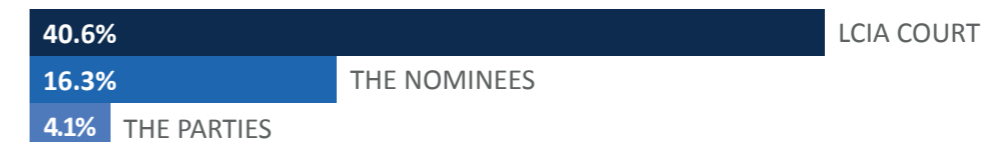
Of the 102 female arbitrators appointed:

- 80 (78.4%) were selected by the LCIA Court
- 9 (8.8%) were selected by the parties; and
- 13 (12.7%) were selected by the parties' nominees.



Putting the above into context, in 2016:

- of the 197 appointees selected by the LCIA Court, 40.6% were women;
- of the 219 appointees selected by the parties, 4.1% were women; and
- of the 80 appointees selected by the nominees, 16.3% were women.



As compared to 2015, this represents an increase in the number of female candidates selected by the LCIA Court and nominees, in contrast to the selection of female candidates by the parties, which saw a considerable decrease (2015 figures were 28.2%, 6.9% and 4% for the LCIA Court, parties and nominees, respectively).

Further, as stated above, of the 496 individual appointments, 82 (or 16.5%) were of candidates not previously appointed by the LCIA.

Of these 82 first-time appointees:

- 38 (or 46.3%) were selected by the LCIA Court;
- 39 (or 47.6%) were selected by the parties; and
- 5 (or 6.1%) were selected by the nominees.

Further commentary regarding LCIA appointments can be found in the LCIA cost and duration analysis published on the LCIA's website in November 2015 and available at the following link <http://www.lcia.org/News/lcia-releases-costs-and-duration-data.aspx>

APPLICATIONS

Applications for expedited formation of tribunal and for appointment of an emergency arbitrator under Articles 9A and 9B of the Rules

In 2016, there were a total of 15 applications for expedited appointment of a tribunal under Article 9A of the Rules.

Of the 15 applications, a total of two were granted; 13 were rejected. This compares to a total of 30 applications (12 granted) in 2015 and 10 applications (3 granted) in 2014.

In 2016, the LCIA also received one application for the appointment of an emergency arbitrator under Article 9B of the LCIA Rules 2014, which was rejected by the Court.

Applications for joinder or consolidation

In 2016, 14 applications were made in arbitrations under the LCIA Rules for the joinder of a third party:

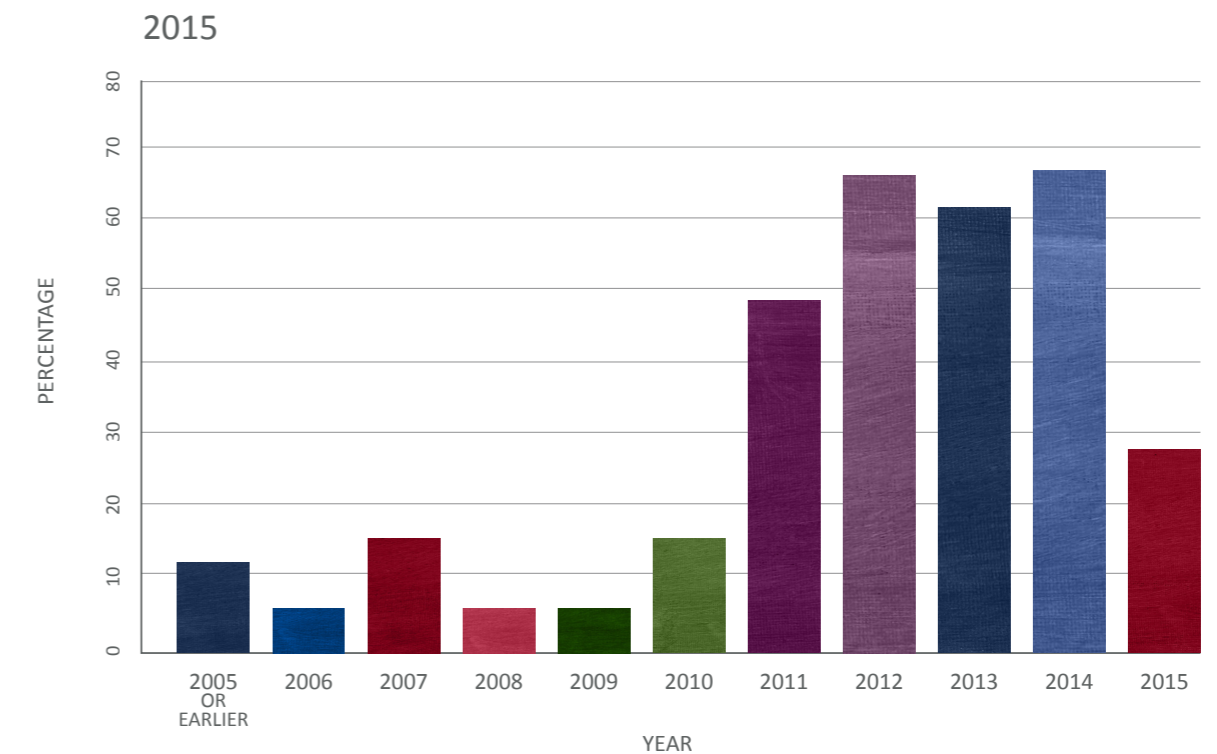
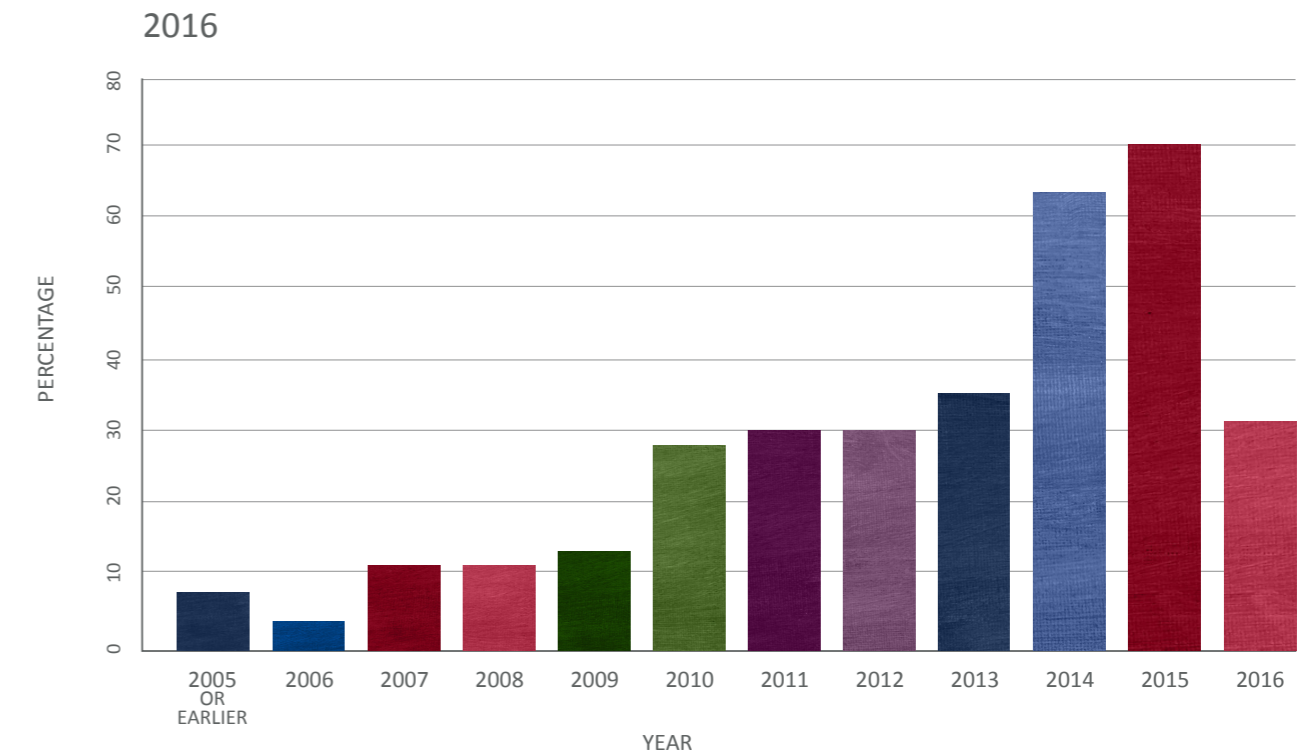
- 9 were granted by the relevant tribunal;
- 1 was denied by the relevant tribunal;
- 2 are still pending; and
- 2 were superseded, as the cases were withdrawn.

In 2016, 22 applications for consolidation were made:

- the Court approved 11 applications for consolidation (granted by the relevant tribunal) involving 31 cases. 8 decisions were based on Article 22.1(ix), and 3 were based on Article 22.1(x);
- the Court denied 1 application, involving 2 cases rejected by the relevant tribunal;
- 4 applications for consolidation involving 23 cases are still pending;
- 1 further application involving 3 cases was withdrawn;
- in 2 applications involving 7 cases the dispute was settled or the claimant withdrew the claim; and
- 3 applications for consolidations concerned arbitrations where approval by the Court was not required, as 2 applications concerned 12 arbitrations under the 1998 Rules and 1 application concerned 2 arbitrations under the UNCITRAL Rules.

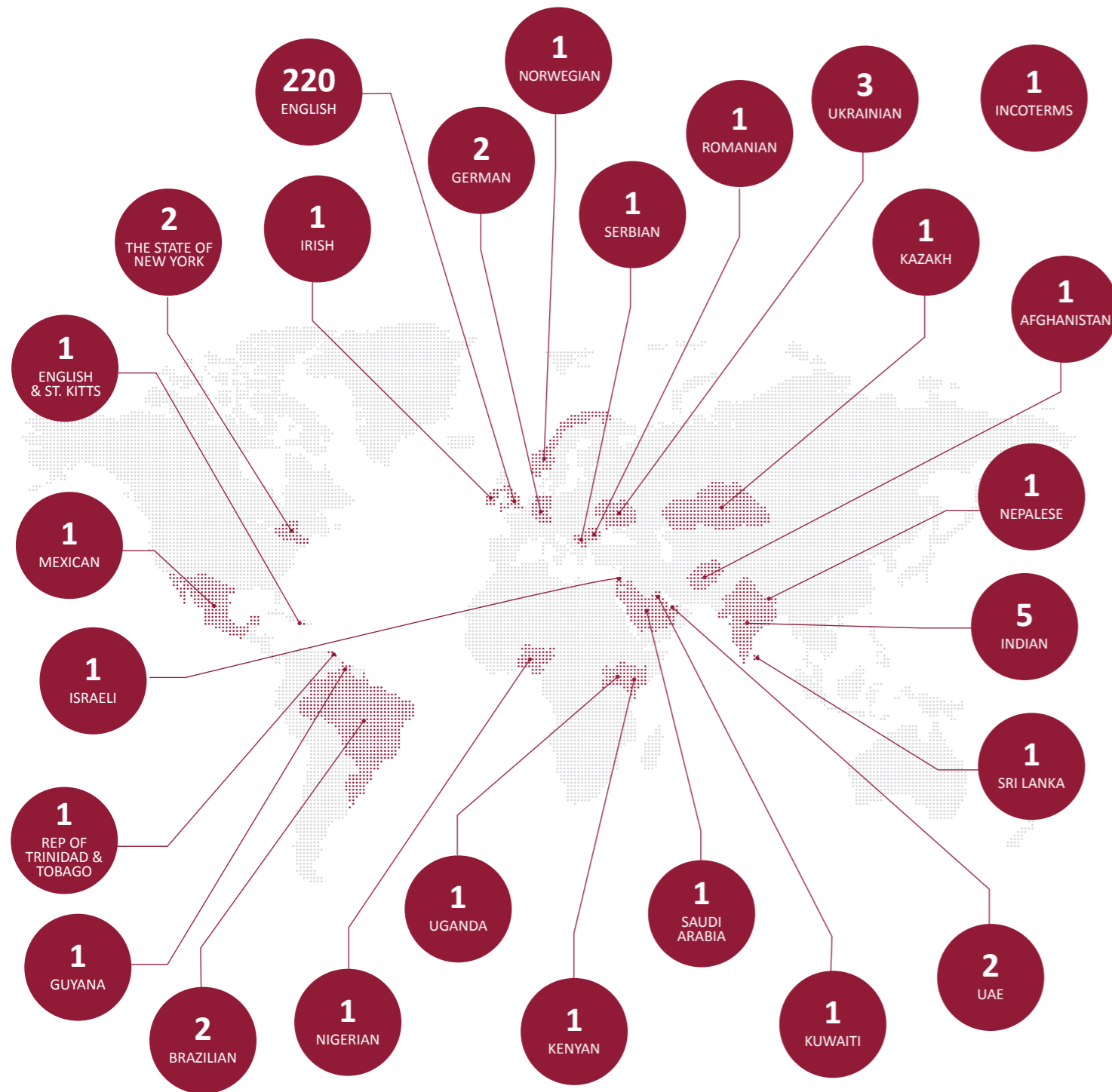
CONTRACT DATES

The dates of the contracts in the subject of arbitrations under the LCIA Rules filed in 2016 (where known) is shown in the following charts; 2015 dates are shown in the second chart for comparison purposes.



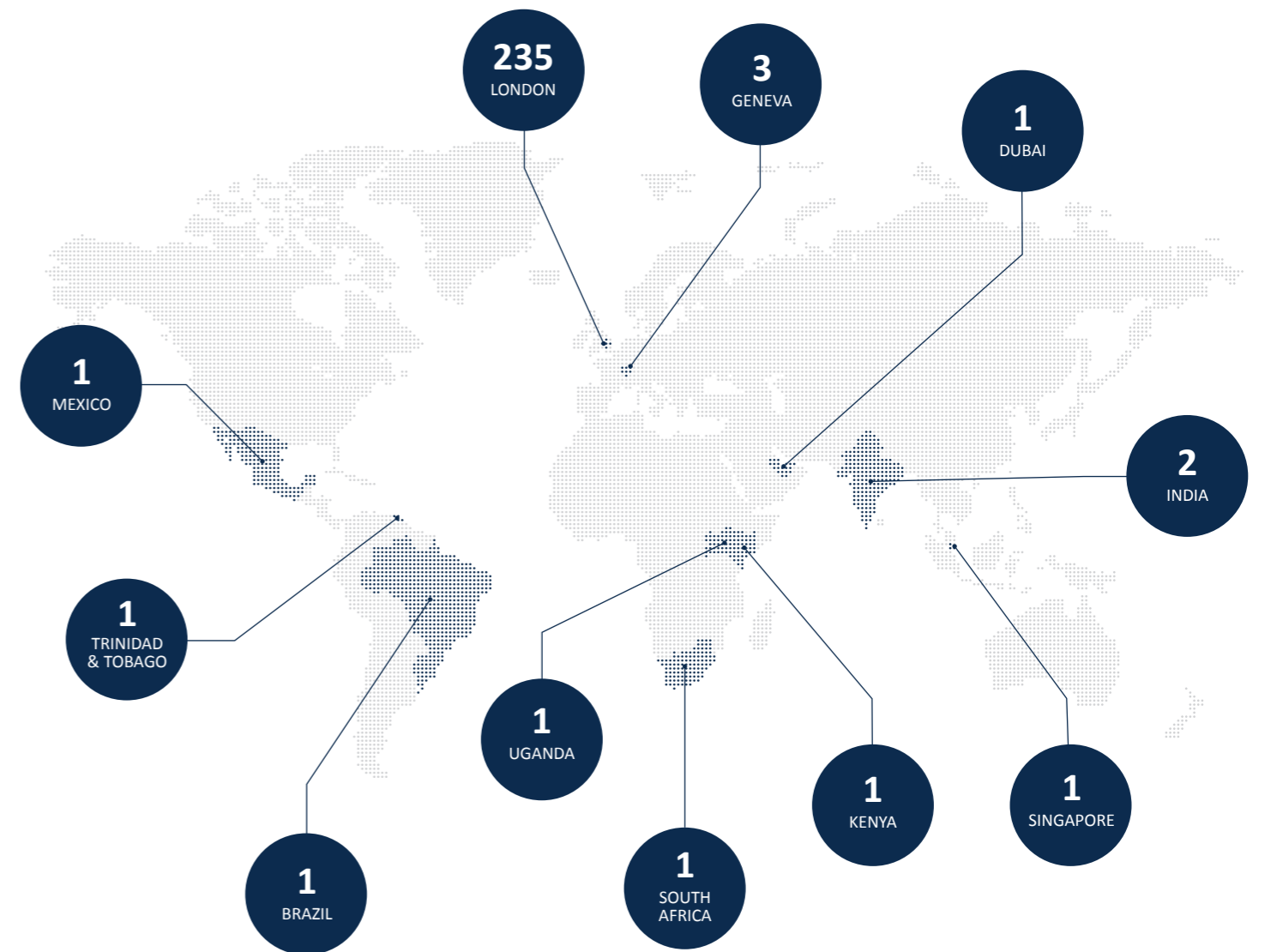
APPLICABLE LAWS

English law was the most frequent contractual choice of law by the parties in disputes submitted to arbitration under the LCIA Rules in 2016. The following map shows a breakdown of the applicable law (where known):



SEATS OF ARBITRATION

London was the preferred seat in the majority of arbitrations filed in 2016 under the LCIA Rules. The following map shows a breakdown of seats of arbitrations in 2016 (where chosen by the parties or determined by the tribunal):



2017 EVENTS PROGRAMME



TEL AVIV

Half-day Morning Seminar on “International Arbitration and Israel”

20 April 2017

In co-operation with, and sponsored by, Asserson Law Offices and Herzog Fox & Neeman, and supported by ACC Israel, the LCIA invites you to join interactive panel discussions focusing on the development of International Arbitration as it relates to Israel.



TYLNEY HALL

SOLD OUT - LCIA European Users’ Council Symposium

12-14 May 2017

A two-day symposium following the long established LCIA tradition of open forum discussion, based on topics submitted by delegates in advance of the event.



VILLARS-SUR-OLLON, SWITZERLAND

LCIA and The Swiss Arbitration Association (ASA) Seminar

9-11 June 2017

A two-day arbitration practice seminar hosted by the Swiss Arbitration Association (ASA) and in co-operation with the LCIA European Users’ Council.



TYLNEY HALL

SOLD OUT - LCIA European Users’ Council Symposium

15-17 September 2017

A two-day symposium following the long established LCIA tradition of open forum discussion, based on topics submitted by delegates in advance of the event.

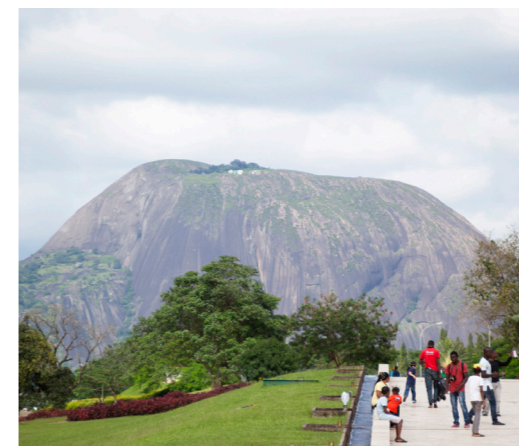


SYDNEY

LCIA Asia Pacific Users’ Council Morning Symposium and lunch

8 OCTOBER 2017

A lunchtime symposium preceding the IBA Annual Conference in Sydney. This half day symposium is designed to be interactive and provide an opportunity for delegates to share news and views on developments in the field of international commercial arbitration and ADR. On the day delegates are encouraged to participate in a free flowing discussion of topics, submitted in advance, on current issues of key interest in the field.



ABUJA

LCIA African Users’ Council Symposium

27-28 October 2017

One and a half-day symposium on International Commercial Arbitration hosted by the LCIA African Users’ Council.

For further information please visit the LCIA website www.lcia.org or email conferences@lcia.org



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