

## CLIENT ALERT

### 2020 International Arbitration Overview: Demand for Dispute Settlement Up, Despite COVID-19 Struggles

Feb.03.2021

Despite the challenges of 2020, major international arbitration institutions reported a record number of new registered cases. As travel restrictions inhibited cross-border travel, lockdowns were issued around the globe, and many industries began working remotely, arbitral bodies adeptly transitioned to fully electronic filing systems, organized remote hearings, and issued COVID-19 guidance. These changes enabled parties to continue resolving their disputes without major disruption and have set the institutions up for another busy year in the dispute resolution world.

For instance, the International Centre for Settlement of Investment Disputes (ICSID) registered a record 58 new cases in 2020. Governments in Latin America, Eastern Europe and Central Asia saw the largest share of cases registered (55% combined). The scope of industries involved remained broad, though cases primarily targeted the energy and construction sectors (58% combined). In terms of adjudicating its existing caseload, ICSID held 156 virtual hearings, comparable to the number of hearings conducted in 2019. All hearings were conducted remotely during the pandemic. According to ICSID, online proceedings have proven effective and spare parties the usual time and travel expenses associated with in-person hearings.

The International Chamber of Commerce (ICC) similarly posted its highest number of cases since 2016, with 946 new arbitration cases. Interestingly, the ICC reported a record number of mediations and other alternative mechanisms of dispute resolution with 77 new cases, signaling new trends in companies' efforts to resolve their disputes more creatively. The ICC also approved revised ICC Rules of Arbitration that went into effect in January 2021, aiming to increase the institution's "*efficiency...[and] provide further transparency.*" These changes include mandatory disclosures of funding and conflicts. The revisions strengthen the ICC's ability to appoint arbitrators in extraordinary circumstances notwithstanding an agreement, in an effort to prevent unfairness. The new rules also empower tribunals to take "*any measure necessary to avoid a conflict of interest of an arbitrator*" when there is a change in representation after an arbitral tribunal has been constituted. *To learn more about our previous Crowell & Moring Alert on the revised 2021 ICC Rules, [click here](#).*

The London Court of International Arbitration (LCIA) received 444 referrals and fully administered 407 claims, its highest number yet and a 10% increase in cases from 2019 (details of the LCIA's case load will be released later this year, in its Annual Casework Report). The LCIA also published a new version of the LCIA rules in October 2020, designed to simplify and update the rules in line with modern practice and to respond to the challenges posed by the pandemic. The rules have been widely praised and some noteworthy changes include the option to commence multiple arbitrations under one request and wider powers for tribunals to dispense with claims early and consolidate proceedings. 2020 also included probably the most significant decision on English arbitration law in a decade: *Halliburton Company (Appellant) v Chubb Bermuda Insurance Ltd [2020] UKSC 48*. The case clarified how apparent bias will be assessed in the context of arbitration, and in particular the importance of arbitrator impartiality. *To learn more about our previous Crowell & Moring Alert on the new LCIA rules released in October 2020, [click here](#).*

Regional arbitration centers likewise saw a record number of cases filed in 2020. For example, the Singapore International Arbitration Center (SIAC) received 1,005 new case filings. This doubles the number SIAC recorded in recent years. Even with the ongoing pandemic, SIAC opened its fifth international office in New York at the end of last year.

In spite of increased uncertainty hitting the global economy and recent criticism raised by certain groups on the use of investment arbitration during the COVID-19 crisis, with the successful adoption of new technology and nearly a year of experience, arbitration institutions successfully continue their work and project to proceed full steam this year. In the international arbitration world, 2021 looks to be another busy year.

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