



PROFESSIONAL SERVICES SERIES

DISPUTE RESOLUTION IN LONDON AND THE UK

DECEMBER 2012

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Our five consultants advise law firms of all sizes, barristers' chambers and in-house teams. We have an alliance with Altman Weil, the leading US law practice consultancy. In addition Jomati principal, Tony Williams, acts as a mediator in partnership disputes and provides expert evidence in relation to law firms and partnership matters.

DISPUTE RESOLUTION IN LONDON & THE UK

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This report focuses on the dispute resolution services offered by the courts and by private providers in the UK. Many organisations, particularly in London, facilitate the resolution of commercial disputes between international parties, while extensive arbitration, mediation and adjudication services have been developed to resolve domestic disputes throughout the UK. Disputes can involve parties in a wide range of trades and sectors, including maritime, commodities, financial services and construction.

OVERVIEW

Dispute resolution in London and the UK

Dispute resolution services in the UK continue to be provided across a range of activities and sectors at a domestic and international level:

- Total number of commercial and civil disputes resolved through arbitration, mediation and adjudication has abated following the surge in the immediate wake of the recession. Total disputes have therefore fallen from around 27,100 in 2009 to 21,300 in 2011 (Table 1). International disputes are down from 5,300 to 4,300 over this period while domestic disputes have fallen from just over 21,800 to 16,900, mainly due to a decline in appointment of dispute resolvers at RICS.
- Referrals for arbitration fell in 2011 while disputes handled through mediation continued to rise. CEDR's two yearly survey showed an increase from 6,500 to 8,000 in disputes resolved through mediation.
- Since the advent of The Housing Grants, Construction and Regeneration Act 1996, adjudication has established itself as a method for resolving construction and engineering disputes in the domestic market.

London and the UK is well positioned internationally in the conduct of commercial arbitrations and alternative dispute resolution:

- London is the preferred seat of arbitration, favoured by 30% of respondents in the 2010 International Arbitration Survey undertaken by Queen Mary University of London (Chart 1). It compares with 9% favouring Geneva the next most popular seat.
- Companies are also twice as likely to choose English law over other governing laws for arbitrations. English law was chosen by 40% of companies and New York state law by 17% (Chart 2).
- The common costs of arbitrations in the rest of Europe are 18% higher than in the UK according a 2011 survey of 20 arbitral organisations by

Table 1
Arbitration, mediation and adjudication in the UK

Number of referrals, appointments or cases submitted			
Category	2007	2009	2011
Mostly international			
London Maritime Arbitrators' Association	2673	4445	3555
London Court of International Arbitration	137	285	237
Lloyd's Open Forum	107	122	106
ICC Int. Court of Arbitration (UK seated)	58	73	62
Centre for Effective Dispute Resolution ¹	64	72	70
Ad hoc arbitrations ¹	300	300	300
Total international	3339	5297	4330
Mostly UK domestic			
Royal Institute of Chartered Surveyors	9112	8917	5004
Centre for Effective Dispute Resolution ¹	650	600	600
Chartered Institute of Arbitrators ²	2882	4659	2362
Adjudication Society	1506	1737	1064
PIM Senior Mediators	669	732	960
Other mediations	2281	4668	6440
Trade associations ¹	500	500	500
Total domestic	17600	21813	16930
Total	20939	27110	21260

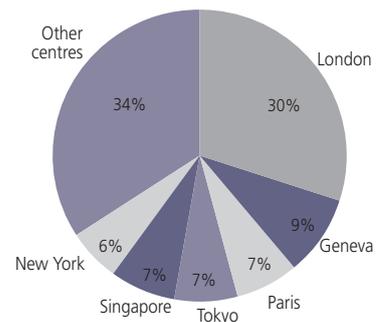
¹Estimate

²CEDR acquired IDRS Ltd, the ADR services arm of the CIARB, in November 2011

Source: Dispute resolution organisations, TheCityUK estimates

Chart 1
Preferred seat of arbitration

Seat of arbitration preferred by arbitrators, % share of survey respondents, 2010



Source: Queen Mary University of London International Arbitration Survey

the Chartered Institute of Arbitrators.

- Average length of construction disputes in the UK, at 8.7 months in 2011, was less than anywhere else (Chart 3).
- The new Rolls Building in London, opened in 2011, is helping to sustain the UK's reputation as the first choice for business law. Since 2008 the number of claims issued by the Commercial Court has exceeded 1,000 each year, of which up to 8% come to trial.

Main dispute resolution organisations and services

in London and the UK include:

London Court of International Arbitration (LCIA) Some 237 disputes were referred to the LCIA in 2011 down from the high of 285 in 2009, but more than double the 137 in 2007.

Chartered Institute of Arbitrators (CI Arb) Out of CI Arb's total membership of over 12,300, overseas members have grown rapidly from 5,600 in 2008 to 7,000 at end-2011. Referrals to IDRS fell to 2,362 in 2011, down from 3,439 in 2010 and less than half the high of 5,348 in 2008. In November 2011 IDRS Ltd, which administers dispute resolution schemes and manages referrals, was sold to CEDR.

International Chamber of Commerce (ICC) International Court of Arbitration 62 arbitration tribunals were administered in London in 2011 by the ICC, second only to Paris where the ICC is headquartered. Of over 1,341 arbitrators appointed to ICC tribunals in 2011, 169 were from the UK, the same as Switzerland, and more than any other country.

The London Maritime Arbitrators Association Disputes handled by the LMAA totalled around 3,500 in 2010 and 2011, down from the 2009 peak of over 4,400 but above the 2,000 to 2,500 that was typical of the previous decade. Also in shipping there were 106 referrals made under *Lloyd's Form of Salvage Agreement* in 2011.

The Centre for Effective Dispute Resolution's (CEDR) is Europe's leading provider of commercial and workplace mediation. It handles over 650 disputes each year in the UK. Acquisition of IDRS from CI Arb in 2011 complements services of CEDR Solve. In 2010 CEDR trained 375 mediators of whom about two thirds were outside the UK.

CEDR's audit of mediation services, conducted every two years, found a total of 8,000 mediations were conducted in the UK in 2011, one third up on 6,000 in 2009. These included 960 by *PIM Senior Mediators* as well as those handled by *In Place of Strife*, CEDR and other mediators.

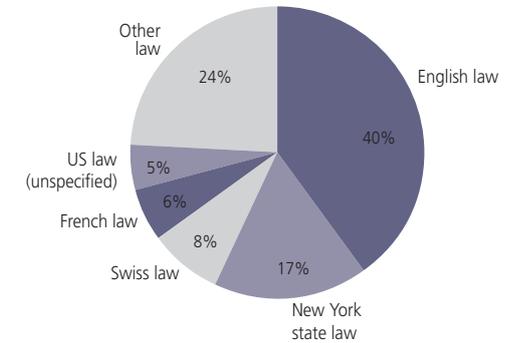
The Royal Institute of Chartered Surveyors The number of disputes to which resolvers are appointed has dropped from 8,917 in 2009 to 5,004 in 2011.

The Adjudication Society Over 1,000 disputes were reported in 2011 to the Adjudication Society, which promotes the use of adjudication in the resolution of construction disputes. Other bodies, including CEDR, CI Arb, RICS and the Royal Institute of British Architects (RIBA), nominate adjudicators to resolve disputes in construction and engineering.

Chart 2

Governing law in arbitrations used by corporations

Governing law in arbitrations most frequently used by corporations
% share of arbitrators surveyed, 2010

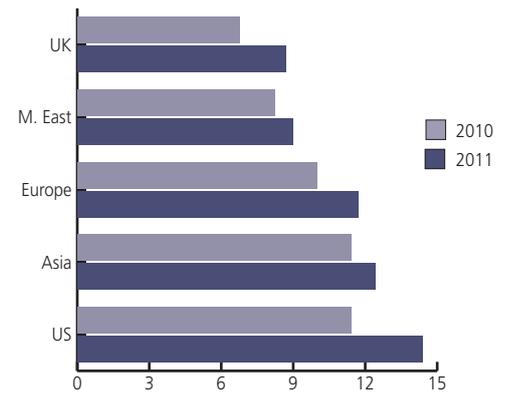


Source: 2010 International Arbitration Survey

Chart 3

Length of construction disputes

Average length of construction disputes, months



Source: EC Harris

The report is structured to reflect, firstly, institutions in the UK providing multi-industry dispute resolution services; and, secondly, a range of other specialist dispute resolution organisations, including commodity associations, exchanges and professional institutions which have procedures for resolution of disputes involving their members or market participants. Reference to arbitrations and mediations resolved through ad hoc procedures is summarised on page 8.

The report also summarises the role of courts dealing with international disputes, and highlights the development of the new business, property and commercial court in London, the Rolls Building, as a dedicated centre that will build on the UK's attraction as a centre for litigation. To coincide with the opening of the centre, the industry-led campaign, Unlocking Disputes, was launched by TheCityUK, the Law Society and the Bar Council, to promote London as the world's leading dispute resolution centre.

INSTITUTIONAL DISPUTE RESOLUTION

A wide range of organisations are involved in the administration of arbitration, mediation and adjudication in London and around the UK (Table 1). These can be divided into two broad categories: firstly, organisations providing multi-industry dispute resolution services and, secondly, trade, sector and professional organisations based in the UK that administer international disputes. Arbitrations may be administered by an institution which may also offer a service to assist in the running of mediations.

A. ORGANISATIONS PROVIDING MULTI-INDUSTRY DISPUTE RESOLUTION SERVICES IN THE UK

London Court of International Arbitration (LCIA) The LCIA is a long-established international institution providing efficient, flexible and impartial administration of dispute resolution proceedings for all parties, regardless of their location, and under any system of law. LCIA's administration service includes the conduct of arbitrations and mediations under its own rules and procedures. LCIA also acts as appointing authority and administrator in UNCITRAL-Rules cases and will act as fundholder for deposits filed on account of the costs in otherwise entirely ad hoc proceedings.

LCIA has in excess of 1,600 members from over 80 countries, including commercial and trading organisations, international lawyers and firms of lawyers, and practising international arbitrators. In recent years LCIA has established new ventures and partnerships in India, Dubai, Mauritius, Singapore and Toronto.

The number of disputes referred to the LCIA doubled from 137 in 2007 to 285 in 2009, but in common with trends elsewhere fell to 267 in 2010 and 237 in 2011 (Chart 4). In 2010 and 2011 some 82% of parties in LCIA disputes were from outside the UK. Most disputes are seated in London, although this is entirely at the discretion of the parties to a dispute.

Statistics on dispute resolution

This report brings together available statistics on arbitration, mediation and adjudication services used to resolve commercial and civil disputes. Statistics on claims and trials in the courts hearing international cases are also summarised.

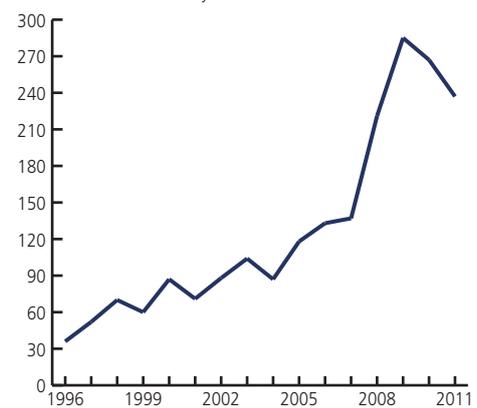
With key organisations publishing statistics on the number of referrals related to arbitration disputes, the report captures a significant number of commercial arbitration disputes seated in the UK. Estimates are made for trade associations which do not publish such figures and also for ad hoc arbitrations.

Mediation statistics are based on CEDR's two-yearly survey and figures compiled by PIM Senior Mediators. From its voluntary survey CEDR estimates the total number of commercial and civil mediations undertaken. These mediation statistics do not include community or family mediation, nor do they take account of the statutory ACAS services or the HMCS Small Claims Service. Adjudication statistics are drawn from the Adjudication Society.

Chart 4

London Court of International Arbitration

Number of domestic and international disputes referred to the LCIA each year



Source: London Court of International Arbitration

International Chamber of Commerce (ICC): International Court of Arbitration The ICC has offered an arbitration service to international business since 1923. It also offers ADR resolution services. Although the Court sits in Paris, the cases it administers are decided by arbitral tribunals around the world. The most frequently selected centres for tribunals over the past four years have been Paris, London, Geneva, Zurich, Singapore and New York. Paris was the most popular in 2011 with 111 tribunals, followed by London 62, Geneva 53 and Zurich 40. Out of 1,341 arbitrators appointed in 2011, the UK and Switzerland both accounted for 169, Germany 119 and the US 112 (Chart 5).

The Chartered Institute of Arbitrators (CI Arb), which was founded in 1915, is the world's leading organisation for the promotion and facilitation of all forms of dispute resolution. It is a registered charity with more than 12,300 members, The membership outside the UK is spread across 110 countries and has grown from 5,600 in 2008 to over 7,000 at end-2011. This has more than made up for a decline in the UK membership, with the share of overseas membership having grown from 49% to 58% during this period (Chart 6). CI Arb provides training to the highest educational standards and members are supported by robust professional codes. The Institute is an international resource centre for practitioners, professional advisers, policy makers and those in business concerned with the cost effective and early settlement of disputes. CEDR acquired IDRS Ltd from the Chartered Institute of Arbitrators in November 2011.

International Centre for the Settlement of Disputes (ICSID) ICSID is one of five organisations that form the World Bank group. Since 1966, it has provided facilities for the conciliation and arbitration of investment disputes between state entities and businesses. The number of disputes registered with ICSID has been increasing with a total of 274 cases registered in the ten years to 2011 compared with 69 cases between 1992 and 2001 and 15 between 1982 and 1991. There was a record 38 cases registered in 2011 one more than the previous highest of 37 in 2007.

The long period required to resolve some of the disputes means that the number of disputes in the process of being administered by ICSID has risen steadily through the past decade. There were 149 disputes still being administered in July 2012 about four times the 36 cases in 2000. The main venues where tribunals meet to talk to the parties and hear the merits of cases include Paris, Washington DC, London and The Hague. The principal nationalities of arbitrators, conciliators and other ad hoc members appointed to cases include US 144, French 133, British 111, and Canadian 93 (Chart 7).

Forum for International Conciliation and Arbitration (FICA) is an institution, founded in the UK in 1998, which trains aspiring arbitrators and administers disputes. FICA is a non-governmental organisation that offers panels of expert determiners and dispute resolvers who are available for appointment. It administered 18 disputes in 2011 up from 8 disputes two years previously.

Chart 5
Nationality of ICC arbitrators

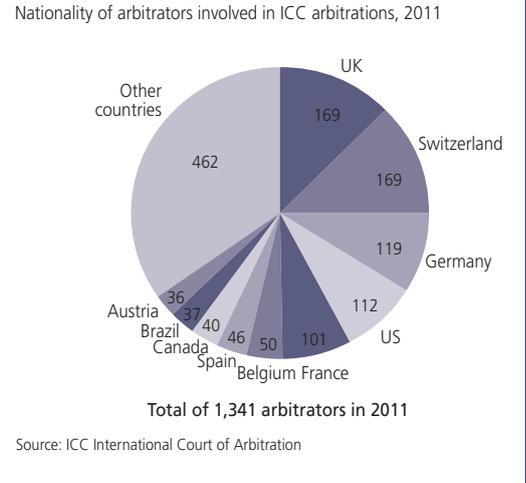


Chart 6
Chartered Institute of Arbitrators

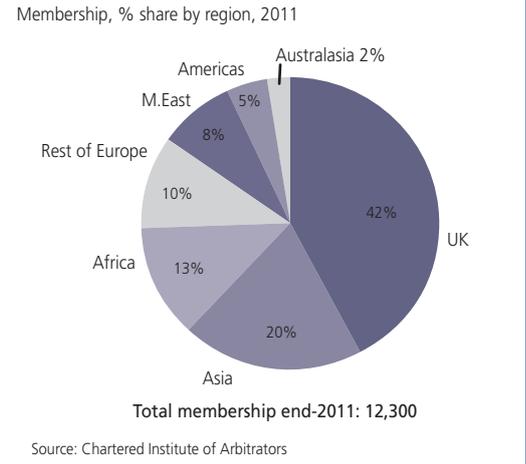
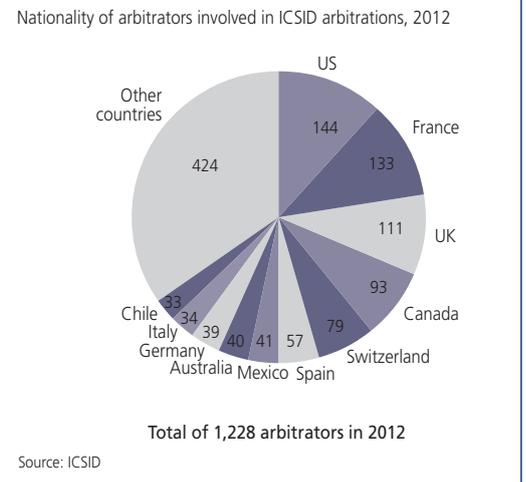


Chart 7
Nationality of ICSID arbitrators



National arbitral institutions Some arbitrations conducted under the rules of national arbitral institutions of other countries are seated in the UK. Institutions include the American Arbitration Association (AAA), Netherlands Arbitration Institute and Stockholm Chamber of Commerce Arbitration Institute.

Mediation market CEDR's latest two-yearly audit of mediations, which surveyed 238 mediators, indicated that a total of around 8,000 civil and commercial mediations were conducted in the UK in 2011. These did not include workplace mediations or other mediations such as those conducted by HMCS Small Claims Mediation Service.

The 2011 figure represented a one third rise from 6,000 from the previous audit in 2009 and was more than double the 3,600 in 2007 (Chart 8). Indeed, the number of mediations has been rising steadily since the first audit in 2003. After excluding a few very large cases, CEDR estimates that the total value of cases mediated was £7.5bn, nearly a half up on £5.1bn in 2009.

About 60% of the 8,000 mediations were ad hoc referrals to service providers and individual mediators, with the balance attributable to the Court of Appeal Mediation Scheme and other schemes in the civil and commercial arena. A group of around 100 experienced mediators are involved in resolving 85% of the cases, with 75% being resolved within a day and a further 13% shortly afterwards.

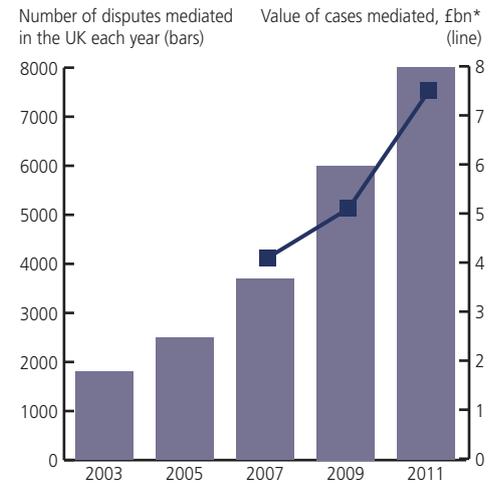
The cost savings to business from achieving earlier resolution of cases through mediation compared with litigation were estimated at around £2bn in 2010, which compares with the total fee income from the mediation profession of £20m. CEDR noted that these represent savings in management time and avoidance of costs related to lower productivity, legal fees and damaged relationships. Two thirds of mediators in the survey favoured the courts taking a more directive approach towards the promotion of mediation, which is consistent with findings from previous audits.

Centre for Effective Dispute Resolution (CEDR) CEDR is an internationally recognised non-profit organisation dedicated to the development and promotion of mediation and other cost-effective dispute resolution and prevention techniques. Given the increasing importance placed on using alternative ways to resolve disputes CEDR works at both a UK and international level informing the development of ADR within civil justice systems, business, public and legal sectors.

CEDR Solve, CEDR's dispute resolution service, is Europe's leading independent commercial mediation provider. CEDR Solve handles over 650 disputes a year, of which about 60 to 70 a year involve international parties. Over its 20-year history it has handled over 17,000 mediation referrals. In 2010, CEDR trained around 375 mediators, of whom 244 were outside the UK.

The more difficult economic environment has meant a higher proportion of insolvency and partnership disputes; other types of dispute have been over contracts, dismissals and projects. As well as mediation, CEDR offers

Chart 8
Mediation disputes in the UK



*Series excludes a few very large cases
Source: CEDR survey

a range of dispute resolution processes including conflict management, adjudication, expert determination, early neutral evaluation and independent interventions. CEDR Solve mediators are from a wide range of backgrounds with the majority being senior lawyers.

As indicated previously, CEDR acquired IDRS Ltd from the Chartered Institute of Arbitrators in November 2011. IDRS administers 125 schemes in over 20 business sectors, including financial services, insurance, shipping, commodities, the media, medicine, sport, travel, telecommunications, construction, engineering and the motor industry. Referrals have more than halved in the three years since the high of 5,348 in 2008 to 2,362 in 2011: this is in line with the range of 2,000 to 3,000 between 2000 and 2007 (Chart 9).

In Place of Strife was founded in 1995 to give legal market access, by a single call, to an independent panel, currently of over 20 highly experienced commercial mediators, who are well known for their success in achieving a high settlement rate. Case managers are responsible for helping in the choice of the mediator; for organising the mediation day and venue; and for coordinating between the parties, their advisers and the mediator. Referrals have been made to In Place of Strife by over 700 law firms, as well as by some of the UK's principal insurers and many commercial and industrial companies, regulatory bodies, charities and other organisations.

PIM Senior Mediators was originally launched as The Panel of Independent Mediators in 1999. Its members have long been recognised as among the leaders of the emerging mediation profession in England and Wales and increasingly internationally. Its members conduct a significant proportion of major commercial mediations. While each of the 20 members continues to practise as an independent professional in a variety of separate business models, all have a common interest in growing the field and in maintaining and in enhancing professional standards. PIM Senior Mediators undertook 960 mediations in 2011 up from 732 mediations in 2009. Cases are mediated at every level of complexity, including multi-party cases and those involving substantial issues of fact and law. Mediations at this level are increasingly set for more than a day and on occasions over several weeks.

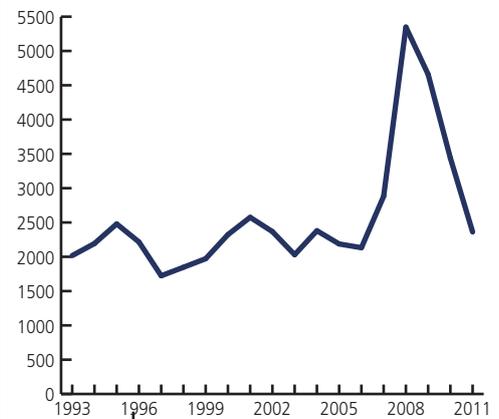
ADR Group (ADRg) is a leading professional dispute resolution company, formed in the late 1980s, which uses mediation and other alternative dispute resolution techniques spanning commercial, public sector and family disputes.

B. TRADE, SECTOR AND PROFESSIONAL ORGANISATIONS BASED IN THE UK THAT ADMINISTER DISPUTES

These can be divided into four broad categories: specialist dispute resolution organisations; international trade associations for various commodities; exchanges and City institutions; and professional institutions.

Chart 9
IDRS (CEDR service)

Number of referrals to IDRS Ltd of ad hoc arbitrations and mediations, and of disputes under schemes administered by IDRS*



*IDRS acquired by CEDR from CI Arb in November 2011
Source: Chartered Institute of Arbitrators

i. Specialist arbitration and mediation organisations for specific sectors:

Maritime: *The London Maritime Arbitrators Association (LMAA)* is an association of maritime arbitrators that supports and promotes maritime arbitration in London. The LMAA deals with a large number of international disputes: the number of individual appointments received by the 38 full members of the LMAA was around 3,500 in 2010 and 2011, down from the 2009 high of over 4,400 in 2009, but above the annual total of 2,500 to 3,000 typical of the previous decade (Chart 10). There were 734 awards in 2011 much the same as the two previous years. The slump in shipping freight rates in 2008 and 2009 caused serious financial difficulties for many companies and may have contributed to the surge in disputes in those two years.

Awards are also made under the *Lloyd's Form of Salvage Agreement*, the oldest and most widely used standard salvage contract. There have been more than 100 referrals a year between 2009 and 2011 with the 106 in 2011 down on the high point of 122 in 2009 (Chart 11). There were 12 awards in 2011, the least in the past 20 years. The value of awards totalled £29m in 2011, with the annual total having varied considerably in recent years (Chart 12).

Financial services: *The Insurance & Reinsurance Arbitration Society, ARIAS (UK)*, was established in 1991 to provide for strong practitioner-based arbitration for the insurance and reinsurance industry.

The City Disputes Panel (CDP) was founded in 1994 to provide the wider financial services industry with a practical means of resolving disputes through arbitration, mediation or other forms of ADR. CDP helps to administer The Mayor's and City of London Court Mediation Scheme, which was established in 2006. The scheme gives parties to a dispute the opportunity to avoid late settlement, which frequently occurs in court cases, through early referral to the Court Mediation Service. Cases referred for mediation have averaged about 30 a year in the first five years of the scheme up to 2010/11.

Construction & engineering: Construction and engineering is a major sector in which arbitration, mediation and adjudication is practised. An international survey of construction disputes by EC Harris has found that the average length of construction disputes in the UK was 8.7 months in 2011, up from 6.75 months in 2010, but still shorter than elsewhere in the world (Chart 3). Dispute length in the UK compares with 9 months on average in the Middle East, around 12 months in Asia and elsewhere in Europe and 14 months in the US.

The average value of disputes is less in the UK and the US at around \$10m, than \$35m elsewhere in Europe, \$53m in Asia and \$112m in the Middle East. In order of popularity the most common forms of dispute resolution in construction worldwide were party-to-party negotiation, mediation, arbitration, adjudication and litigation.

The Society of Construction Arbitrators aims to promote best practice in construction dispute resolution including the use of the Construction

Chart 10
London Maritime Arbitrators Association

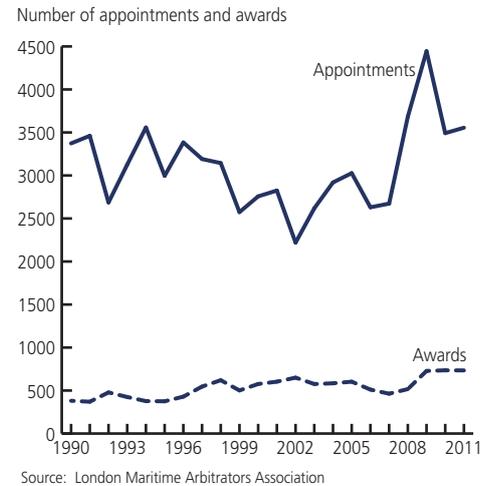


Chart 11
Lloyd's Form of Salvage Agreement

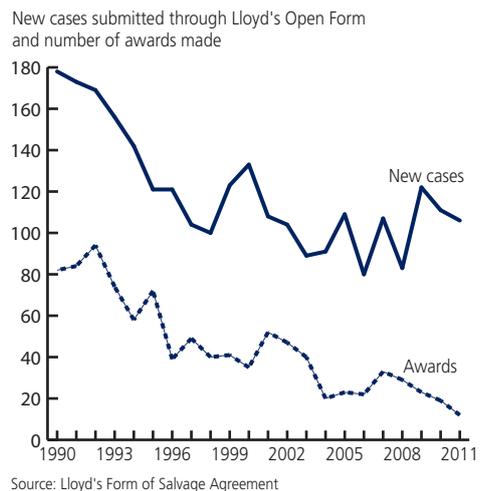
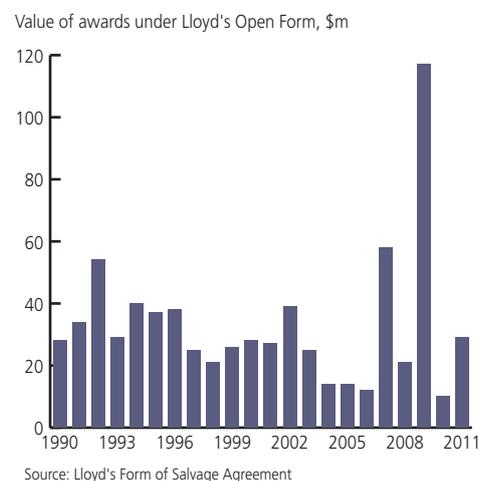


Chart 12
Lloyd's Form of Salvage Agreement



Industry Model Arbitration Rules (CIMAR). Its 40 members are divided equally between fields of architecture, engineering, quantity surveying and the law.

The Adjudication Society is a not-for-profit Society promoting resolution of construction disputes by means of adjudication. It draws on the body of experience and case law associated with the introduction of the Housing Grants, Construction and Regeneration Act 1996, the growth in adjudication by means of Expert Determination and Dispute Boards and the increasing popularity of the New Engineering Contract. As well as promoting adjudication as one option in the resolution of disputes, the Society provides a forum for discussing and debating issues connected with the practice of adjudication. Apart from a pick-up in 2009, the number of adjudications reported to the Society has fallen in recent years to 1,064 in 2011 (Chart 13). Other jurisdictions have introduced adjudication as a method of resolving construction and engineering disputes. Malaysia is planning the adoption of adjudication.

ii. International commodity trade associations Commodity trade associations based in London provide a dispute resolution service for their international membership. These associations include the Grain and Feed Trade Association (GAFTA); the Federation of Oils, Seeds and Fats Associations (FOSFA); the Federation of Cocoa Commerce (FCC); and the British Coffee Association (BCA).

iii. Exchanges and City institutions Exchanges and other City institutions have procedures for resolution of disputes between members. These include the London Stock Exchange, the Baltic Exchange, Lloyd's of London and the derivatives exchanges: NYSE Liffe, the London Metal Exchange and ICE Futures Europe.

iv. Professional institutions London is host to many professional institutions with an international membership, including accountants, surveyors, engineers, architects and shipbrokers. Each of these has procedures for the resolution of disputes between members.

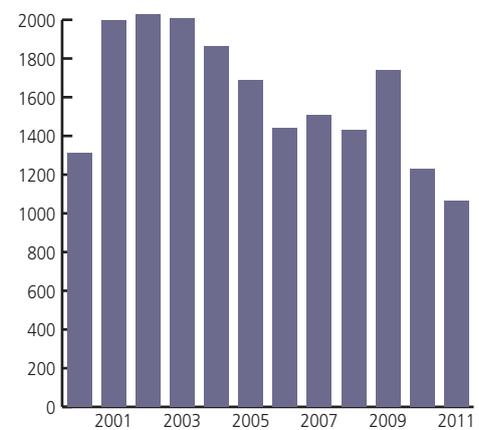
The Dispute Resolution Service at the *Royal Institute of Chartered Surveyors (RICS)* is the world's largest provider of alternative dispute resolution services to the property and construction industries. RICS received 5,004 applications in 2011 for the appointment of dispute resolvers, well down on 8,917 in 2009 and the 9,000 to 10,000 that was typical in the previous decade.

'AD HOC' DISPUTE RESOLUTION

In ad hoc cases no institution is specified as the administering body in the arbitration/mediation agreement. The most widely used and best known rules used in ad hoc arbitrations are the UNCITRAL Rules adopted in 1976 by the UN Commission on International Trade Law. These have been revised and the New UNCITRAL Arbitration Rules were published and came into effect on 15 August 2010. Because of the private nature of ad hoc arbitrations it is difficult to estimate their number. There are a large but unknown number of ad hoc arbitrations and mediations held in London in which all the parties and the counsel are foreign.

Chart 13
The Adjudication Society

Number of disputes reported to the Society



Source: The Adjudication Society

Rolls Building, Royal Courts of Justice

The biggest dedicated business, property and commercial court in the world was opened in 2011. The new building in central London is helping to sustain the UK's reputation as the first choice for business law.

The new building, called the Rolls Building, Royal Courts of Justice, provides a dedicated centre. The specialist jurisdictions of the High Court dealing with business, property and commercial disputes are now in a single building, replacing the previous facilities used by the Admiralty and Commercial Courts, as well as the Chancery Division and the Technology and Construction Court.

The new facility is believed to be around four times bigger than its nearest competitor. It provides 31 court rooms, 11 hearing rooms (for related work such as bankruptcy hearings), 55 public consultation rooms, better waiting facilities and improved IT infrastructure for parties involved in proceedings, as well as administrative office space for HMCS staff and judicial accommodation.

UK COURTS HEARING INTERNATIONAL CASES

Cases involving international parties to a dispute tend to be heard in a number of the specialised courts in the UK, notably the Admiralty Court, Commercial Court, the Technology and Construction Court and Chancery Division. The use of these courts indicates a preference by foreign parties to litigate in the UK. Factors motivating parties to choose one of these specialist courts as the venue for dispute resolution include: specialist judges drawn from the best specialist practitioners in the field; efficiency and speed; consistent decisions; enforceable judgments; and preference for London as a location.

These courts also have an important role with respect to arbitration claims, including: determining whether an arbitration agreement is valid; determining whether an arbitration tribunal has been properly constituted; seeking the courts' powers under the Arbitration Act 2006 to support arbitral procedure; and challenging an arbitral award.

Commercial Court Since 1895 the High Court has incorporated a separate Commercial Court where the procedures are geared to reflect the special requirements of the international commercial community. In 2011, the Commercial Court moved into a new purpose built building: The Rolls Building. Since 2008 the number of claims issued by the Commercial Court has exceeded 1,000 each year, of which between 55 and 74 have come to trial (Table 2). Around three quarters of the claims brought to the Commercial Court involve overseas parties, and in around a half of cases, there is no link to the UK except for the parties' choice of London for dispute resolution.

Admiralty Court The origins of the Admiralty Court date back to the fourteenth century. Maritime cases coming before the court are related to collision, that is damage to or loss of a ship, damage to cargo, personal injury or death or loss relating to mortgage. There were between 190 and 230 claims a year between 2009 and 2011, double the number in the three previous years (Table 2).

Unlocking disputes

Unlocking Disputes is the industry-led campaign to promote London as the world's leading dispute resolution centre. The campaign was initiated by TheCityUK, the Bar Council and the Law Society, to coincide with the opening of the new Rolls Building, the largest specialist centre for the resolution of financial, business and property litigation anywhere in the world.

The strength of English law and the quality of its judiciary, solicitors and barristers are known all over the world. Unlocking Disputes showcases the impartiality and effectiveness of London's dispute resolution services, whether litigation, arbitration or mediation, with world-class practitioners and world-class facilities.

Through a network of lead organisations and a broad range of sponsors, with support from the judiciary, Government, the City of London Corporation, UKTI and the broader professional services industry, Unlocking Disputes aims to reach a large, global audience, to impress upon it the value of London as a dispute resolution centre.

Using a combination of effective central coordination, high quality marketing materials, events (both independent Unlocking Disputes events and as part of existing events, whether Lord Mayor or Ministerial visits, or set-pieces such as the Olympic and Paralympic Games) and a range of marketing communication channels, the campaign has an opportunity to broadcast its messages widely.

Table 2
Commercial Court, Admiralty Court & Technology and Construction Court

Number of claims and trials	Technology and		
	Admiralty	Commercial	Construction
Claims	Court	Court	Court
2006	105	1005	390
2007	89	838	409
2008	114	1004	366
2009	230	1259	528
2010	194	1060	493
2011	214	1331	528
Trials			
2006	15	75	32
2007	13	63	33
2008	13	55	39
2009	17	56	49
2010	6	74	51
2011	13	73	49

Source: Ministry of Justice Judicial and Court Statistics 2011



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www.unlockingdisputes.com

Technology and Construction Court Parties involved in international projects in the technology and construction sector increasingly choose to resolve their disputes through this Court with its judges who are specialists in these technically complex sectors. There were between 490 and 530 claims heard in this court annually between 2009 and 2011, about a third up on the previous three years.

Chancery Division Many international cases are also heard in the Chancery Division, which includes the Companies Court. The Chancery Division plays a leading role in many areas of business law, including takeovers and mergers, insolvency, intellectual property, banking, financial services, trusts, fund management and media work. The Chancery Division has a workload of some 4,000 issued claims a year, while The Companies Court deals with some 12,000 cases each year.

UK EXPERTISE IN DISPUTE RESOLUTION

Parties involved in international disputes may have specific requirements and the panel on page 11 sets out how those can be met by services and expertise available in London and the UK. Particular aspects relating to legal expertise and expert witnesses are set out below. The UK offering in dispute resolution has been enhanced by the implementation in 2010 of a new legal framework for arbitration in Scotland. A focus on one of the main specialist venues for dispute resolution appears in the side panel.

Legal expertise

Legal expertise of law firms and barristers represents a key input to the resolution of disputes, complementing the broad ranging expertise of dispute resolution institutions. Law firms and barristers work across a spectrum of disputes involving the LCIA, ICC and other institutions mentioned in this report.

The leading law firms in London and the UK that provide an international dispute resolution service are listed in Table 3. For most firms London represents a key part of an international operation with transatlantic or trans-European staffing not unusual. The larger firms have around 20 to 30 lawyers in their arbitration practice.

The parties to a dispute may choose to involve barristers who form a group of specialist consultants with particular expertise in advocacy, advisory and drafting work. The Bar contains individuals with expertise in all areas of law, including other systems of law, and will be able to advise on complex international issues. Barristers are able to advise overseas clients directly, without the requirement for a solicitor to be instructed.

Many barristers, particularly in the Commercial Bar, have experience of conducting arbitrations both in London and other major world centres. Leading sets of barrister chambers, listed by Chambers & Partners, are also shown in Table 3. The role of the Bar Council, the governing body for barristers, is set out on the inside front cover.

Expert witnesses

Expert witnesses are required when it is necessary to have opinion evidence to assist in the resolution of a dispute. This opinion may lead to an early

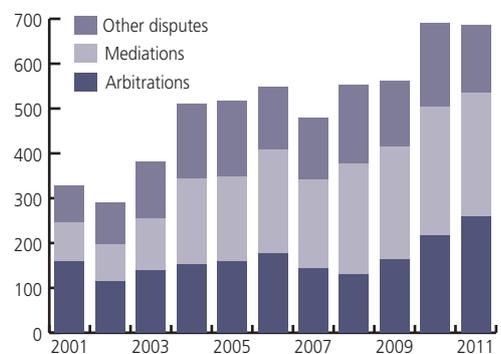
International Dispute Resolution Centre

The IDRC is the largest of a number of specialist centres developed in London. The number of bookings has risen in recent years to around 690 in both 2010 and 2011, driven by growth in arbitrations and mediations (Chart 14). The average length of mediations has been stable at just over a day, 1.1 days, which means that the vast majority are completed in day with a small minority taking a while longer. The average length of arbitrations has come down typically from at least 7 days in the years up to 2006 to between 4.5 and 5.5 in the three years from 2009 to 2011.

Chart 14

International Dispute Resolution Centre

Number of bookings at IDRC



Source: International Dispute Resolution Centre

Table 3

UK-based legal expertise in dispute resolution

Leading law firms

Allen & Overy LLP	Hogan Lovells
Ashurst	Ince & Co
Baker & McKenzie LLP	King & Spalding
Baker Botts UK LLP	Latham & Watkins LLP
Berwin Leighton Paisner LLP	Linklaters
Cains	Mayer Brown International LLP
Clifford Chance LLP	Norton Rose LLP
Clyde & Co. LLP	Pinsent Masons
Collyer Bristow LLP	Reed Smith LLP
Covington & Burling LLP	SJ Berwin LLP
DAC Beachcroft	Skadden, Arps, Meagher & Flom (UK) LLP
Debevoise & Plimpton LLP	Slaughter and May
DLA Piper UK LLP	Stephenson Harwood
Eversheds LLP	Trowers & Hamlins LLP
Freshfields Bruckhaus Deringer LLP	White & Case LLP
Fulbright & Jaworski LLP	WilmerHale LLP
Herbert Smith Freehills	Wragge & Co. LLP

Leading sets of barrister chambers

Atkin Chambers	One Essex Court
Blackstone Chambers	Serle Court
Brick Court Chamber	Wilberforce Chambers
Crown Office Chambers	3 Verulam Buildings
Essex Court Chambers	4 New Square
Fountain Court Chambers	4 Pump Court
Hardwicke	7 King's Bench Walk
Keating Chambers	20 Essex Street
Maitland Chambers	39 Essex Street

Sources: Chambers & Partners UK Guide, TheCityUK

How UK expertise meets the requirements of parties to international disputes

Parties to international disputes wish to access expertise that will enable them to resolve efficiently and effectively any dispute in which they are involved. Frequently parties will wish to avoid litigation through arbitration or mediation. They will have a variety of requirements in choosing the jurisdiction used to resolve the dispute and the location of the arbitration or mediation. Such requirements, which are met in London and the UK, may include:

- Arbitration and ADR friendly legal framework provided by the Arbitration Act 1996 under which an award is enforceable, with limited grounds for challenging the award.
- Flexibility in procedures developed by dispute resolution organisations.
- Neutral forum for resolving disputes between international parties.
- Confidentiality of proceedings.
- Party autonomy in language and law.
- Depth of expertise in larger complex cases with appreciation of the commercial issues involved. Expertise in the UK may be derived from specialist dispute resolution organisations, individual arbitrators and mediators, expert witnesses as well as international law firms and barristers that provide specialist advice and advocacy.
- Impartial judiciary, independent of political influence, that encourages parties to a dispute to use arbitration and ADR.
- Availability of suitable venues and supporting services, such as interpreters, translators, stenographers and IT services.

resolution of the dispute. An expert witness may be involved in court proceedings and may be called to give evidence.

The current rules in England and Wales encourage the use of a Single Joint Expert who is instructed by all the parties in the dispute to provide an opinion on the issue in proceedings. It is also common practice for parties to a dispute to appoint their own expert witness (Party Appointed Expert). The duty of either a Single Joint Expert or a Party Appointed Expert is the same namely an overriding duty to assist the Court in the resolution of the dispute. Once a report has been produced it is open to the parties to ask questions on any aspect of the report and the expert is required to respond provided they are for clarification purposes. The report and any answers given then form part of the evidence before the court and are used to assist in making a judgement.

The way in which experts are called to give evidence in international arbitration and the courts may vary from traditional cross examination to witness conferencing or to permitting the experts to question each other.

Experts may be drawn from a wide variety of disciplines, which include construction experts, forensic accountants, forensic scientists, engineers, medical and legal experts, personal injury specialists and surveyors. Both the Academy of Experts and the Expert Witness Institute have a searchable directory of expert witnesses for disputes worldwide.

Arbitration in Scotland

The introduction into Scots law in January 2010 of a new arbitration regime has sought to clarify, consolidate and improve on the existing

framework for arbitration in Scotland. The Arbitration (Scotland) Act 2010 consists of a codified set of arbitration rules brought together into a single, comprehensible statute that is applicable to both Scottish domestic and international disputes. In bringing greater clarity to arbitration procedures the new framework not only provides a viable alternative to the court system but also seeks to make Scotland a venue of choice for conducting arbitrations.

Following the legislation, the Scottish Arbitration Centre opened in Edinburgh in March 2011. It promotes arbitration to the Scottish business community as an effective alternative to litigation, and promotes Scotland to the world as a place to conduct international arbitration. The Centre involves the Law Society of Scotland, the Faculty of Advocates, the Chartered Institute of Arbitrators, the Royal Institute of Chartered Surveyors, and the Scottish Ministers. With its distinguished legal tradition, innovative legislation and the Scottish Arbitration Centre, Scotland is well placed to compete as an attractive and cost-effective venue for arbitration on the global stage.

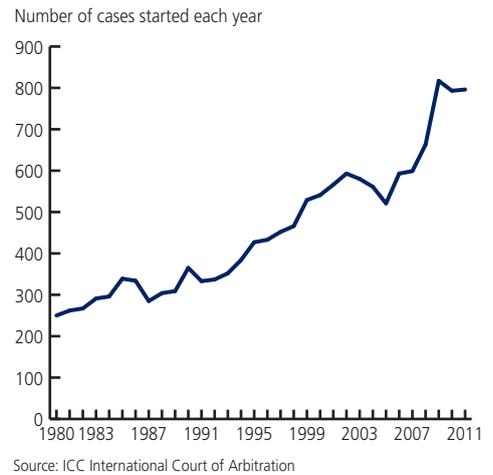
SOURCES OF INTERNATIONAL DISPUTES

International disputes can originate from almost any contract or commercial transaction. Sectors from which many disputes originate include: aviation and transport, banking and financial services, commodities, construction and engineering, insurance and reinsurance, maritime, oil and gas, telecommunications and utilities. Some of the issues that commonly give rise to disputes include distribution agreements, employment, intellectual property, international boundary disputes, joint ventures, professional negligence and technology transfer.

The long term growth of international dispute resolution is linked in part to the increase in cross-border transactions - exports, direct investment and financial transactions - from which such disputes may originate. Between 2007 and 2009, the more difficult economic climate prompted growth in disputes, when underlying transactions were declining.

These trends are illustrated in the number of new arbitration cases commenced each year at the ICC's International Court of Arbitration. New cases filed with the ICC Court increased by 37% from 599 in 2007 to a high of 817 in 2009. Subsequently, the number of disputes settled at 793 and 796 in 2010 and 2011 respectively. Over the previous 25 years, the number of cases was on a more gradual rising trend from 250 cases in 1980 (Chart 15).

Chart 15
International arbitrations at ICC



TheCityUK Legal Services and Dispute Resolution Group

TheCityUK is taking a leading role in the promotion of UK expertise in legal services and dispute resolution through its working group, chaired by Khawar Qureshi QC.

For further information on the work of TheCityUK's Legal Services and Dispute Resolution Group contact:

Richard Normington, Senior Manager,
International Strategy
richard.normington@thecityuk.com
+44 (0)20 7776 8992

Wayne Evans, Director, International Strategy,
wayne.evans@thecityuk.com
+44 (0)20 7776 8991

OTHER SOURCES OF INFORMATION

Adjudication Society

www.adjudication.org

ADR Group

www.adrgroup.co.uk

Bar Council

www.barcouncil.org.uk

Centre for Effective Dispute Resolution

www.cedr.com

www.idrs.ltd.uk

Chambers & Partners

Chambers UK

www.chambersandpartners.com

Chartered Institute of Arbitrators

www.ciarb.org

EC Harris

Global Construction Disputes: Moving in the Right Direction

www.echarris.com/contract_solutions

Forum for International Conciliation and Arbitration

www.ficacic.com

ICC International Court of Arbitration

Statistical reports (annual)

www.iccbooks.com

www.iccdri.com

In Place of Strife

www.mediate.co.uk

International Centre for the Settlement of Disputes

www.worldbank.org/icsid

International Dispute Resolution Centre

www.idrc.co.uk

Law Society

www.lawsociety.org.uk

London Court of International Arbitration

www.lcia.org

London Maritime Arbitrators Association

www.lmaa.org.uk

Lloyd's

www.lloydsagency.com

Ministry of Justice

Judicial and court statistics 2011

www.justice.gov.uk/statistics

PIM Senior Mediators

www.pimseniormediators.co.uk

Queen Mary University of London

International arbitration survey 2010

www.arbitrationonline.org

Royal Institute of Chartered Surveyors

Dispute Resolution Service

www.rics.org/drs



TheCityUK champions the international competitiveness of the financial and professional services industry. Created in 2010, we support the whole of the sector, promoting UK financial and professional services at home and overseas and playing an active role in the regulatory and trade policy debate.

TheCityUK has a global export focus with a commitment to help UK based firms grow their business in other parts of the world. In 2011, the financial services industry accounted for 9% of UK GDP and 12% of UK tax receipts. The sector currently employs over one million people, more than 66% of whom work outside London, and underpins the businesses that drive jobs and growth. Added together with nearly one million employed in professional services, it is easy to see the importance of a sector that employs 7% of the working population.

TheCityUK provides constructive advice and is the practitioner voice on trade policy and all aspects of taxation, regulation, and other legislative matters that affect the competitiveness of the sector. We conduct extensive research and run a national and international events programme to inform the debate. Our senior team regularly engages with regulators and policymakers at home and overseas, ensuring the sector's views are represented at the highest levels. We are tasked with creating a new vision for the financial services sector. We are focused on supporting policymakers and business to deliver the new policy ideas which will help deliver growth.



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THECITYUK RESEARCH

Report author: Duncan McKenzie

For further information about our work, or to comment on the programme/reports, please contact:

Duncan McKenzie, Head of Research
duncan.mckenzie@thecityuk.com, +44 (0)20 7776 8976

Marko Maslakovic, Economic Research Senior Manager
marko.maslakovic@thecityuk.com, +44 (0)20 7776 8977

TheCityUK, 65a Basinghall Street, EC2V 5DZ www.thecityuk.com
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