



SIAC
Singapore International Arbitration Centre



SINGAPORE'S INTERNATIONAL ARBITRATION FRAMEWORK

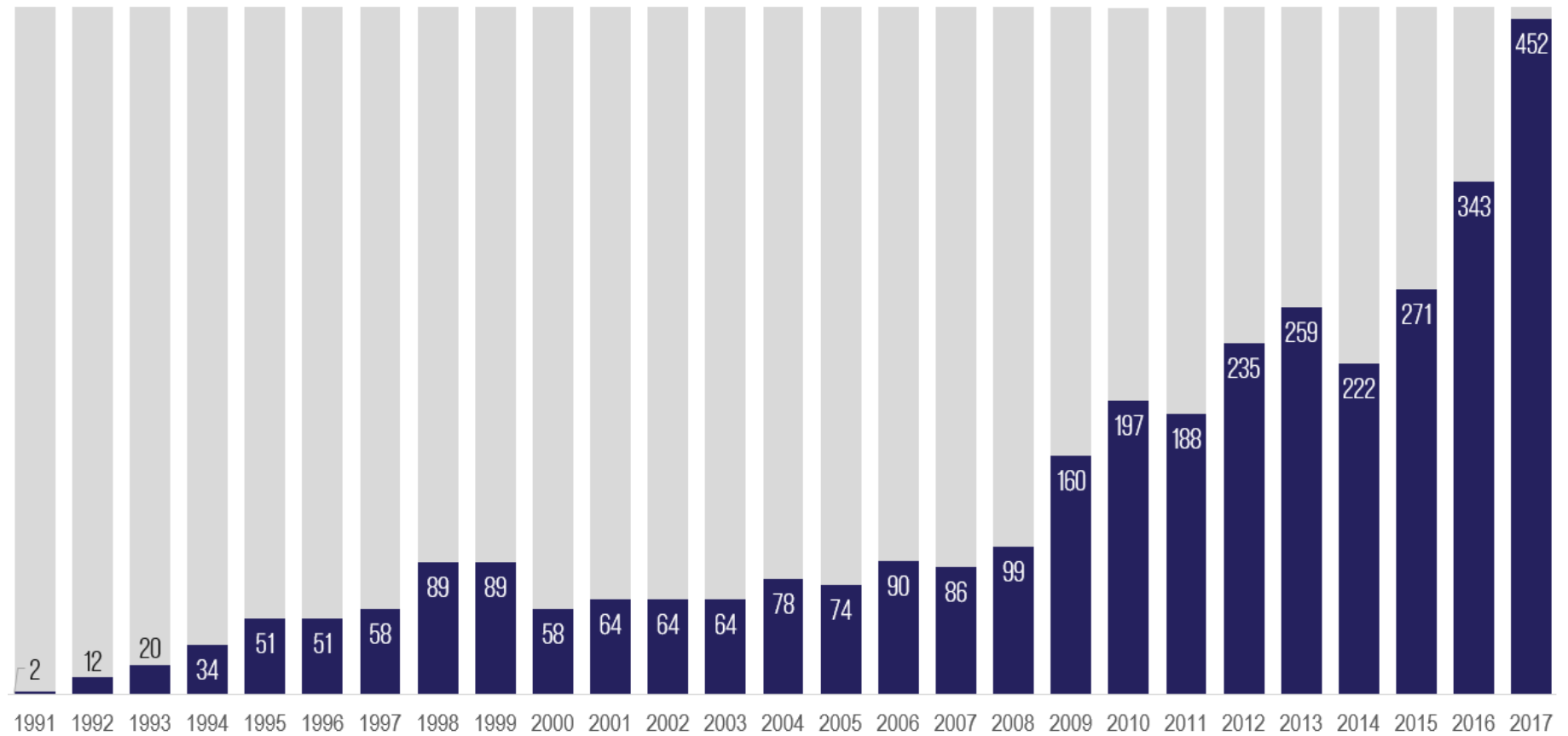
- Singapore is 3rd most popular seat (after London and Paris) and SIAC is 3rd in world's top 5 arbitral institutions (after ICC and LCIA): *2018 Queen Mary University of London and White & Case International Arbitration Survey*
- Neutral, independent third-country venue ranked top Asian country in 2017-2018 Rule of Law Index and 2017 Corruption Perceptions Index
- Trade and services / dispute resolution hub / excellent infrastructure and connectivity / popular destination for companies, businesses and investors
- UNCITRAL Model Law adopted in International Arbitration Act
- Judiciary that provides maximum support and minimal intervention in arbitral proceedings
- Total freedom of choice of counsel and law firms
- Enforceability of Awards rendered in Singapore in over 150 countries under New York Convention 1958
- World renowned facilities and services at Maxwell Chambers for arbitration hearings
- Recent legislation allows third party funding for international arbitration and related proceedings
- Recent legislation empowers the Singapore International Commercial Court (SICC) to hear proceedings under the Singapore International Arbitration Act, including applications to set-aside awards, jurisdictional challenges and enforcement applications

OVERVIEW OF SIAC

- Commenced operations in July 1991
- Independent and not-for-profit organisation
- 452 new cases filed in 2017 and an active caseload of over 800 cases
- Proven track record of enforcement:
 - SIAC Awards have been enforced, among others, in China, Hong Kong SAR, India, Indonesia, Jordan, Thailand, Vietnam, Australia, UK and USA
- Rules ensure efficiency, cost effectiveness and flexibility
- Rules are easily acceptable to both Civil and Common Law practitioners/ arbitrators
- > 80% of SIAC's cases are international
- Parties are from 58 jurisdictions

NUMBER OF NEW CASES HANDLED BY SIAC IN THE LAST 27 YEARS

1991 – 2017



2017 AT A GLANCE

452

new cases
handled by
SIAC

421

SIAC-
administered
cases

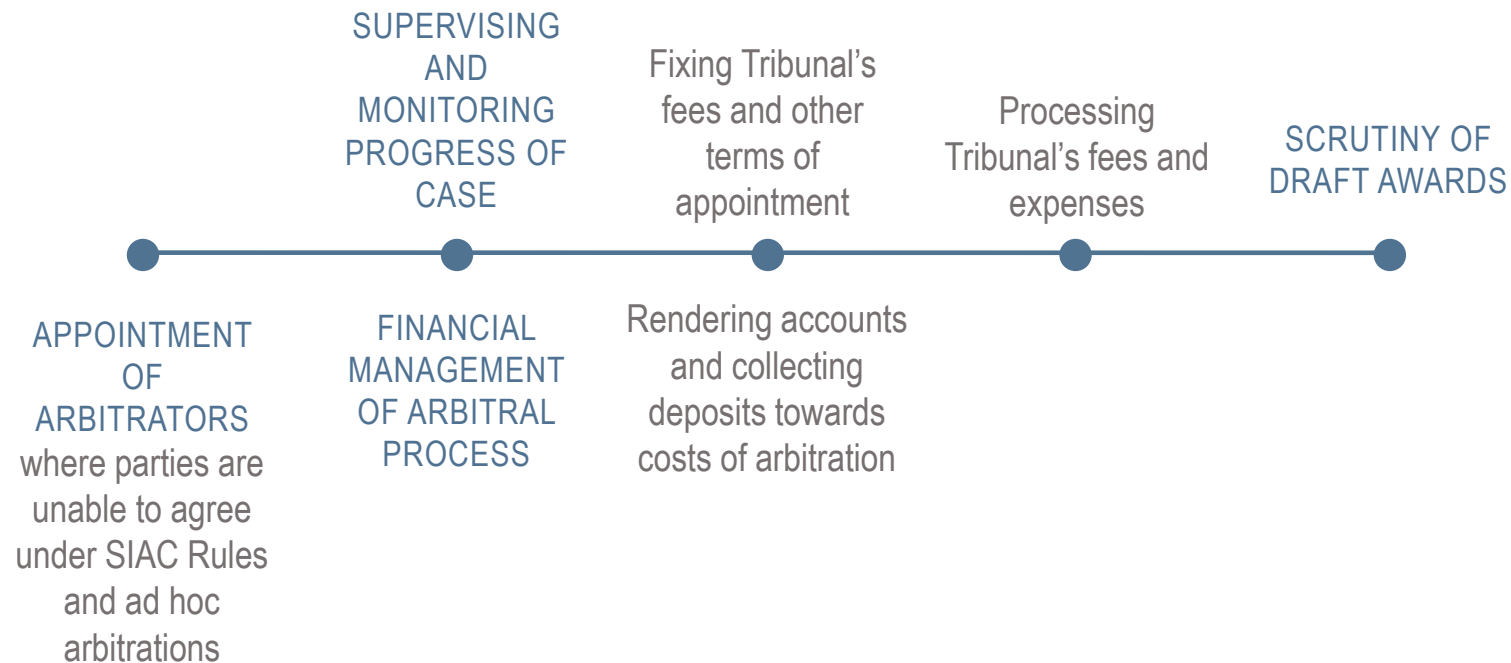
(93% of the cases filed in 2017
were administered by SIAC)

Total sum in dispute: USD4.07 billion (SGD5.44 billion)

PROFESSIONAL CASE MANAGEMENT

Team of international lawyers qualified in Canada, China, England and Wales, India, Indonesia, Malaysia, Singapore and USA

FUNCTIONS INCLUDE ASSISTING IN:



SCRUTINY OF DRAFT AWARDS BY REGISTRAR

RULE 32.3, SIAC RULES 2016

- Before making any Award, Tribunal shall submit such Award in draft form to Registrar
- Tribunal shall submit draft Award to Registrar not later than 45 days from the date of closing of proceedings, unless Registrar extends period of time or unless otherwise agreed by parties
- Registrar may suggest modifications as to the form of Award and, without affecting Tribunal's liberty to decide the dispute, draw Tribunal's attention to points of substance

Para. 31, SIAC Practice Note for Administered Cases (PN-01/14, 2 Jan 2014)

“The Registrar may, where appropriate, consult the Court [of Arbitration] before approving the draft award as to its form.”

SCRUTINY OF DRAFT AWARDS ENABLES AVOIDANCE OF ERRORS AND IMPROVEMENTS TO BE MADE TO ENHANCE ENFORCEABILITY OF AWARDS

OVERVIEW OF SIAC RULES 2016

CONSOLIDATION – RULE 8

- After arbitration proceedings have been commenced, any party may make an application for consolidation of multiple arbitrations
- Such an application may be made to SIAC Court of Arbitration (before Tribunal has been constituted) or to the Tribunal directly (after constitution of Tribunal)

JOINDER – RULE 7

- Allows both parties and non-parties to be joined in pending arbitration proceedings under these Rules
- Such an application may be made to SIAC Court of Arbitration (before Tribunal has been constituted) or to the Tribunal directly (after constitution of Tribunal)

As of 2 Nov 2018

118	Applications for consolidation received
66	Applications granted

As of 2 Nov 2018

19	Applications for joinder received
10	Applications granted

CONSOLIDATION: COSTS SAVINGS EXAMPLE

Without Consolidation

Assume 5 arbitrations have been commenced, each with a sum in dispute of S\$20 million:

- Average costs of arbitration per arbitration: S\$468,000
- Total costs of arbitration for 5 arbitrations: S\$2,340,000 (i.e. S\$468,000 x 5)

With Consolidation

If the 5 arbitrations (with an aggregate sum in dispute of S\$100 million) were consolidated:

- Average costs of arbitration: S\$847,275
- Cost savings for costs of arbitration: Approx. S\$1.5 million (USD 1.1 million)
(S\$2,340,000 - S\$847,275 = S\$1,492,725)

OVERVIEW OF SIAC RULES 2016

EARLY DISMISSAL OF CLAIMS AND DEFENCES

- RULE 29

- SIAC's early dismissal procedure - first of its kind amongst major institutional rules for commercial arbitration
- Party may apply to Tribunal for early dismissal if claim/defence is:
 - manifestly without legal merit (Rule 29.1 (a)); or
 - manifestly outside jurisdiction of the Tribunal (Rule 29.1 (b))
- Procedure has potential to provide significant savings of time and costs
- As a safeguard against unmeritorious applications, Tribunal retains discretion to decide whether an application for early dismissal should be allowed to proceed

As of 2 Nov 2018

13 | Applications for early dismissal have been received

7 | Applications allowed to proceed under Rule 29.3
6 were made under Rule 29.1(a)
1 was made under Rule 29.1(b)

Final Outcome:

- **3** Granted (2 in whole; 1 in part)
- **3** Rejected (made under Rule 29.1(a))
- **1** Withdrawn



EXPEDITED PROCEDURE (EP)

UNDER SIAC RULES 2016

WHEN MAY A PARTY APPLY FOR EP

- When sum in dispute does not exceed SGD 6,000,000; or
- When parties agree; or
- In cases of exceptional urgency

- Useful for lower-value, less complex disputes
- President of Court of Arbitration determines application

WHAT HAPPENS IF APPLICATION IS GRANTED

- Matter is referred to a sole arbitrator
- Award to be made within 6 months

461

Number of applications received as at 2 November 2018

271

Number of applications granted as at 2 November 2018



EXPEDITED PROCEDURE (EP) – CASE STUDY

1st Respondent's EP Application

- Contracts: series of agreements, including Debt Repayment Agreement
- Arbitration Agreement: included clause designating SIAC Rules 2016
- Proceedings:
 - Claimant commenced Singapore Court Proceedings
 - 1st Respondent obtained stay of Court Proceedings in favour of arbitration
 - Claimant commenced arbitration seeking a declaration that the call option was invalid and unenforceable
 - 1st Respondent filed a counterclaim seeking counter-declarations
 - 1st Respondent filed an EP Application
- 1st Respondent's EP Application
 - Rule 5.1(a) → amount in dispute was SGD 4.8 million (incl. claims and counterclaims)
 - Rule 5.1(c) (alternatively) → exceptional urgency
 - Claimant refused to facilitate exercise of the call option & failed to pay under an Indemnity Agreement
 - 1st Respondent had no effective remedy & suffered substantial and growing prejudice
 - Counterclaim added no further complexity to the issues raised by the Claimant



EXPEDITED PROCEDURE (EP) – CASE STUDY

Objection to 1st Respondent's EP Application

- Grounds for Claimant's Opposition to the EP Application:
 - Rule 5.1(a) → amount in dispute
 - Despite amount in dispute, the claims involved complex issues of fact and law
 - Necessity of lay and expert witnesses
 - Rule 5.1(c) → exceptional urgency
 - 1st Respondent sought to stay the Court Proceedings in favour of arbitration
 - Seeking the stay demonstrated a lack of urgency

Outcome

- President of SIAC Court granted the EP Application



EMERGENCY ARBITRATOR (EA)

PROVISIONS FOR APPOINTMENT OF AN EA UNDER
SIAC RULES 2016, RULE 30 - PROCEDURE SET OUT IN SCHEDULE 1:

APPLICATION IN WRITING TO REGISTRAR

1

- Concurrent with or following filing of a Notice of Arbitration
- Prior to constitution of Tribunal
- Accompanied by payment of administration fee and requisite deposits

2

- Appointment is made within 1 day of receipt by Registrar of application and payment of fee
 - Any challenge to appointment must be made within 2 days of communication by Registrar of EA appointment and circumstances disclosed

- ACCEPTANCE OF EA APPLICATION BY PRESIDENT OF SIAC COURT OF ARBITRATION
- APPOINTMENT OF EA

CONSIDERATION OF APPLICATION

3

- Schedule for consideration of application by EA is made within 2 days from appointment



POWERS OF EA

- Same powers as Tribunal
- Power to order any interim relief
- Interim order or award must be made within 14 days from appointment
 - To give summary reasons in writing for decision
 - No power to act after Tribunal is constituted
- Order or award of an EA ceases to have effect if within 90 days a Tribunal is not constituted

SIAC WAS FIRST ASIAN ARBITRAL INSTITUTION TO INTRODUCE EA PROVISIONS IN JULY 2010



EMERGENCY ARBITRATOR (EA)

EXAMPLES OF RELIEF SOUGHT

- To permit a company unimpeded access to inspect a property development where respondent was effecting alterations to properties to remedy defects
- A Mareva injunction against a party from disposing shares and dissipating assets
- A freezing order against respondents from transferring assets and to disclose financial records and statements to an international financial institution
- Orders against a shipyard which had been contracted for steelworks and maintenance works, from interfering with safe departure of a vessel
- Orders against respondent to deliver all documents in his possession, custody or power acquired or made by him during his term of employment pursuant to a consultancy agreement
- Order against respondent to restrain it from calling on a bank guarantee until final determination by the tribunal in the arbitration



EMERGENCY ARBITRATOR (EA)

TIMING OF AWARDS AND ENFORCEABILITY

2.5
DAYS

Average time between receipt of an application to issuance of an interim order

High rate of voluntary compliance in practice

8.5
DAYS

Average time between hearing on the request for an emergency measure and issuance of an award

EA orders and awards enforceable in Singapore-seated arbitrations and arbitrations seated outside Singapore under IAA

1
DAY

Shortest time between hearing on request for an emergency measure and issuance of an award

In majority of cases subsequently constituted Tribunals affirmed orders and awards issued by EA



EMERGENCY ARBITRATOR (EA)

OUTCOMES OF APPLICATIONS FOR EMERGENCY RELIEF

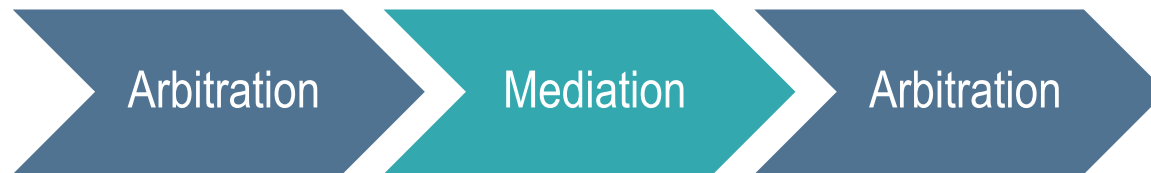
Granted	29
Granted (by consent)	6
Granted (in part)	16
No orders made (application withdrawn)	8
Rejected	24
Pending	0
TOTAL (as at 2 Nov 2018)	83

SIAC EMERGENCY ARBITRATOR FEES

SIAC Administration Fee	SGD 5,000 (+ GST if applicable)
Deposits for EA's Fee* and Expenses	SGD 30,000 (unless Registrar determines otherwise)
Total Payable upon Filing	SGD 35,000 (+ GST on SIAC's administration fee if applicable)

*EA's Fee shall be fixed at SGD 25,000 (unless Registrar determines otherwise)

ARB-MED-ARB PROTOCOL



- SIAC-SIMC Arb-Med-Arb Service is a one-stop process where a dispute is first referred to arbitration before mediation is attempted
- If mediation is successful, parties may request their mediated settlement be made a consent arbitral award with advantages of enforceability under New York Convention
- If mediation is unsuccessful, parties may proceed with arbitration

- 11** | Number of SIAC-SIMC Arb-Med-Arb cases as of 26 October 2018
 - *involving parties from BVI, Cayman Island, Germany, India, Japan, Singapore, Switzerland, Taiwan, Thailand and UAE*
- 52** | Number of SIMC Mediation cases as of 26 October 2018
 - *involving parties from Australia, Cayman Islands, China, Germany, India, Indonesia, Japan, Kazakhstan, Laos, Macau SAR, Malaysia, Mongolia, Myanmar, Netherlands, Singapore, South Korea, Taiwan, Thailand, UAE, UK, US and Vietnam*
- 63** | Total number of cases as of 26 October 2018
 - *Total sum in dispute: > USD 1.5 billion*

HOW WE CALCULATE COSTS AT SIAC

Ad valorem Schedule of Fees

- With fee caps
- Promotes certainty and transparency
- Flexibility
 - Parties may elect for alternative methods of determining tribunal's fees e.g. hourly rates
- Deposits are calculated on estimated costs of arbitration
- Cost Determination Process – Objective Assessment of Arbitrator Fees
 - Relevant factors include time spent by Tribunal, complexity, hearings, questions of law and efficiency

COSTS AND DURATION COMPARISON

Comparison on Duration of Arbitration and Total Costs of Arbitration

	Mean duration of arbitration for all tribunals (months)	Median duration of arbitration for all tribunals (months)	Mean total costs of arbitration for all tribunals (USD)	Median total costs of arbitration for all tribunals (USD)
SIAC	13.8	11.7	USD 80,337	USD 29,567
HKIAC	16.2	14.3	USD 117,045	USD 62,537
LCIA	Undisclosed	16	Undisclosed	USD 97,000
SCC	16.2	13.5	Undisclosed	Undisclosed

**Total costs of arbitration comprise the combined sum of tribunal fees and administration fees disclosed only.*

Sources:

LCIA - <http://www.lcia.org/News/lcia-releases-updated-costs-and-duration-analysis.aspx>

SCC - http://www.sccinstitute.com/media/93440/costs-of-arbitration_scc-report_2016.pdf

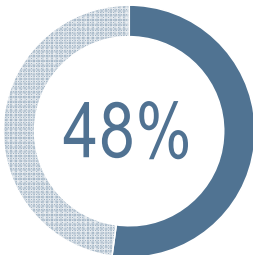
HKIAC - <http://www.hkiac.org/content/costs-duration>

VIETNAMESE PARTIES ARBITRATING AT SIAC – 2015-2017

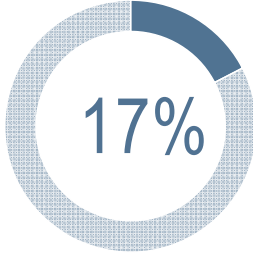
	2015	2016	2017
TOTAL NUMBER OF PARTIES	29	16	24
TOTAL SUM IN DISPUTE	USD155.87 million (SGD220.46 million)	USD91.92 million (SGD132.95 million)	USD437.20 million (SGD584.48 million)
AVERAGE SUM IN DISPUTE	USD6.00 million (SGD8.48 million)	USD9.20 million (SGD13.30million)	USD39.75 million (SGD53.13 million)
HIGHEST SUM IN DISPUTE	USD137.43 million (SGD194.37 million)	USD44.24 million (SGD63.99 million)	USD424.61 million (SGD567.66 million)

INTERNATIONAL ARBITRATION BY SECTORS IN VIETNAM – 2017

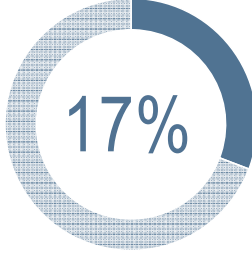
CATEGORIES OF DISPUTES FOR VIETNAMESE CASES AT SIAC



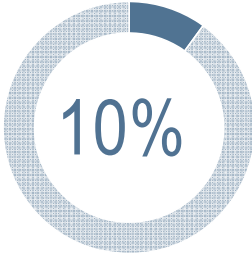
MARITIME/
SHIPPING



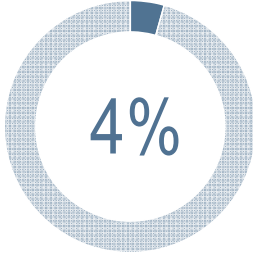
COMMERCIAL



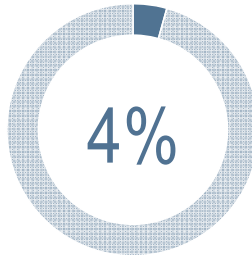
TRADE



BANKING

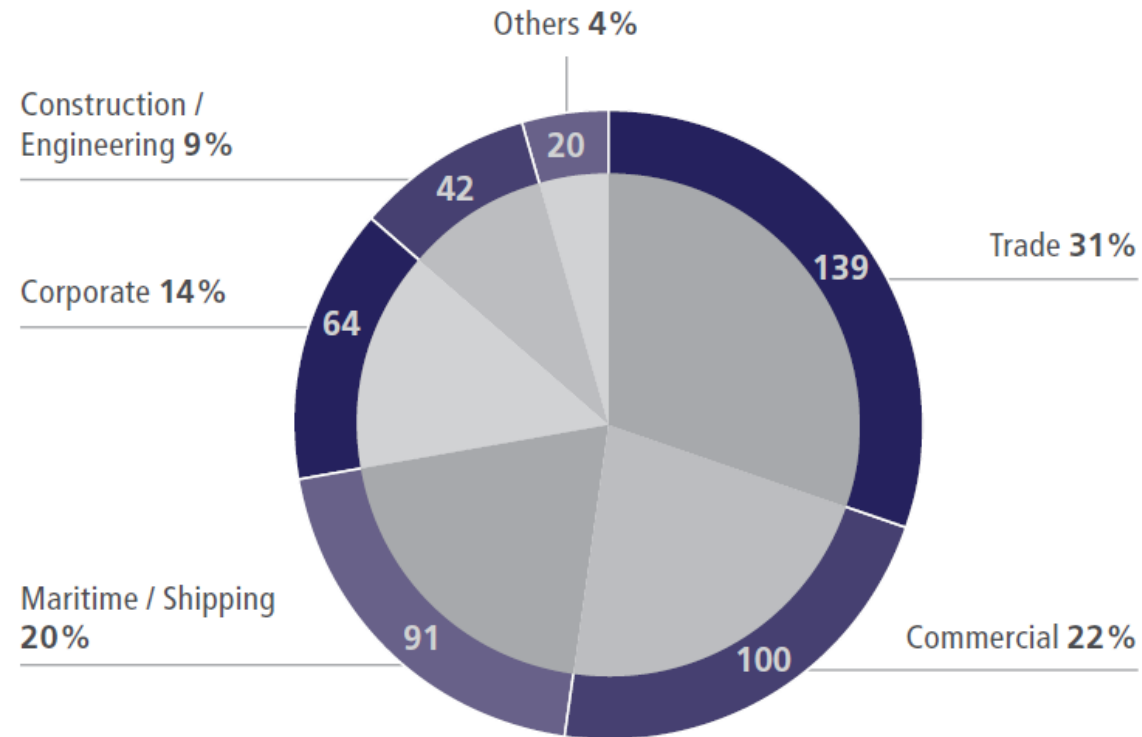


CORPORATE



CONSTRUCTION/
INFRASTRUCTURE/
ENGINEERING

ANALYSIS OF NEW CASES BY DISPUTE SECTOR IN 2017*



* 4 of the cases in 2017 encompassed two categories.

WHERE WE ARE

WORLDWIDE LOCATIONS



WHERE WE ARE

WORLDWIDE LOCATIONS



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