

FACTS AND FIGURES

COSTS AND DURATION: 2017-2024



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 alternative dispute resolution proceedings, regardless of location and under any system of law.

The LCIA administers arbitrations pursuant to the LCIA Arbitration Rules (LCIA Rules), which are universally applicable and suitable for all types of arbitrable disputes. In addition, the LCIA regularly acts as appointing authority and administers arbitrations conducted pursuant to the United Nations Commission on International Trade Law Arbitration Rules (UNCITRAL Rules). The LCIA also provides other services such as fundholding, and other Alternative Dispute Resolution (ADR) services including mediation, expert determination, and adjudication.

The LCIA provides access to the most eminent and experienced arbitrators, mediators, and experts, with diverse backgrounds, from a variety of jurisdictions, and with a wide 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 arbitrators it appoints are not based on the value of the dispute. Instead, a fixed registration fee is payable with the request for arbitration, and the arbitrators and LCIA apply hourly rates for services.

In addition to its dispute administration services, the LCIA conducts a worldwide program of conferences, seminars, and other events of interest to the arbitration and ADR community, with some 2,300 members from over 100 countries. The LCIA also sponsors the Young International Arbitration Group (YIAG), a group for members of the arbitration community aged 40 or younger, with over 12,200 members from 146 countries.

Cost and time efficient arbitration – 2024 update

- This is the third costs and duration report published by the LCIA. This report builds on the 2015 and 2017 reports.
- The LCIA is grateful for the ongoing support of the consulting firm The Brattle Group (Brattle), who as with the last report, ensures that the LCIA's statistics are accurate and up to date.
- This report covers all cases which reached a final award between 1 January 2017 and 12 May 2024. This is the longest time period studied by the LCIA, and the longest time period covered by an analysis of costs and duration conducted by any institution to date, allowing for a more detailed analysis, including a comprehensive comparative analysis with previous reports.
- The median LCIA arbitration costs USD 117,653, a modest increase from USD 97,000 reported in the previous report published. It is noted that numbers have not been adjusted for inflation, and the real increase is therefore even smaller.
- The median LCIA arbitration lasts a total of 20 months and of this, tribunals take four months to produce awards.
- LCIA arbitration costs are lower than the estimated costs of the compared institutions across almost all amounts in dispute. This difference is especially notable for larger cases, with cases ranging from USD 100 million-USD 1 billion and cases above USD 1 billion being significantly more expensive at all other institutions studied than at the LCIA.
- A comparison of the figures from this study with the previous study published in 2017 demonstrates that costs and duration have remained relatively stable, and that any increases or fluctuations are primarily due to an increase in the amount in dispute. As cases get bigger, the incremental duration and cost increases are attributable to the parties. The onset of COVID-19 also appears to have been a factor, but more time is required for a comprehensive analysis of the impact of the pandemic on duration and the profile of arbitrations commenced in or after March 2020. The time required by tribunals to produce an award remains stable.

INTRODUCTION

The LCIA has undertaken a third costs and duration analysis, as part of its ongoing commitment to transparency and to assist users to make informed choices. Like the previous two analyses, this third analysis uses actual data from LCIA arbitrations and Brattle continue to be involved to update the LCIA's statistics and to provide additional comfort to users about the accuracy and robustness of the data.

The previous report, **Facts and Figures – Costs and Duration: 2013-2016**, included all cases that reached a final award in the four years between 1 January 2013 and 31 December 2016. This third analysis covers a much longer period, between 1 January 2017 and 12 May 2024. This date was selected as the cut-off date for the analysis as a new case management system was implemented at the LCIA in May 2024 and all cases were migrated to the new system.

In the more than seven-year period covered by the analysis, the LCIA received the highest number of cases in its history: 1,625 awards were issued by tribunals which included emergency arbitrator awards, awards on jurisdiction, awards on advances on costs, awards on early determination and preliminary issues, partial and final awards on substantive issues and consent awards. Not all of these awards were included in this report. In order to provide a full and realistic picture to users, and to allow for a comparison with other institutions, only cases that reached a final award by 12 May 2024 are included in this analysis. Cases which settled or otherwise concluded before the substantive issues were determined by a tribunal are excluded from the analysis and emergency arbitrator awards are excluded. The overall result is a dataset of 616 cases

Since the last report and during the period of the final awards in this report, which spans more than seven years, there have been a number of significant developments impacting arbitrations. The LCIA Arbitration Rules were updated in 2020, the LCIA's Schedule of Costs has been updated more than once, the COVID-19 pandemic brought arbitrations to a standstill for a period of time, and the war in Ukraine resulted in sanctions being imposed on individuals and companies that were or became parties to an arbitration. These developments will have had an impact on the arbitrations that the LCIA administered, although some caution must be exercised in identifying trends during this period.

The LCIA's hourly rate system, which applies to arbitrator fees as well as the LCIA's administrative charges, means that the costs of an LCIA arbitration cannot readily be estimated by the LCIA beforehand. In contrast, other institutions providing arbitration services operating on an *ad valorem* basis use the amount in dispute to estimate costs and provide cost calculators on their websites.

The key driver in the LCIA costs system is the complexity of the case, which cannot be assessed by the amount in dispute alone. The LCIA Court applies this assessment in a case when required to decide on the number of arbitrators (if not agreed by the parties), as well as setting the maximum hourly rate for arbitrators. Staged advances are then requested in LCIA arbitrations in consultation with the tribunal as the case progresses. One of the main purposes of the costs and duration analyses is therefore to provide actual data about the LCIA's cases to give parties an insight into costs and the effectiveness of LCIA arbitration.

Since the LCIA led the charge in 2015, various institutions have issued some reporting on costs and/or duration. However, it remains that a direct and comprehensive comparison cannot be made given the differences between the institutions in respect of the methodologies used, the size of datasets, and the date ranges of the cases included in the various dataset.

The LCIA repeats its invitation to other institutions to instruct Brattle to create a neutral platform for discussion of users' needs and preferences. Until such time, this report provides tools to users by performing a comparison between the actual costs of cases at the LCIA and the costs that would have been incurred at other institutions for those same cases, estimating those costs by deploying the tools provided by the other institutions themselves.

The median LCIA arbitration costs USD 117,653, a modest increase from USD 97,000 reported in the previous report published. It is noted that numbers have not been adjusted for inflation, and the real increase is therefore even smaller. The median LCIA arbitration lasts a total of 20 months and of this, tribunals take four months to produce awards. The results of the report provide a clear picture that arbitrations at the LCIA are efficient and cost effective.

THE CASES

The statistics presented in this report relate to all cases administered under the LCIA Rules that reached a final award between 1 January 2017 and 12 May 2024. Of these, 568 had a quantified amount in dispute, while 48 were unquantified, making a total of 616 cases.

The median amount in dispute is USD 4.6 million. As discussed in the costs section below, the LCIA calculates the majority of tribunal and administrative fees by reference to time spent. This is different from the other major institutions considered in this report, which generally calculate tribunal and administrative fees based on the amount in dispute. But as the exact value does not dictate the total fees in LCIA arbitrations, the LCIA does not require parties to be as specific about the monetary value of their claims compared with value-based institutions.

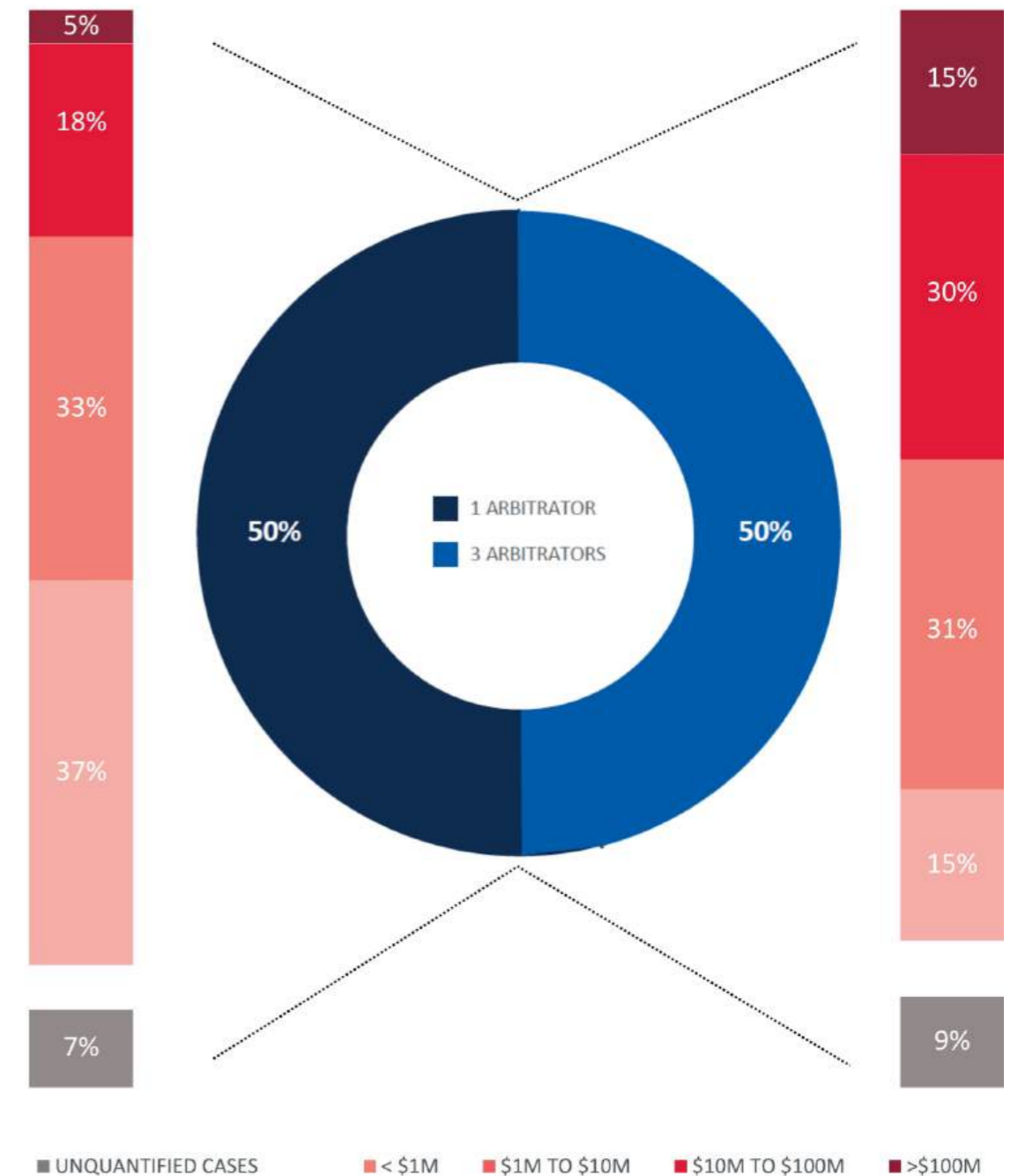
The total number of cases since 2016 has fluctuated from year-to-year but have generally, and significantly, trended upwards.

The number of three-arbitrator cases with a final decision has increased to around 50 percent, from the initial 20-25 cases studied in the first report, conducted in 2015.

Both quantified and unquantified cases are evenly split between one and three arbitrators.

Nearly 40% of cases with a sole arbitrator had a claim value of up to USD 1 million, compared to just 17% of cases with three arbitrators. Conversely, 17% of cases with three arbitrators involve claims exceeding USD 100 million, compared to just 5% of single-arbitrator cases. This pattern indicates a preference for three member tribunals in higher value disputes. This finding is consistent across the three costs and duration analyses conducted.

CASES BY NUMBER OF ARBITRATORS AND AMOUNT IN DISPUTE



DURATION

Methodology

The **total duration** of an LCIA case is the full time between the commencement of the arbitration, that is when the Request for Arbitration and the registration fee is received by the LCIA, and the final award. As in the last study, this period is not artificially shortened by recording only from the date of arbitrator appointment, and is not corrected for stay periods, whether formal or informal.

In addition, an analysis has been undertaken of the “**time to award**” to allow users to gain insight into the duration of the final stages of the arbitration when the award is being drafted. The time to award is defined as the time between the parties’ final submissions on the merits of the dispute (whether written or by hearing) and the final award dealing with the merits of the dispute issues by the tribunal. Separating the time to award from the total duration give users a more comprehensive understanding of the contribution to duration by the tribunal as distinct from the parties.

Analysis

The median duration across the 568 quantified cases between January 2017 and May 2024 is 20 months, and the median duration of the 48 unquantified cases is 21 months.

This represents an increase of two months in median net duration and a five month increase in total duration for quantified cases and a four-five month increase in total duration for the unquantified cases and an increase of two months in median net duration in the new dataset, compared to the previous analysis carried out in 2017. Unquantified claims exhibit a slightly longer median total duration of 23 months compared to cases with quantified claims.

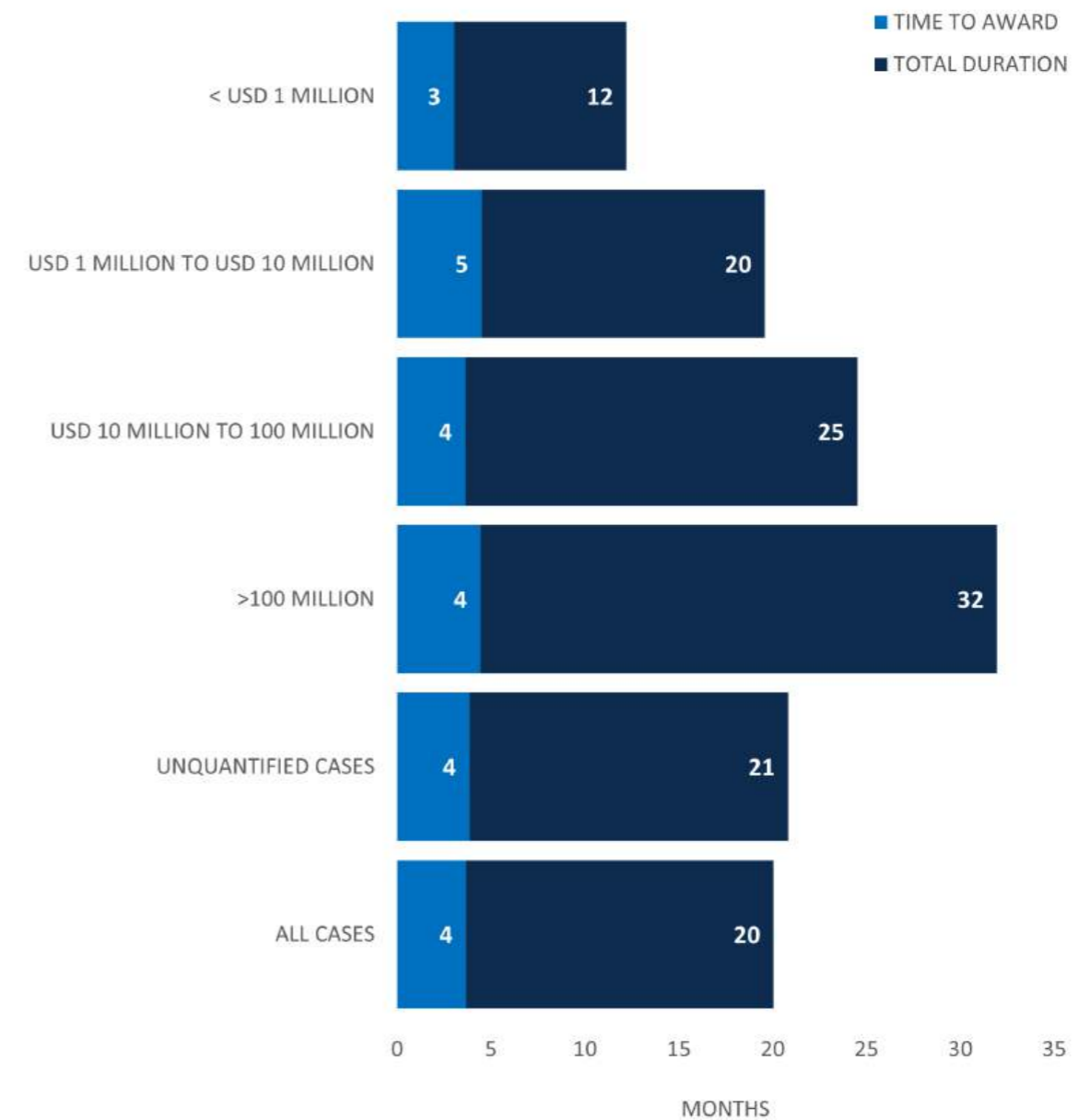
The new dataset displays the same pattern as the prior dataset, with a strong correlation of the increase in duration with the amount in dispute; for example from a median of 1 months for cases below USD 1 million to almost three years for cases above USD 100 million.

The time to award figures or “net duration” identifies whether the extra time is related to work performed by the parties in advancing their arguments, or to the time spent by the tribunal assessing the issues. The graph above indicates that net duration (the time needed by arbitrators to reach an award after a final submission) does not vary considerably with the amount in dispute. Close to half of all cases were awarded within four months, and about 70% within six months. Regardless of the amount in dispute, close to 50% of the cases result in an award in less than four months. Only 30% of cases with claims above USD 100 million take more than six months to be awarded. The overall picture that emerges is that the increasing total duration for higher-value cases between 2017 and 2024 is largely attributable to delays in party submissions rather than tribunal inefficiencies.

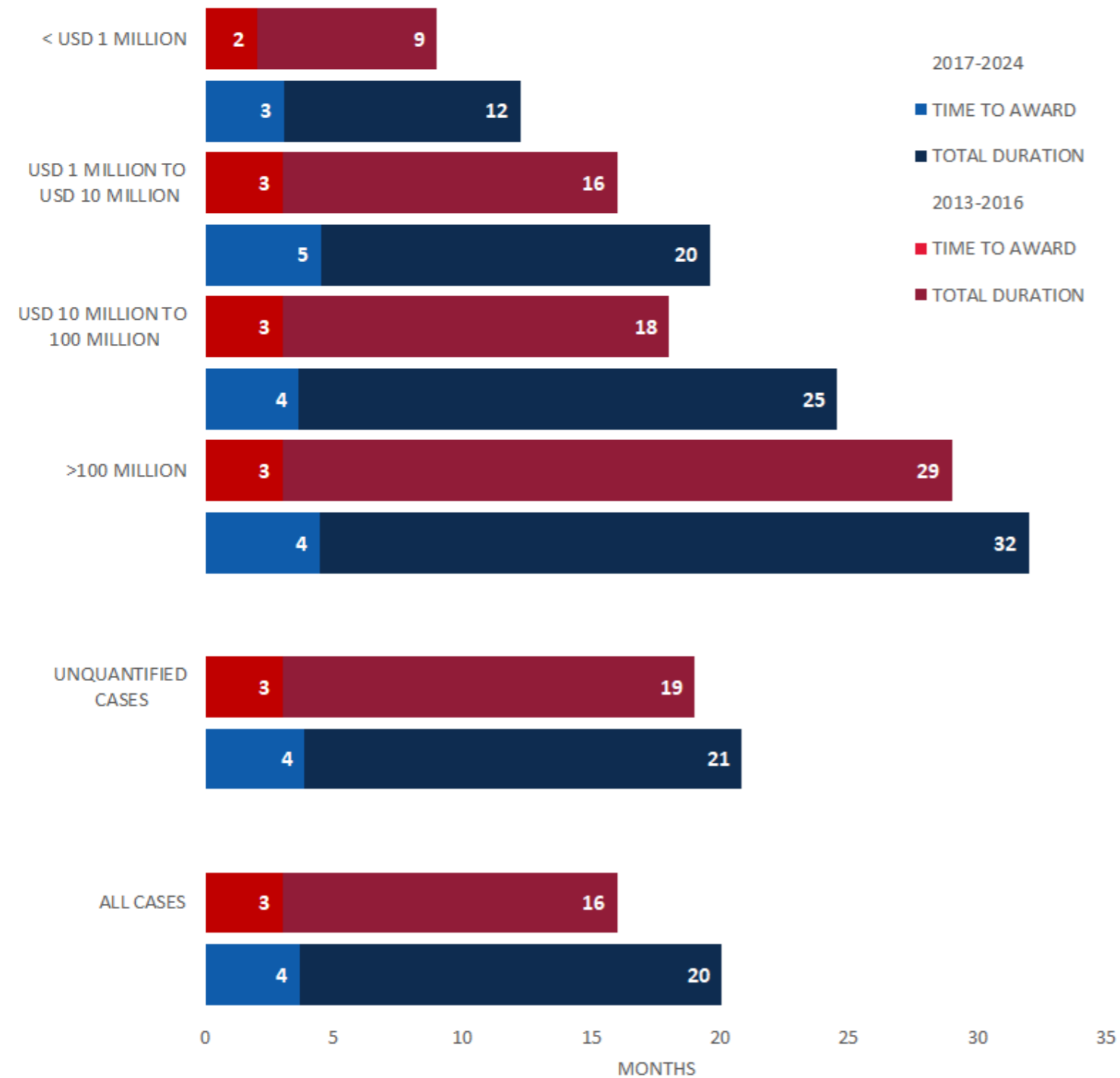
of cases (y-axis) ...

Article 15.10 of the LCIA Rules 2020 states that “the Arbitral Tribunal shall seek to make its final award as soon as reasonably possible and shall endeavour to do so no later than three months following the last submission from the parties”. This provision, was introduced in the 2020 Rules to consolidate good practice, and this report confirms that arbitrators are reaching close to this target, with the average time to award being four months.

TOTAL DURATION AND TIME TO AWARD BY AMOUNTS IN DISPUTE



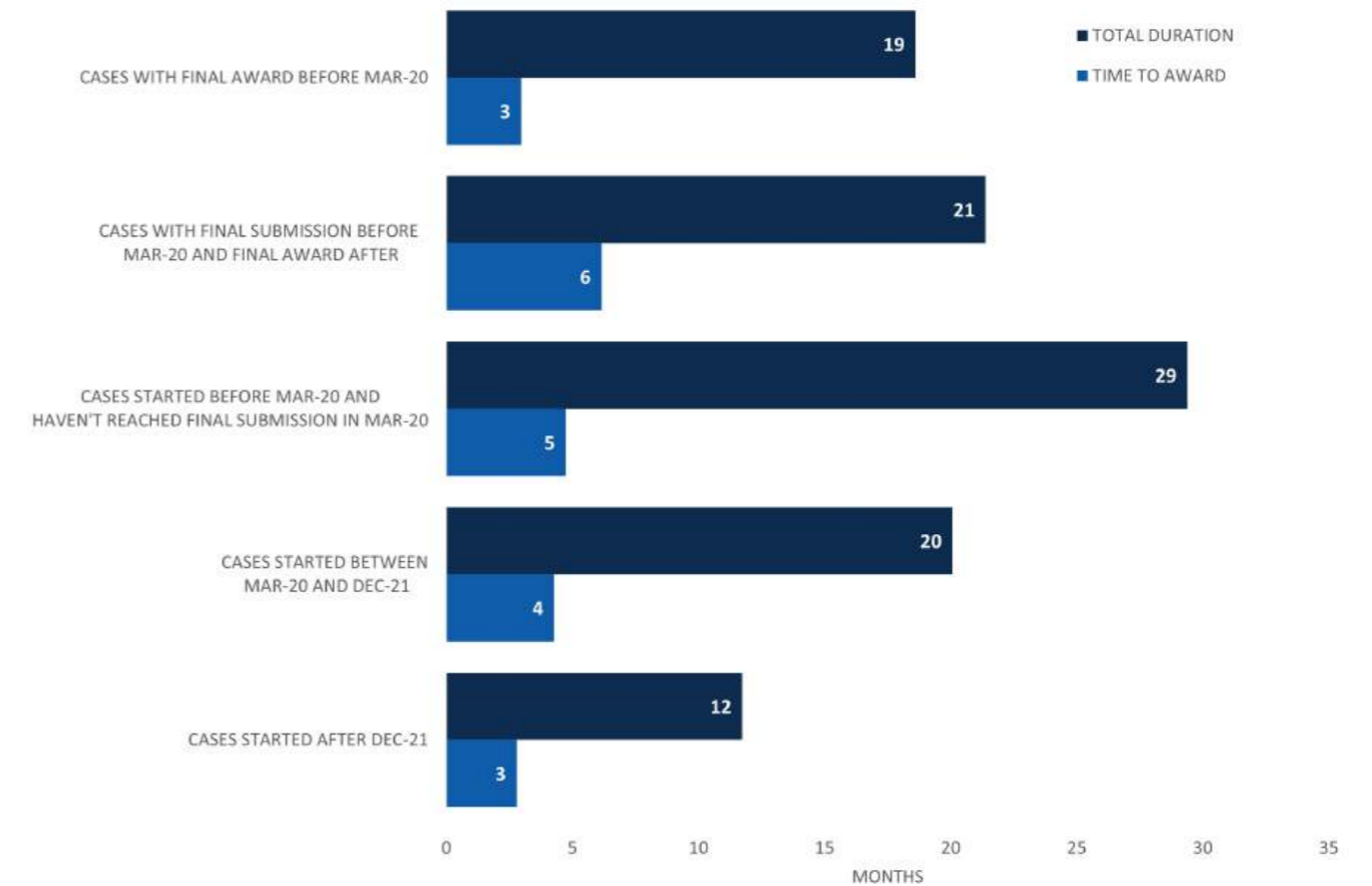
EVOLUTION OF TOTAL DURATION AND TIME TO AWARD BY AMOUNTS IN DISPUTE



Duration and COVID-19

The graph below demonstrates an increase in duration in cases that began and were pending in March 2020, at the onset of the COVID-19 pandemic. It is too soon to provide a comprehensive analysis of the pandemic, as cases commenced in the later phase of the pandemic have not necessarily been concluded. However, an initial analysis suggests, not surprisingly, that the duration of cases lengthened, as many cases were stayed, and certainly initially, parties struggled to get used to a new virtual working environment. At the same time, the impact on duration may not be as profound and as negative as expected, potentially because the ability to conduct hearings remotely also expedited proceedings to a certain extent. As reported in the LCIA's annual reports of 2019 and 2020, the COVID-19 pandemic also led to a surge in cases more generally, and a preliminary analysis suggests that cases filed in and/or triggered by the pandemic had a different profile and in many cases involved larger amounts.

CASES BEFORE, DURING AND AFTER COVID-19



COSTS

U

For the purpose of the following analysis, are the sum of tribunal fees and LCIA administrative charges:

- a) u are comprised of the hourly rates charged by arbitrators, cancellation fees, any fees for issuing a memorandum of correction, and where a tribunal secretary is appointed and charges for their services, the tribunal secretary's hourly fees.
- b) G#@ are comprised of the registration fee that must be provided with a request for arbitration (currently set at £1,950), the hourly charges of the LCIA secretariat, and an additional fee equal to 5% of the total tribunal fees. The arbitrators' hourly rates are set by the LCIA Court in accordance with the Schedule of LCIA Arbitration Costs. The hourly rate is set having regard to the circumstances of the case and shall be in the range of £250 to £650 per hour.

Arbitration costs are ultimately controlled by the LCIA Court, which makes a final determination of the total arbitration costs in accordance with Article 28 of the LCIA Rules. To make its final determination, the LCIA Court reviews the detailed fee notes provided by the arbitrators and calculates the fees "by reference to the work done", as per the LCIA's Schedule of Arbitration Costs. LCIA administrative charges are reviewed and set in the same manner.

None of the figures in this section have been corrected for inflation, and all figures are in US dollars. Where currency conversion was required for a particular case, the exchange rate published by the ECB on the date the claim was quantified was used, and for currencies not reported in the ECB database, exchange rates from Bloomberg were used. As with duration, median costs figures are used to minimise the skewing effects of outliers.

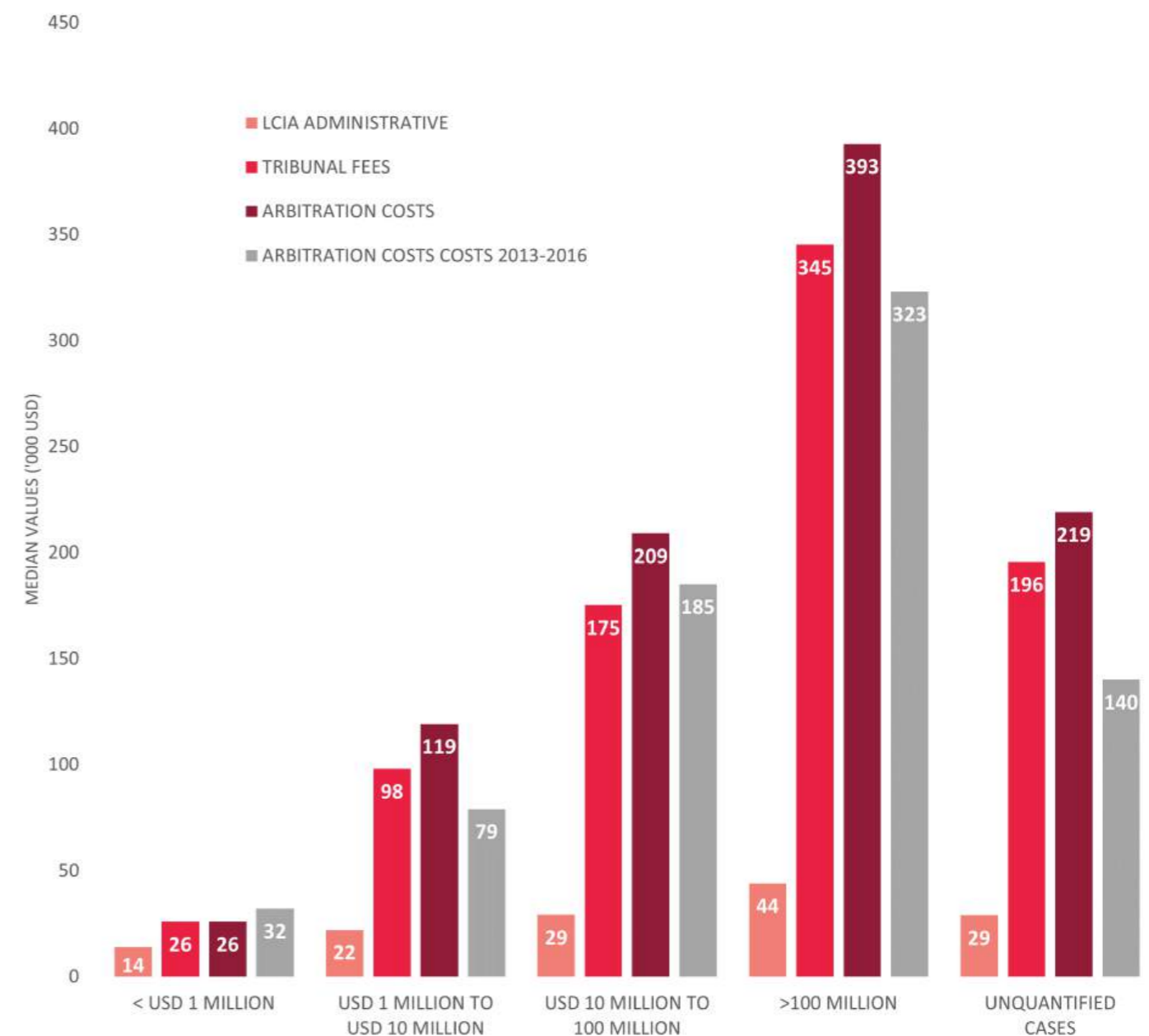
Across the quantified cases, the median arbitration cost is USD 113,000, and the median cost for the unquantified cases is USD 204,000. The overall total median cost for an LCIA arbitration amounts to USD 117,653, a limited increase from the USD 97,000 from the previous report published. The LCIA's administrative charges make up the smallest proportion of charges, with tribunal fees taking up a much larger proportion of the overall costs. The above graph also illustrates that the LCIA's administrative charges make up a proportionality smaller percentage of the overall costs as the amount in dispute increases. These findings are consistent with the previous report.

Noteworthy although not surprising, cases with a longer duration tend to have higher costs. For example, all cases with a duration of less than six months report arbitration costs up to USD 50,000. Almost 70% of the cases awarded within seven and twelve months reported arbitration costs below USD 50,000; and almost 90% of those cases reported costs less than USD 100,000. In contrast, less than 5% of

the cases lasting longer than 24 months reported costs as low as USD 50,000, and just over 10% reported costs less than USD 100,000. Indeed, more than 50% of the cases lasting longer than two years reported an arbitration cost above USD 300,000.

These results are consistent with the 2017 study. The increase in costs is predominantly due to increases in tribunal fees. This demonstrates that the administrative cost for higher value disputes is not significantly more than for low value disputes. These findings are consistent with the previous report.

COSTS BY AMOUNT IN DISPUTE



COSTS OVER TIME



While the analysis focuses on tribunal fees and LCIA administrative charges, it is important to note that these combined costs are generally only a small proportion of the total costs that parties will incur in an arbitration. More significant are the costs that institutions have no involvement with or control over, such as the cost of engaging counsel and experts. However, as parties often settle in respect of such costs (i.e. they are not dealt with in an award), it is not currently possible to provide detailed statistics in relation to these costs.

Consistent with the increase in duration, arbitration costs appear to be increasing over time. The above chart shows that median arbitration costs stayed consistent with the level observed in the prior 2017 study during 2017-2018 and 2019-2020, but that the median increased thereafter.

The changing composition of cases is likely to explain part of the observed trend: cases awarded in the last two years have a larger median claim and have longer duration, consistent with higher arbitration costs



COST COMPARISON BETWEEN INSTITUTIONS

Methodology

The makeup of the LCIA’s arbitration costs is set out in detail above. Like the LCIA, other arbitral institutions charge fixed registration fees, but unlike the LCIA, most other institutions generally operate on an *ad valorem* system for both tribunal fees and administrative charges or provide parties with the choice between the two methods. ICC, SIAC, and the SCC all use the *ad valorem* method for calculating costs, meaning that the majority of their arbitration costs are calculated by reference to the amounts in dispute. The HKIAC allows the parties to choose between the two methods and if the parties have not reached an agreement within 30 days of the respondent receiving the request for arbitration, the hourly rate method is applied by default. However, a direct comparison of overall costs based on hourly rates cannot be performed without HKIAC’s actual data, as called for above.

Because of this method of charging, where the number of arbitrators and total amount in dispute for an arbitration is known, an estimate of the total arbitration costs at other institutions can be calculated by reference to the amount in dispute, the number of arbitrators, and the schedules of cost. All institutions included in this report embed calculators on their websites to allow users to perform this calculation. For cases that fell outside the scope of the calculators currently in use, historical calculators which are present on the institutions respective websites were used.

Average arbitrator fees were used for the SIAC, SCC, and ICC as these institutions provide an average arbitrator fee on their cost calculators. In contrast, maximum arbitrator fees were used for the HKIAC as the HKIAC calculator only provides a value for maximum arbitrator fees.

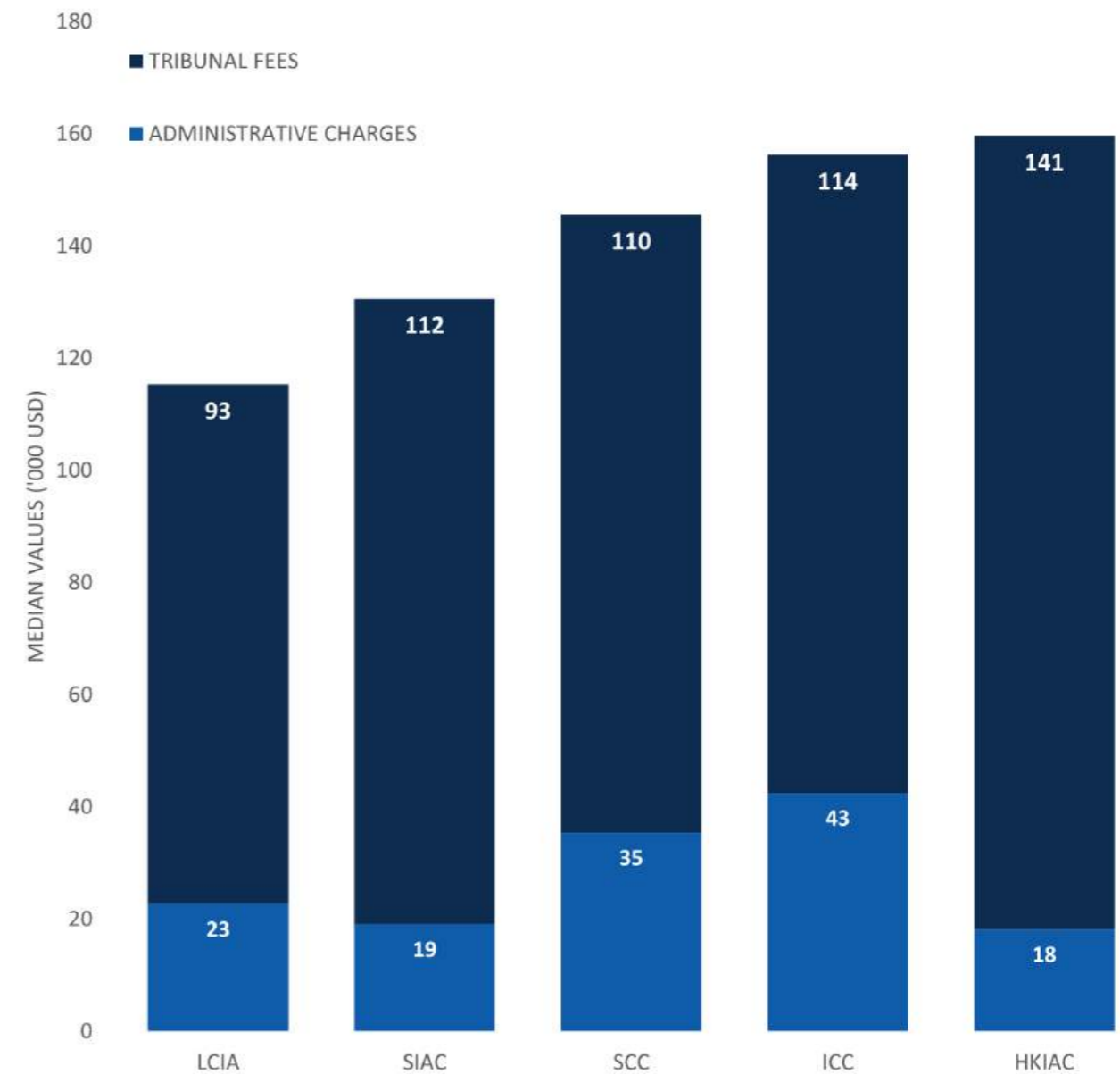
The following is important to note: For SIAC, the average administration fee is not always provided on the calculator and in these circumstances, it was calculated manually by multiplying the fee advised by 0.75; HKIAC only provides an estimate for one arbitrator tribunals and for three-member tribunal cases, this estimate was multiplied by three; and the SCC Schedule of Costs does not provide for arbitrator fees in cases where the amount in dispute exceeds EUR 100,000,000, and states that in such cases the SCC board will determine the cost. As the methodology used by the SCC to determine these arbitrator fees is unavailable, the next bracket down in the schedule of fees (75,000,001.00 to 100,000,000.00 EUR) was used to obtain an estimate that would be, if anything, an underestimate of SCC fees.

For each of the 568 LCIA cases in the dataset for which the amount in dispute was quantified, an estimate of what the case would have cost at other institutions has been calculated. These estimates can be compared with the actual cost of LCIA cases. The result of this comparison gives an estimate of what the LCIA’s quantified cases would have cost had they been conducted at other arbitral institutions.

As above, median figures are used throughout to minimise the skewing impact of outliers and present a truer comparison of costs between institutions.

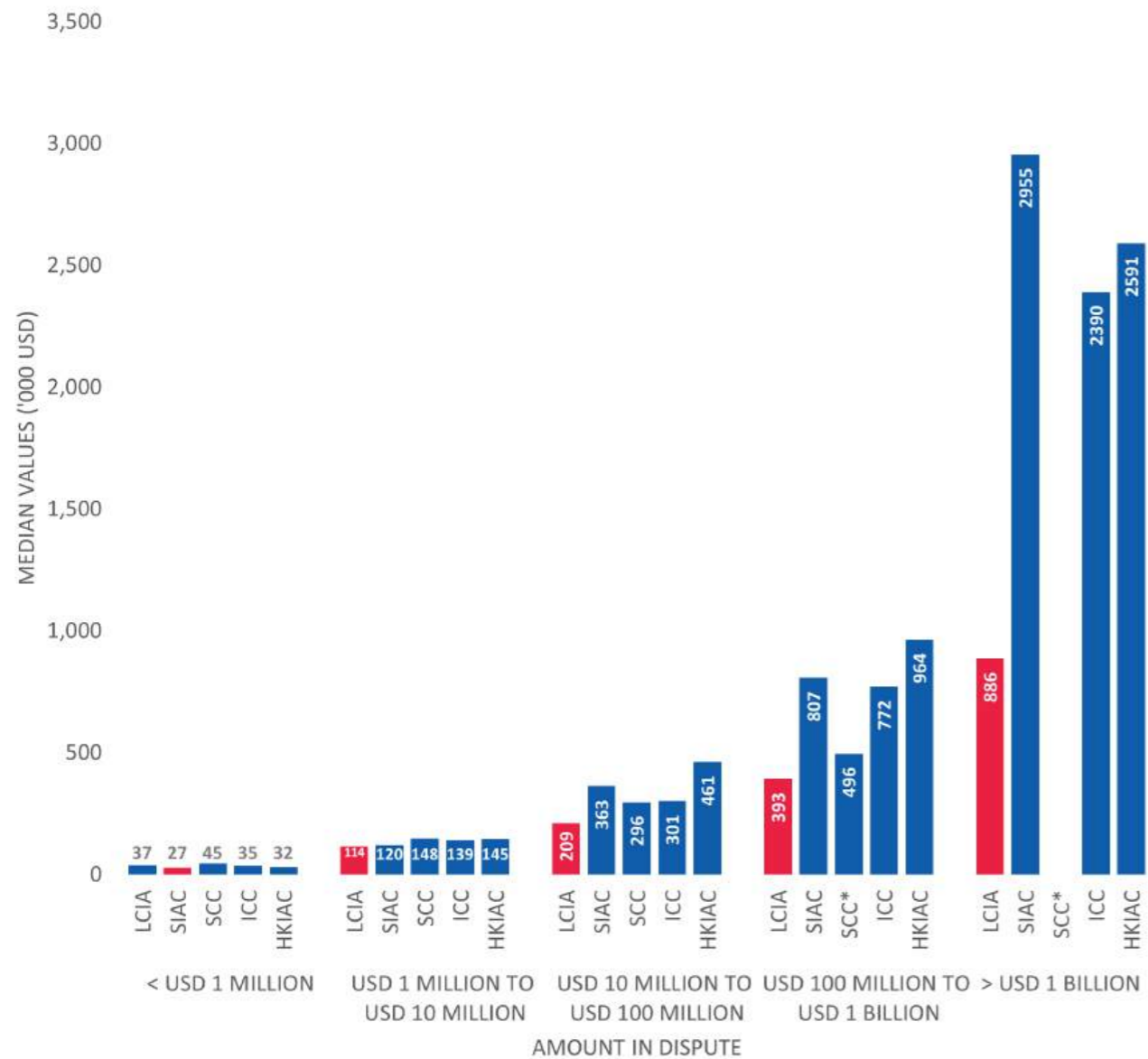
Analysis

TRIBUNAL FEES AND ADMINISTRATIVE CHARGES BY INSTITUTION



The tribunal fees for the LCIA are the lowest of all institutions, and the LCIA’s administrative charges are amongst the lowest, with HKIAC and SIAC averaging similar amounts. ICC and SCC appear to have the highest administrative costs, with the ICC having by far the highest. HKIAC and ICC have the highest tribunal fees.

COSTS BY INSTITUTION AND AMOUNT IN DISPUTE



*SCC's board has discretion over tribunal fees for large amounts in dispute. Therefore, it is not possible to provide data on amounts over USD 1 billion.

The above graph charts the costs by institution relative to the amount in dispute, this provides a more comprehensive comparison of institutional costs. Across almost all amounts in dispute the LCIA have the lowest median arbitration costs. The difference becomes more pronounced as the amount in dispute increases, with the LCIA's costs being less than half the costs of SIAC and the HKIAC and almost half of the ICC's costs for disputes ranging in value from USD 100 million to USD 1 billion, and above.

As set out above, the LCIA figures provided for comparison are figures from actual LCIA arbitrations, while the figures for other institutions are estimates, based on the other institutions' own documentation. Such estimates provide a tool for potential users, but it is important to note that they are subject to substantial caveats.

Foremost amongst these is the fact that the schedules of costs provide either a range or a maximum amount. While it is likely that institutions have internal guidelines prescribing how to set fees, this process is opaque to users, leading to far less certainty over fees for an individual case than cost calculators might suggest.

While the above comparison is a good tool for comparing LCIA cases, users should also attempt to compare costs more generally. Caseloads between institutions may differ substantially due to the inherent differences in the markets in which each operates, the proportion of domestic cases each administers, and the relative complexity of the legal and factual issues of cases at each institution.

However, until leading institutions provide transparent and comparable statistics, it will remain difficult for users to account for these differences in caseload and make fair comparisons. Finally, users should bear in mind that when making comparisons between institutions, costs and duration are simply two factors amongst many. Whether an institution is best placed to administer a particular case is a nuanced question, and one that should always be answered with careful consideration of all relevant circumstances.





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