

INTERNATIONAL
COURT OF
ARBITRATION®

INTERNATIONAL
CENTRE
FOR ADR

LEADING DISPUTE
RESOLUTION
WORLDWIDE

为您的争议选择最合适的解决争议方法 CHOOSING THE MOST EFFECTIVE DISPUTE RESOLUTION METHOD FOR YOUR DISPUTE

José Ricardo Feris
副秘书长
国际商会国际仲裁院

导言 INTRODUCTION

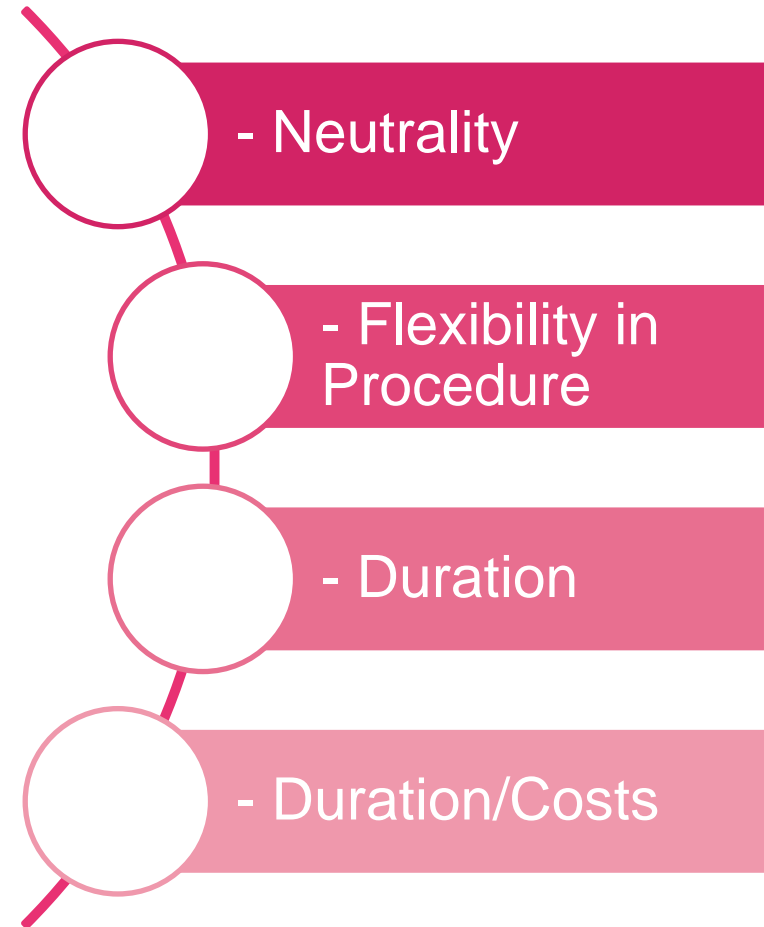
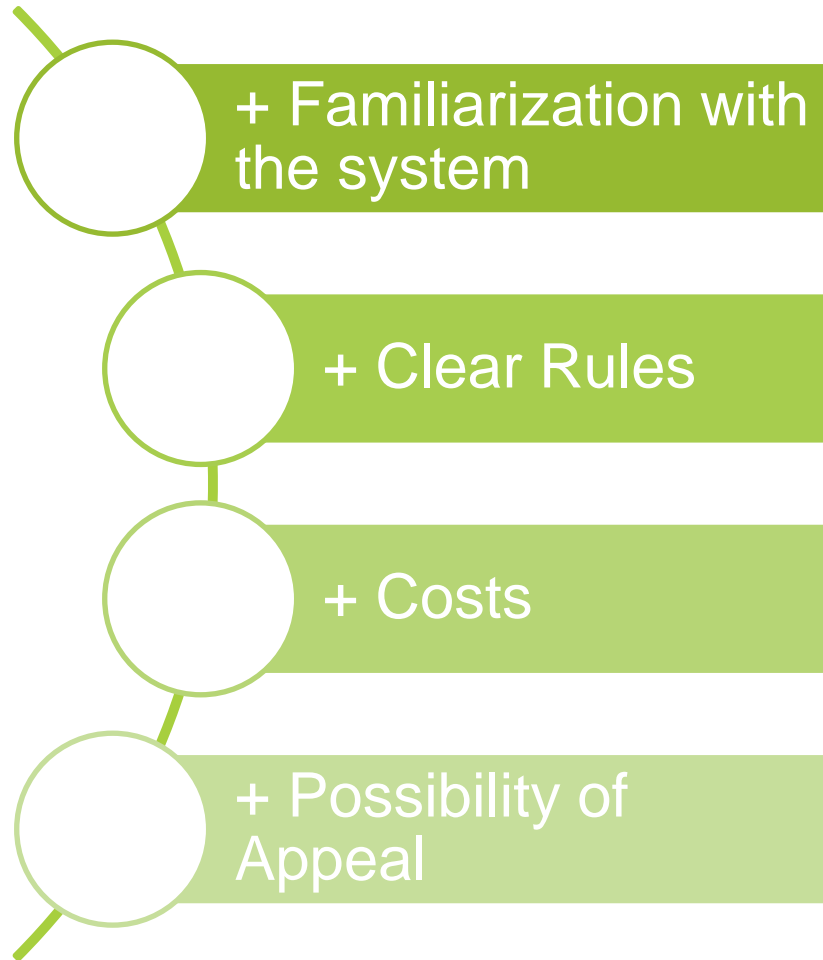
选择 OPTIONS

- 诉讼或仲裁 State Courts v. Arbitration
- 仲裁或调解 Arbitration and/or ADR
- 临时仲裁或机构仲裁 *Ad-Hoc* Arbitration v. Institutional Arbitration
- 本地机构或国际机构 Domestic Institutions v. International Institutions
- “国际” 机构或环球机构 “International” Institutions v. Global Institutions

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诉讼 STATE COURTS

诉讼: + / - STATE COURTS: + / -



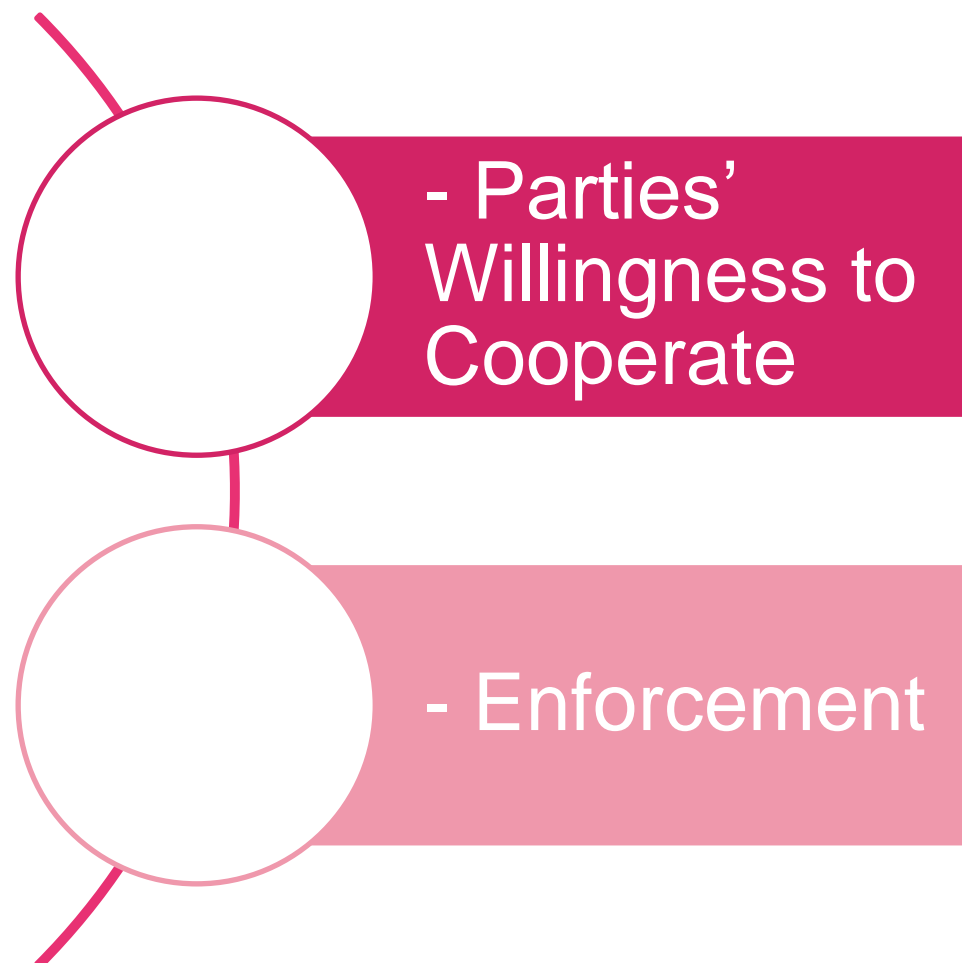
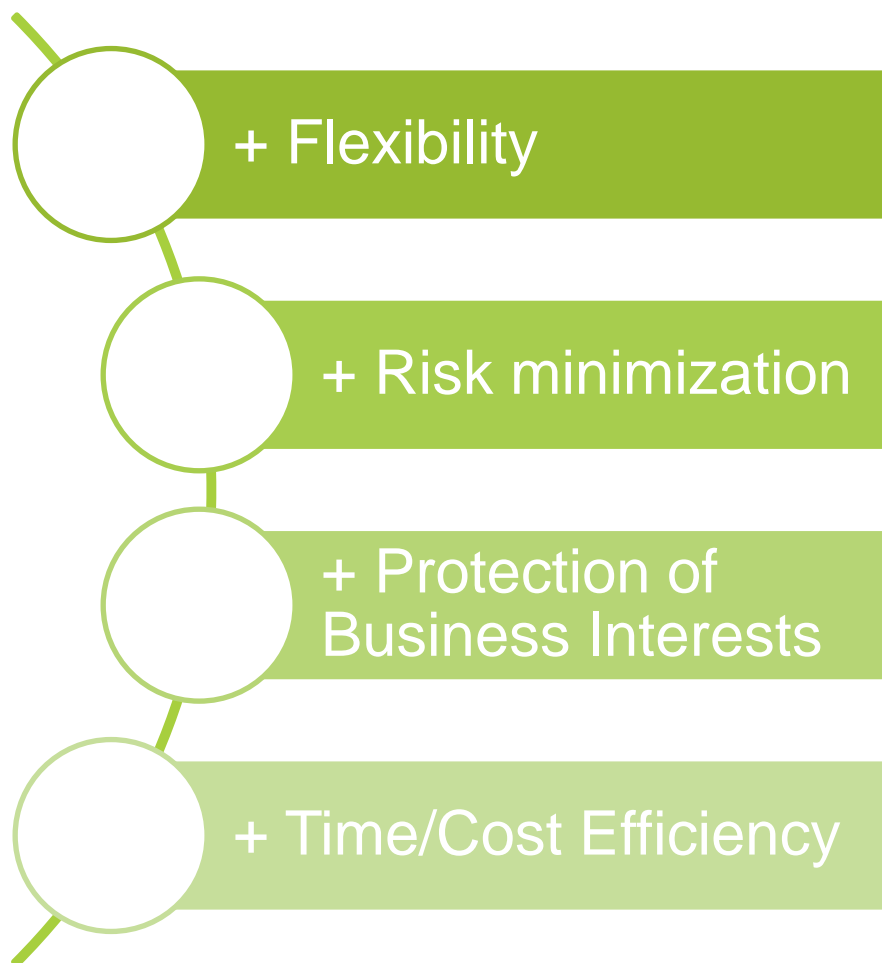
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跨境ADR CROSS-JURISDICTIONAL ADR

跨境ADR: + / - CROSS-JURISDICTIONAL ADR: + / -

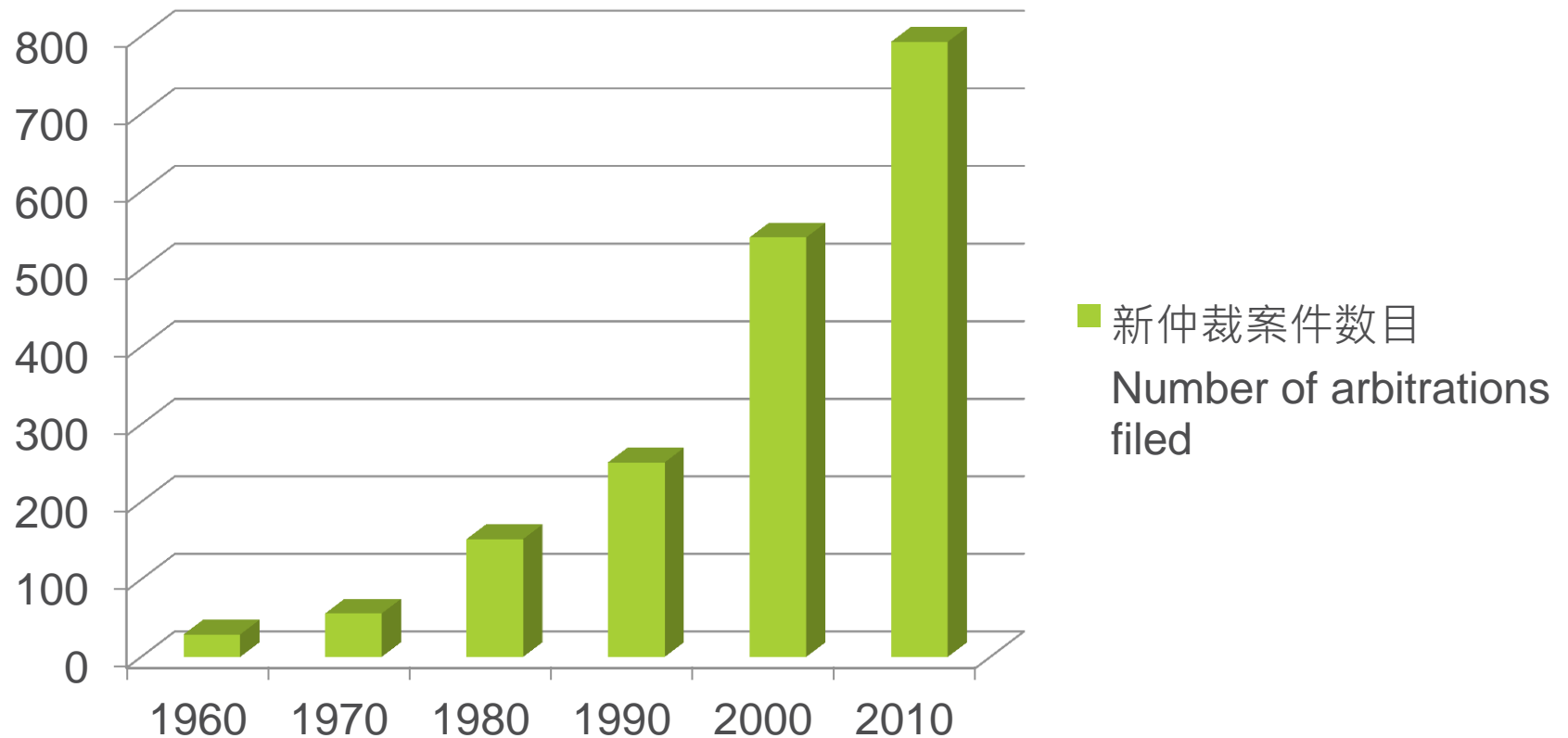


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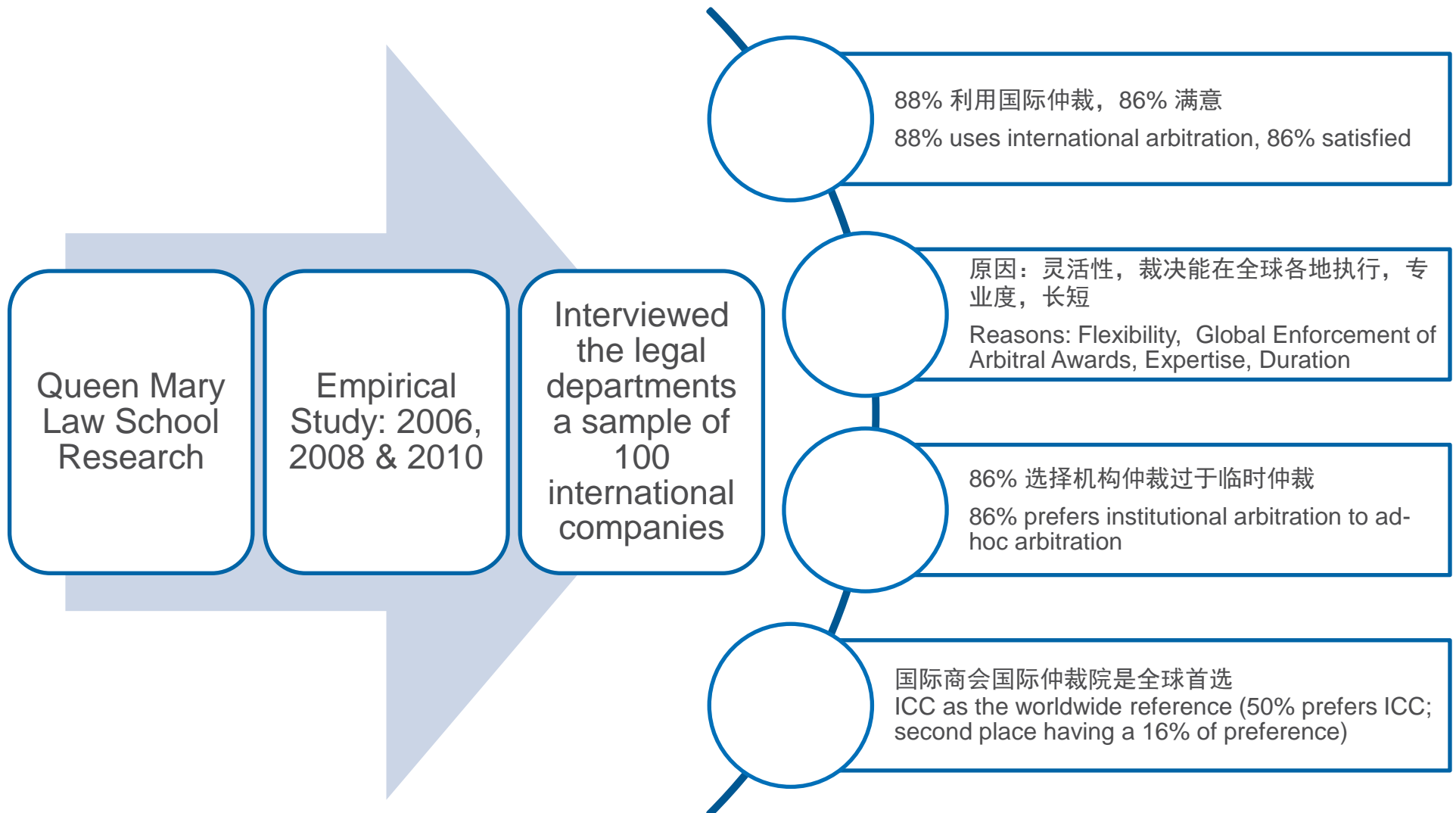
仲裁 ARBITRATION

仲裁历史性的增长 ARBITRATION GROWTH THROUGHOUT THE YEARS

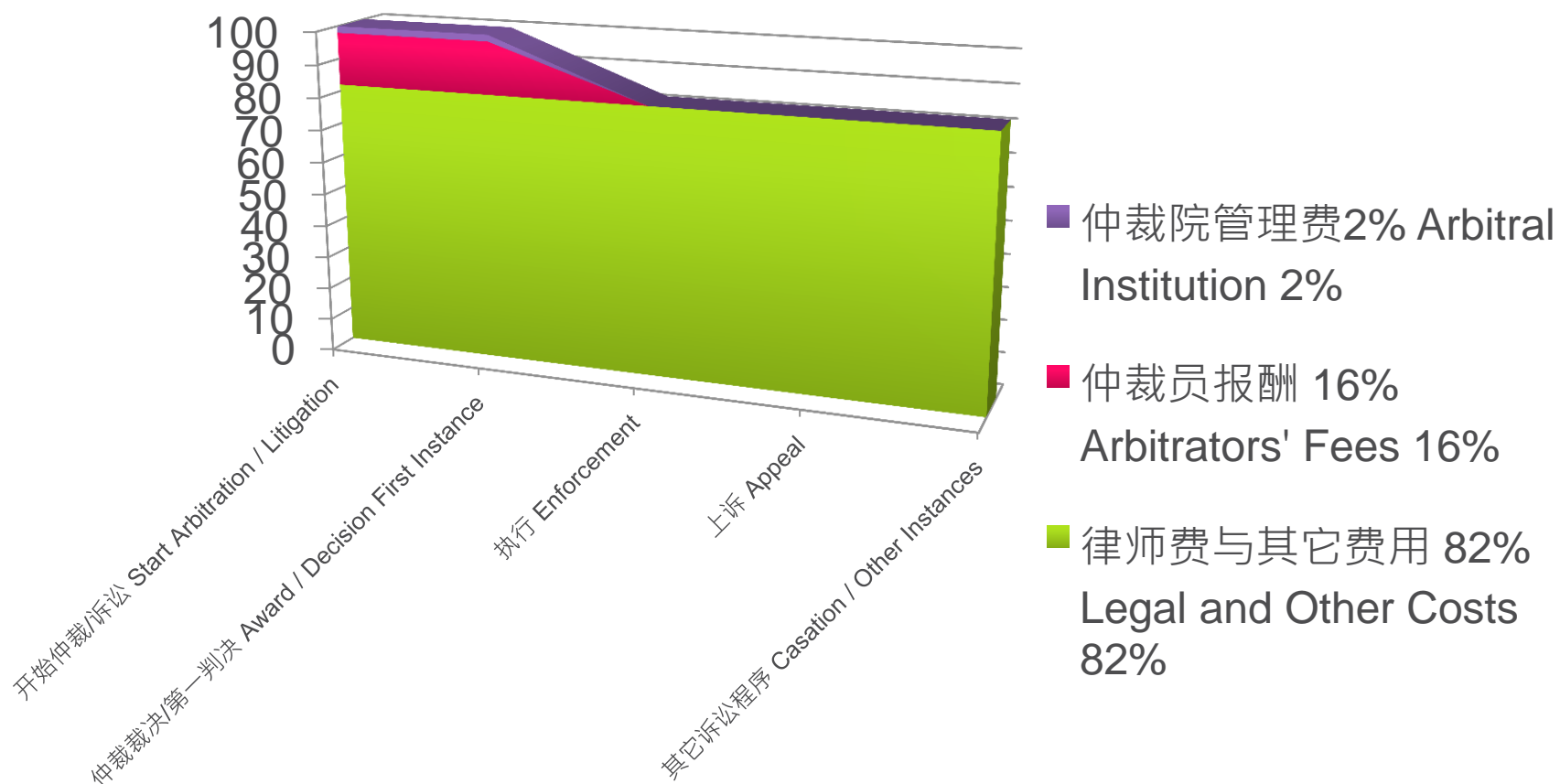
年度新仲裁案件 New arbitrations filed



为什么选择仲裁 WHY ARBITRATION?



仲裁费用的误解 THE MYTH OF ARBITRATION COSTS



多重争议解决：两全其美？ MULTI-TIER DISPUTE RESOLUTION: BEST OF BOTH WORLDS?

仲裁+ 调解 ARBITRATION + MEDIATION

Obligation to consider mediation in the first instance

In the event of any dispute arising out of or in connection with the present contract, the parties agree in the first instance to discuss and consider referring the dispute to the ICC Mediation Rules.

Obligation to refer dispute to Mediation while not preventing arbitration proceedings to be commenced

(x) In the event of any dispute arising out of or in connection with the present contract, the parties shall first refer the dispute to proceedings under the ICC Mediation Rules. The commencement of proceedings under the ICC Mediation Rules shall not prevent any party from commencing arbitration in accordance with sub-clause y below.

(y) 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

仲裁+ 争议解决委员会 ARBITRATION + DISPUTE BOARDS

DRB

The Parties hereby agree to establish a Dispute Review Board (“DRB”) in accordance with the Dispute Board Rules of the International Chamber of Commerce (the “Rules”), which are incorporated herein by reference. The DRB shall have [one/three] member[s] appointed in this Contract or appointed pursuant to the Rules.

All disputes arising out of or in connection with the present Contract shall be submitted, in the first instance, to the DRB in accordance with the Rules.

For any given dispute, the DRB shall issue a Recommendation in accordance with the Rules. If any Party fails to comply with a Recommendation when required to do so pursuant to the Rules, the other Party may refer the failure itself to arbitration under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules of Arbitration.

If any Party sends a written notice to the other Party and the DRB expressing its dissatisfaction with a Recommendation, as provided for in the Rules, or if the DRB does not issue the Recommendation within the time limit provided for in the Rules, or if the DRB is disbanded pursuant to the Rules, the dispute 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 of Arbitration.

DAB

The Parties hereby agree to establish a Dispute Adjudication Board (“DAB”) in accordance with the Dispute Board Rules of the International Chamber of Commerce (the “Rules”), which are incorporated herein by reference. The DAB shall have [one/three] member[s] appointed in this Contract or appointed pursuant to the Rules.

All disputes arising out of or in connection with the present Contract shall be submitted, in the first instance, to the DAB in accordance with the Rules. For any given dispute, the DAB shall issue a Decision in accordance with the Rules.

If any Party fails to comply with a Decision when required to do so pursuant to the Rules, the other Party may refer the failure itself to arbitration under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules of Arbitration.

If any Party sends a written notice to the other Party and the DAB expressing its dissatisfaction with a Decision, as provided for in the Rules, or if the DAB does not issue the Decision within the time limit provided for in the Rules, or if the DAB is disbanded pursuant to the Rules, the dispute 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 of Arbitration.

仲裁+ 专家委员会 ARBITRATION + EXPERTISE

Optional expertise

The parties may at any time, without prejudice to any other proceedings, agree to submit any dispute arising out of or in connection with clause [X] of the present contract to administered expertise proceedings in accordance with the Rules for Expertise of the International Chamber of Commerce.

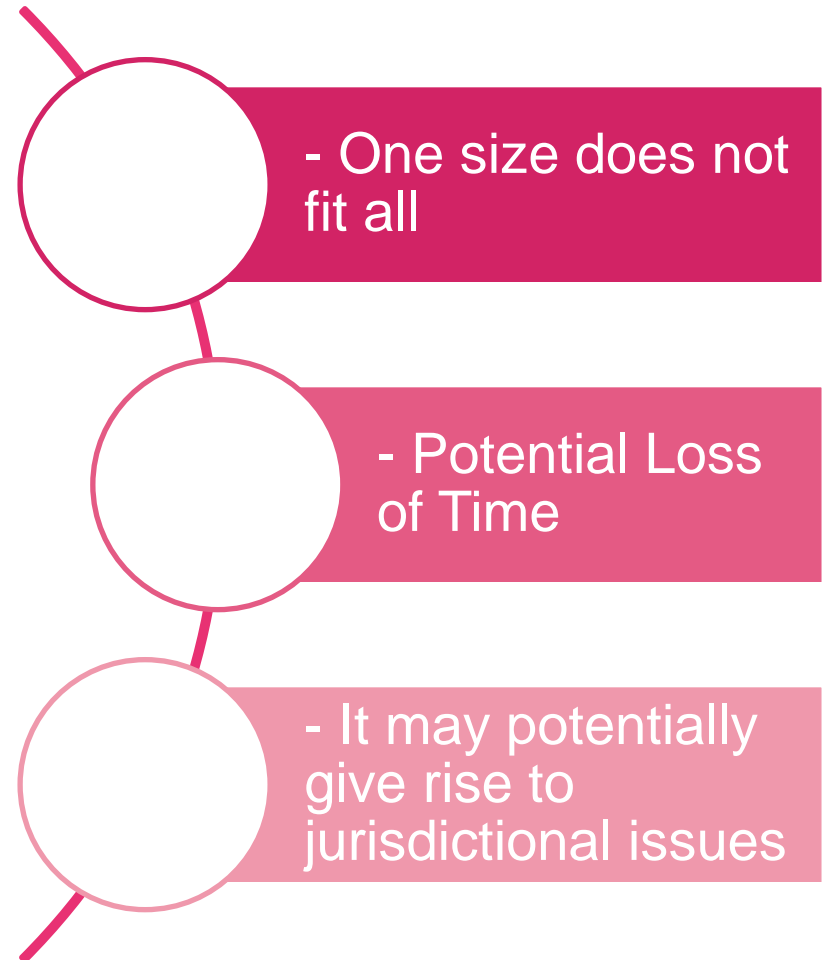
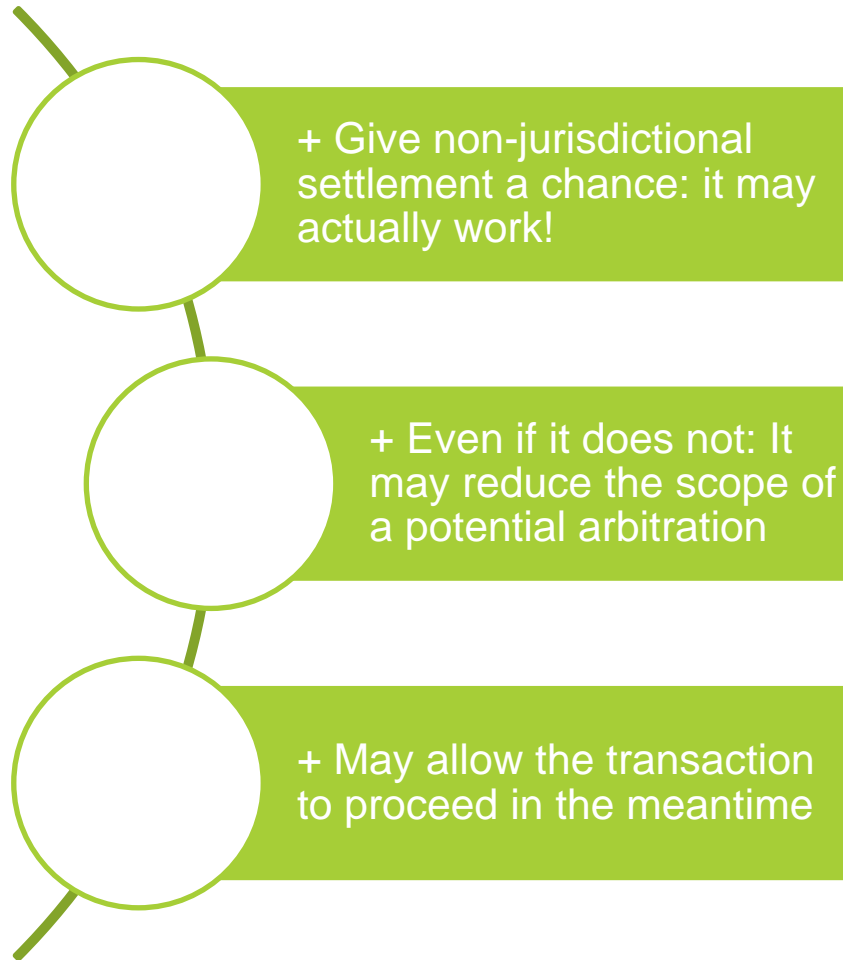
Obligation to submit dispute to expertise

In the event of any dispute arising out of or in connection with clause [X] of the present contract, the parties agree to submit the matter to administered expertise proceedings in accordance with the Rules for Expertise of the International Chamber of Commerce. [The findings of the expert shall be binding upon the parties.]

Obligation to submit dispute to expertise, followed by arbitration if required

In the event of any dispute arising out of or in connection with clause [X] of the present contract, the parties agree to submit the matter, in the first instance, to administered expertise proceedings in accordance with the Rules for Expertise of the International Chamber of Commerce. If the dispute has not been resolved through such administered expertise proceedings it shall, after the Centre's notification of the termination of the expertise proceedings, 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 of Arbitration.

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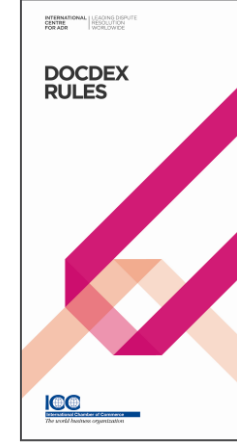
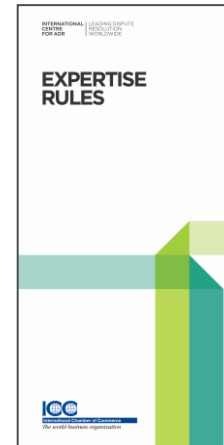
从国际商会的角度探讨：以2%从仲裁机构换取什么？ WHAT ARBITRAL INSTITUTIONS OFFER FOR THE 2%? THE ICC PERSPECTIVE

一个机构，两个成员 TWO PLAYERS, ONE INSTITUTION

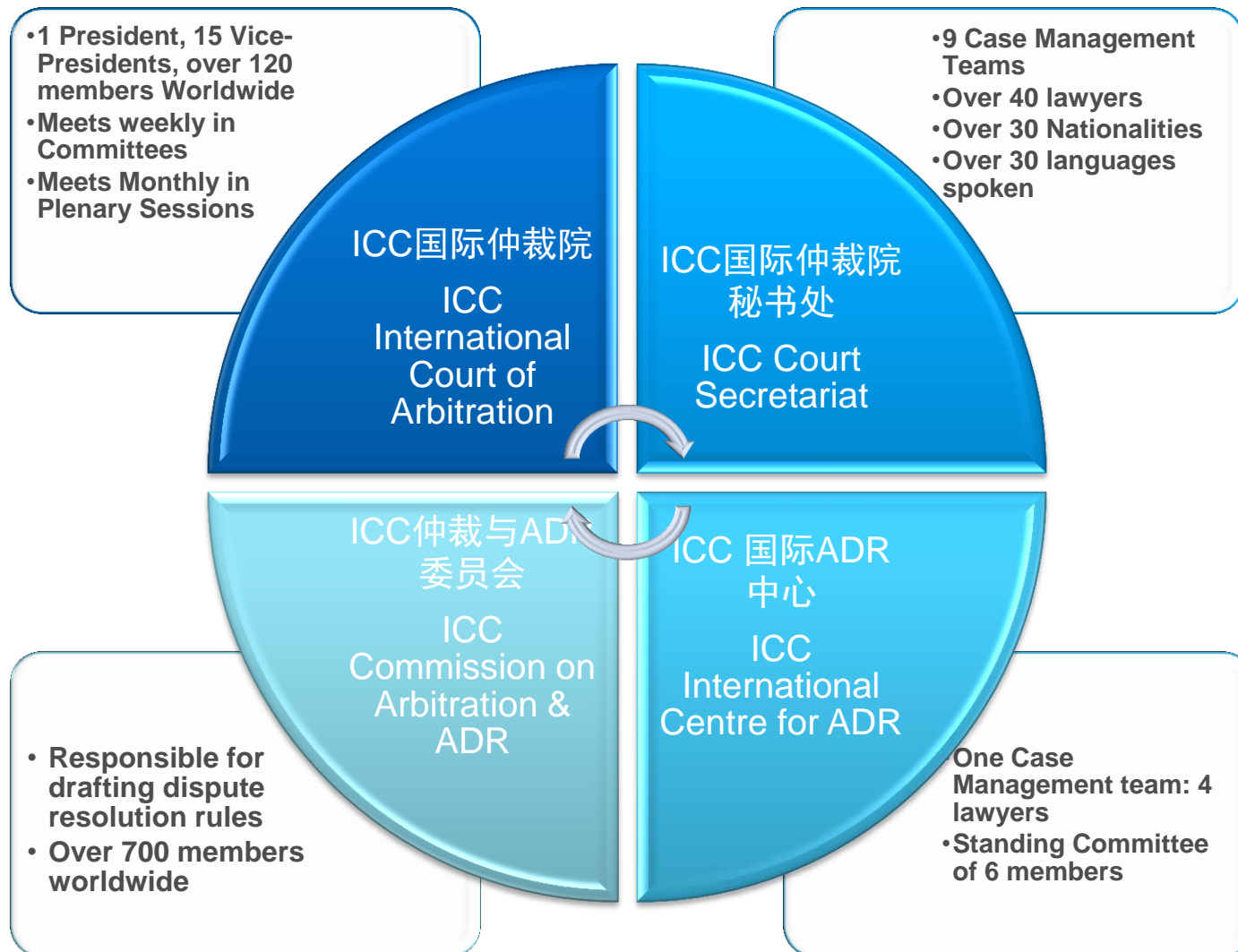
国际商会 (ICC) 争议解决服务 ICC Dispute Resolution Services

ICC国际仲裁院
ICC International Court
of Arbitration

ICC国际ADR中心
ICC International Centre
for ADR



世界级的行政人员 WORLD CLASS ADMINISTRATION



跨境 ADR CROSS-JURISDICTIONAL ADR

ICC国际ADR中心2001年至今的经验 EXPERIENCE OF THE ICC INTERNATIONAL CENTRE FOR ADR SINCE 2001

- 80% international and 20% domestic proceedings
- ICC mediation involved parties from over 70 different nationalities (From Asia: China, India, Malaysia, Pakistan, Philippines, Singapore, South Korea, Thailand)
- Brought range of amounts in dispute but average at approx. 30 Mio. USD
- Disputes from all sectors
- Different types of contracts
- Often multi-party scenarios
- 10% of the cases involving states or state entities

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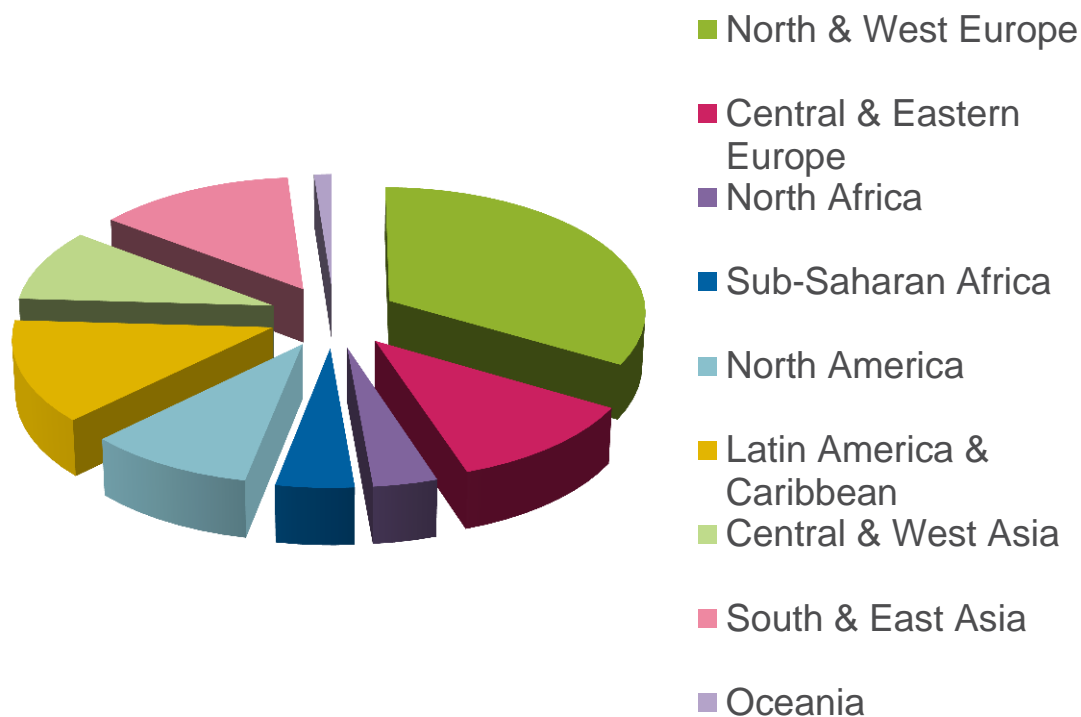
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仲裁 ARBITRATION

环球经验与肯定 GLOBAL EXPERIENCE AND RECOGNITION

2013年当事人国籍 Origin of the Parties 2013



1998年当事人
数据

1151 名当事人
1151 parties

Number of
parties in
1998

106 种国籍
106 countries

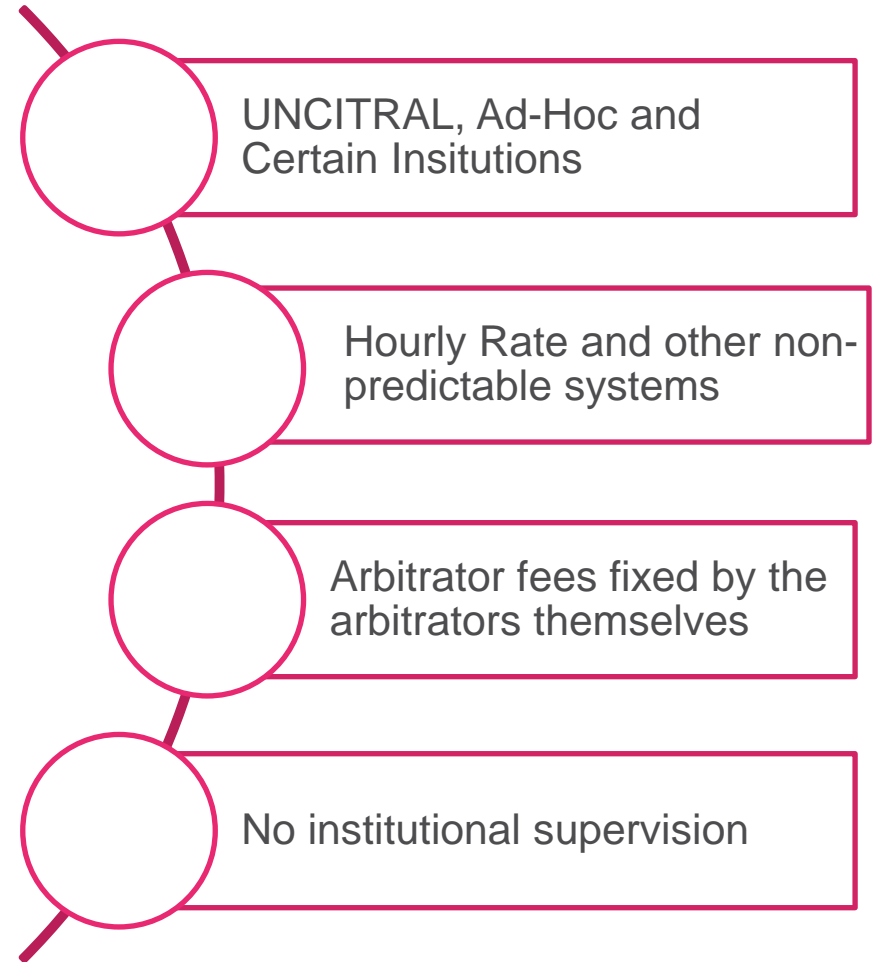
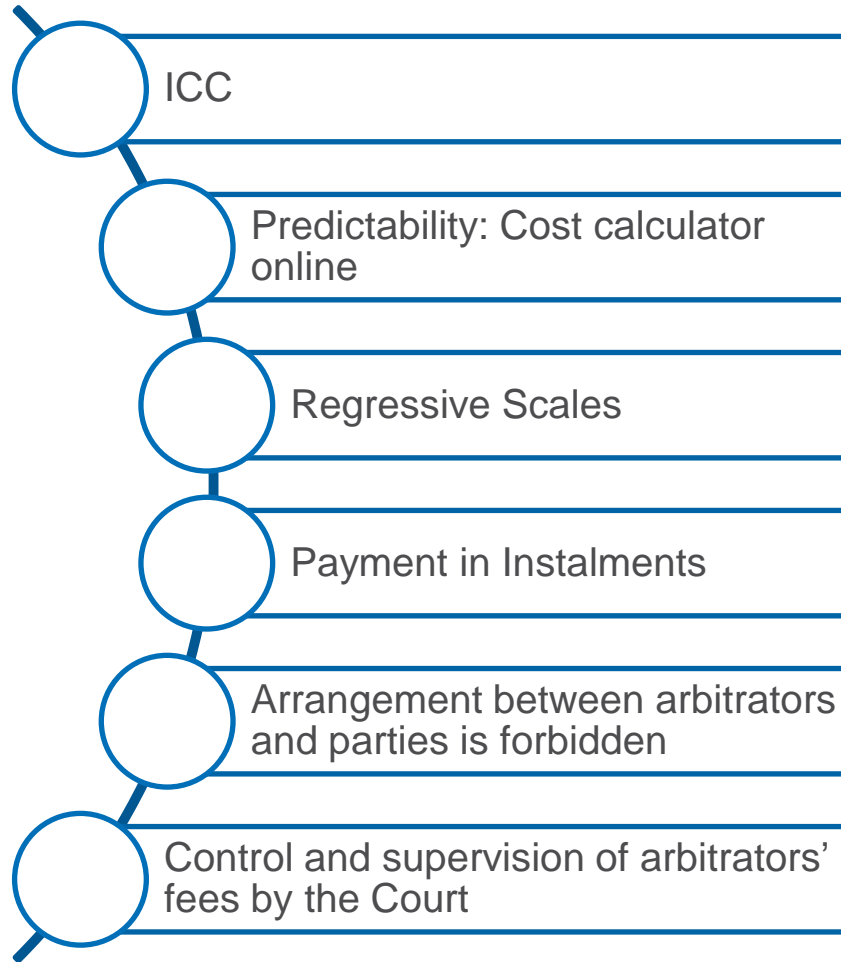
2013年当事人
数据

2120 名当事人
2120 parties

Number of
parties in
2013

138 种国籍
138 countries

可预测及受监督的费用系统 PREDICTABLE AND SUPERVISED COSTS SYSTEM

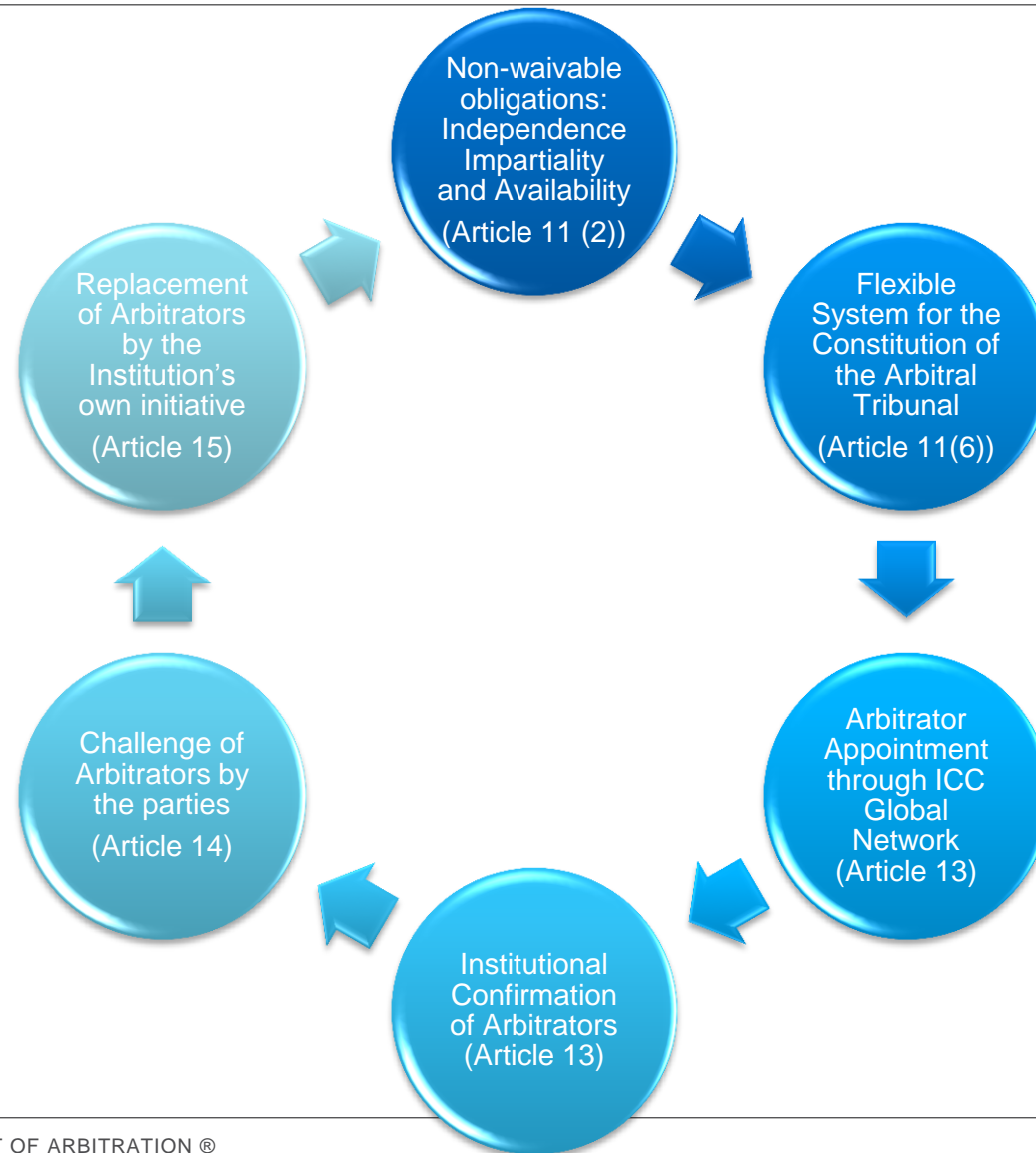


注重成本效益 FOCUS ON COST EFFICIENCY

Article 22(1)

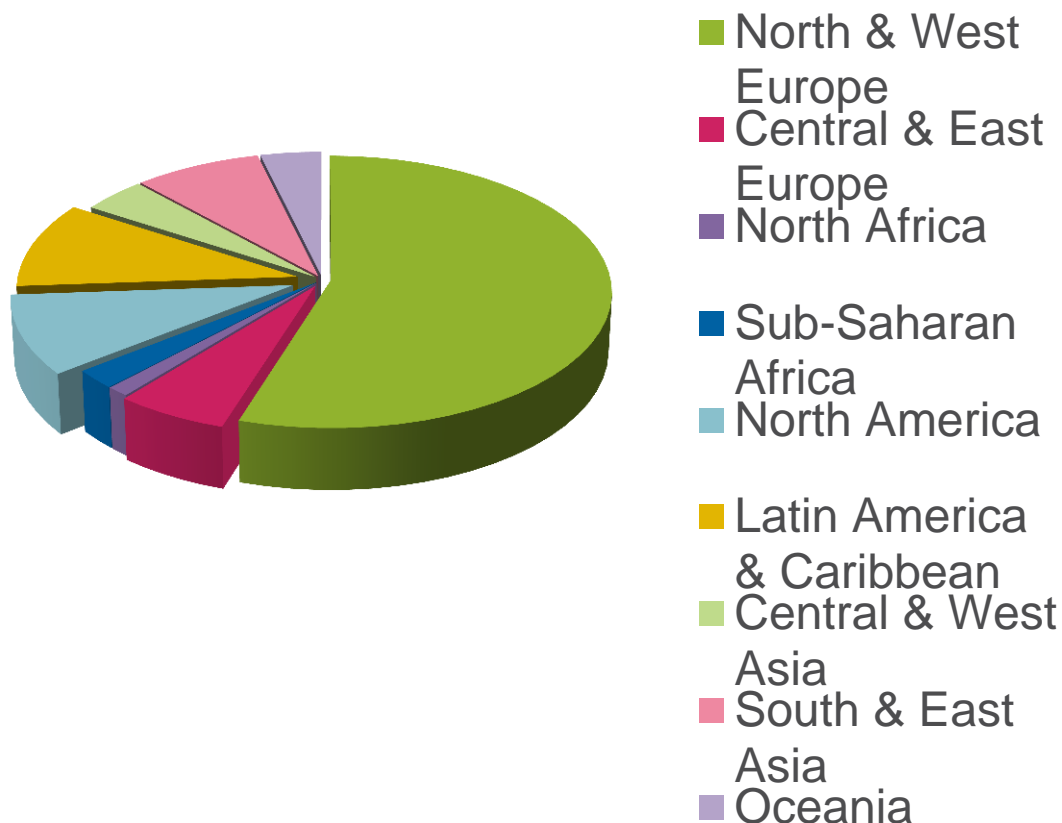
- “The **arbitral tribunal** and **the parties** shall make every effort to conduct the arbitration in an expeditious and cost-effective manner, having regard to the complexity and value of the dispute”

重要的仲裁员任命与监督系统 INTEGRAL ARBITRATOR APPOINTMENT AND SUPERVISION SYSTEM



仲裁员国籍的多样性 ARBITRATOR DIVERSITY

仲裁员国籍 Origin of the Arbitrators



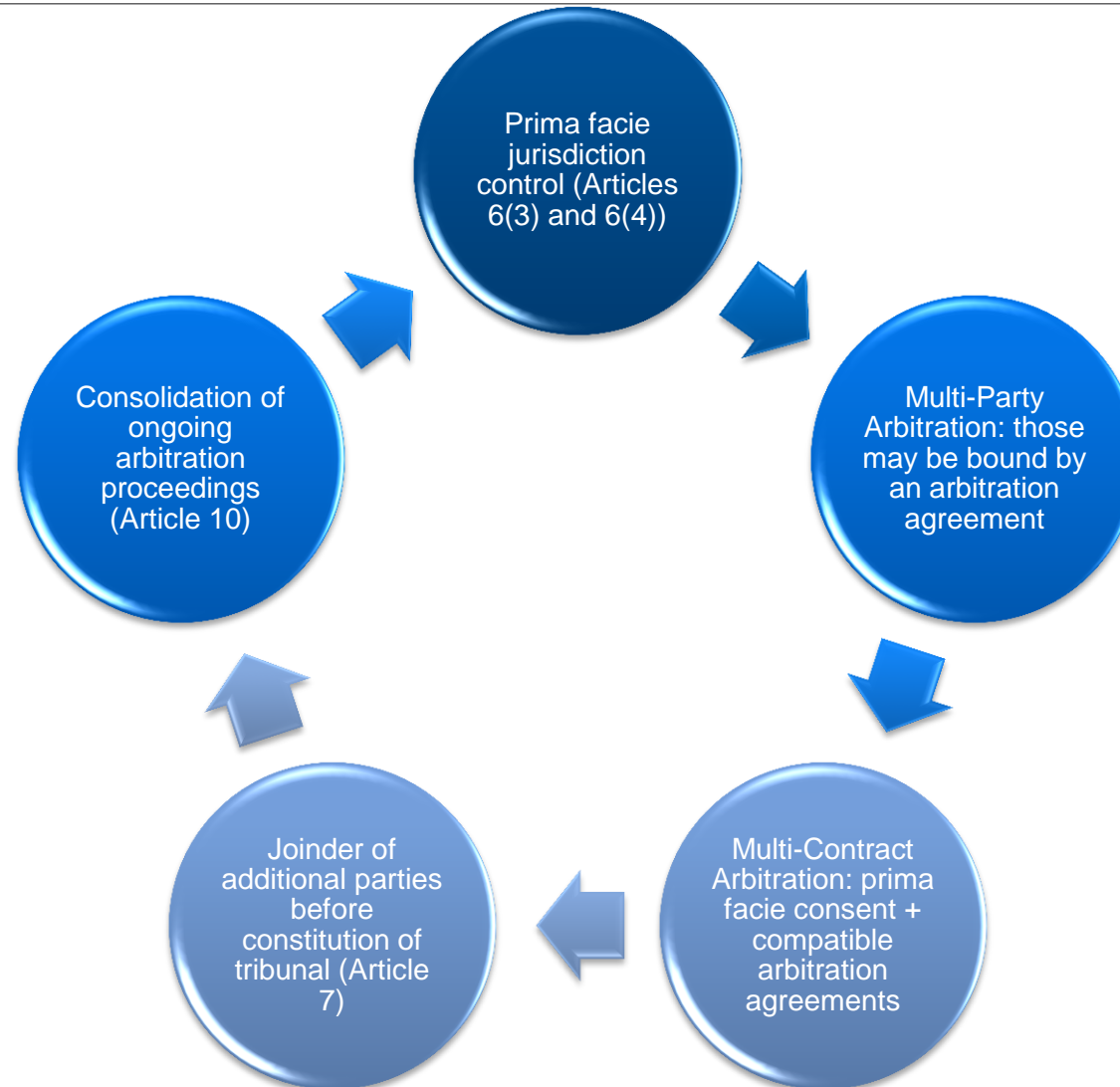
2003
988 名仲裁员
988 arbitrators

69 种国籍
69 countries

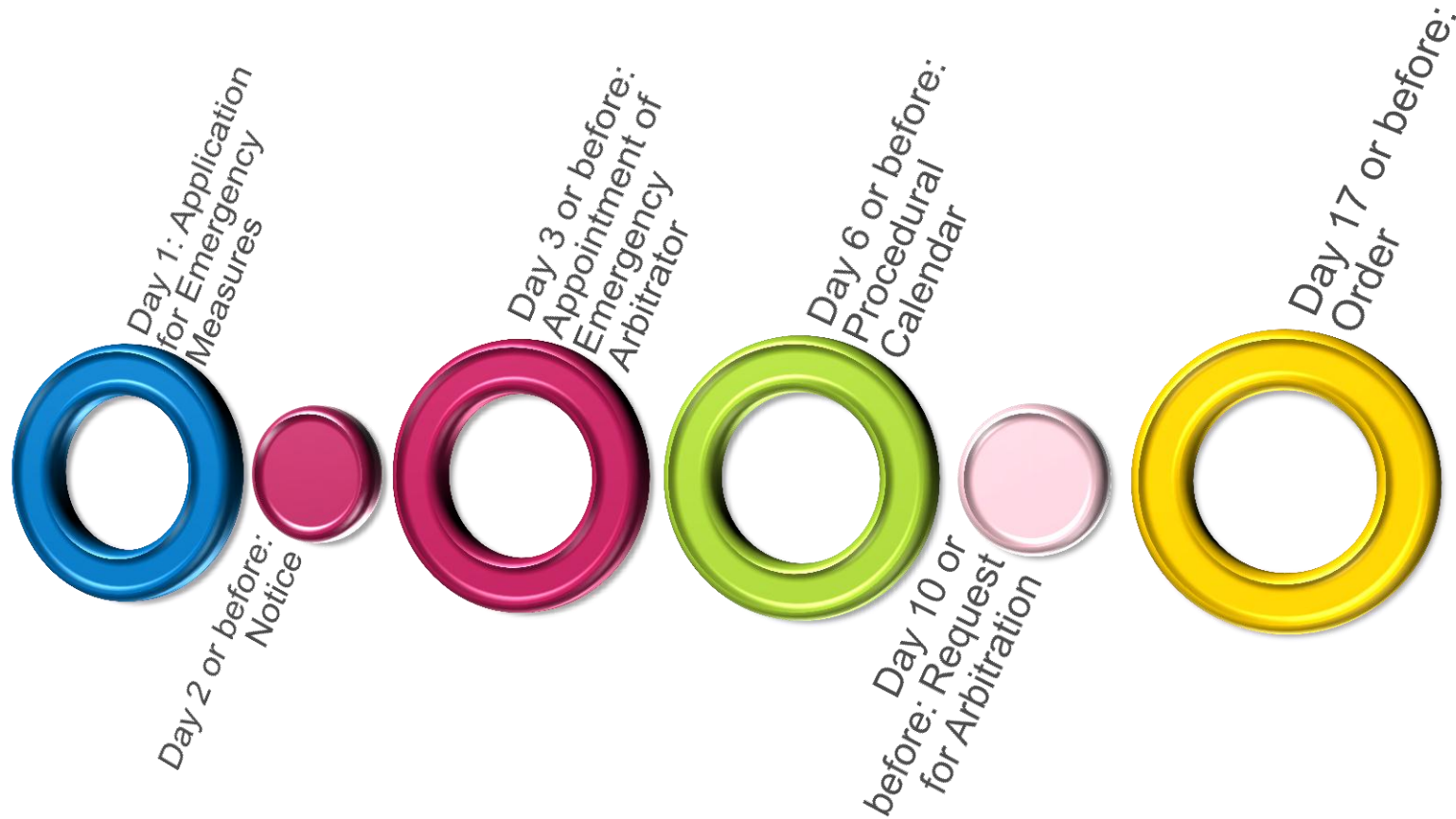
2013
1329 名仲裁员
1329 arbitrators

86 种国籍
86 countries

先进及针对复杂案件的仲裁规则 STATE-OF-THE-ART RULES FOR COMPLEX ARBITRATIONS



紧急救济 EMERGENCY RELIEF



仲裁裁决书核阅 SCRUTINY OF ARBITRAL AWARDS

1

- Enforceable Decisions

2

- Respect of Due Process

3

- Consistent and sufficient reasoning

4

- Respect of rules agreed by the parties

5

- Verification of calculations and amounts

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