



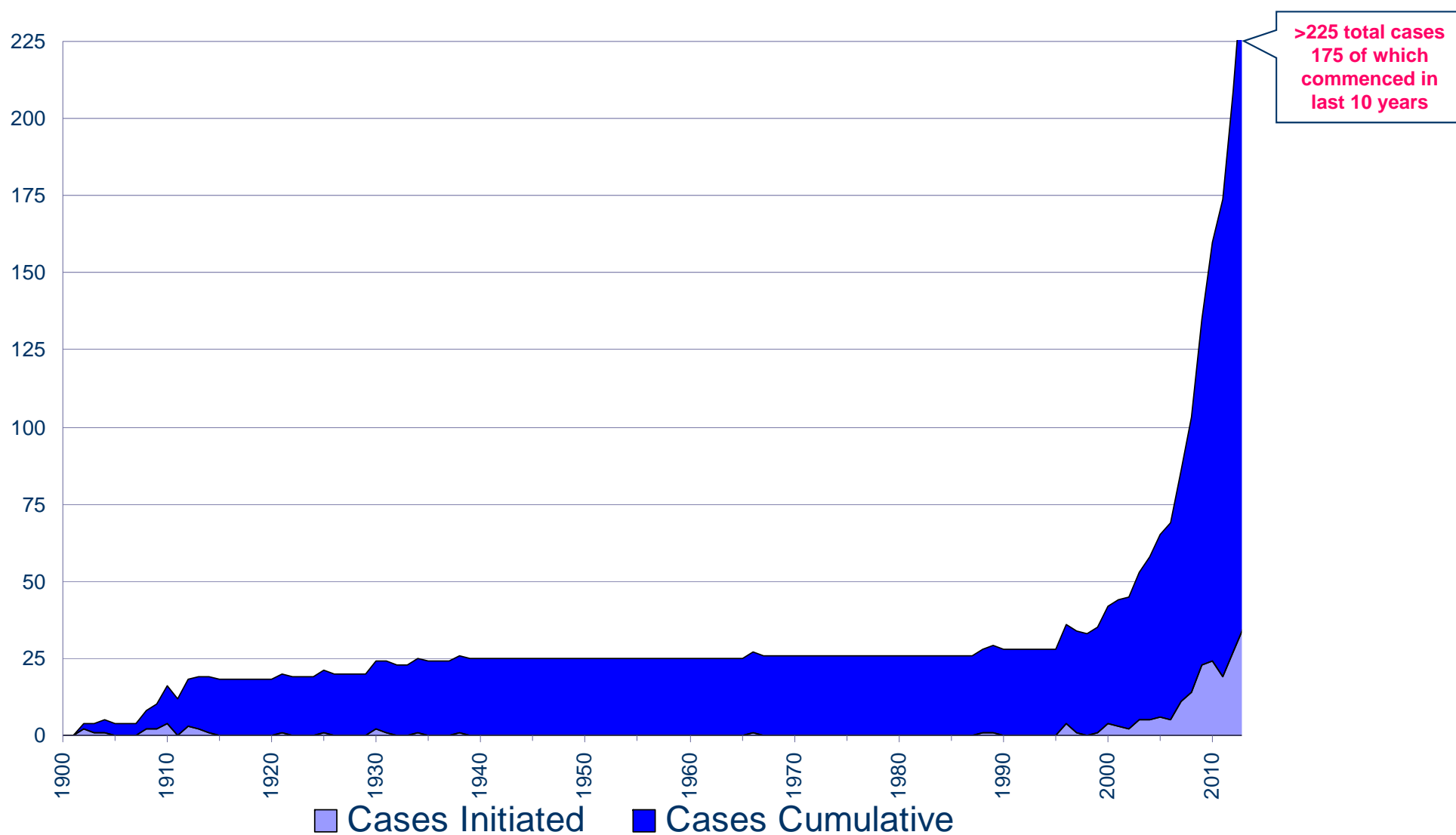
Environmental Dispute Settlement Options in the Context of Energy Projects

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Permanent Court of Arbitration

**2 September 2014
Copenhagen**



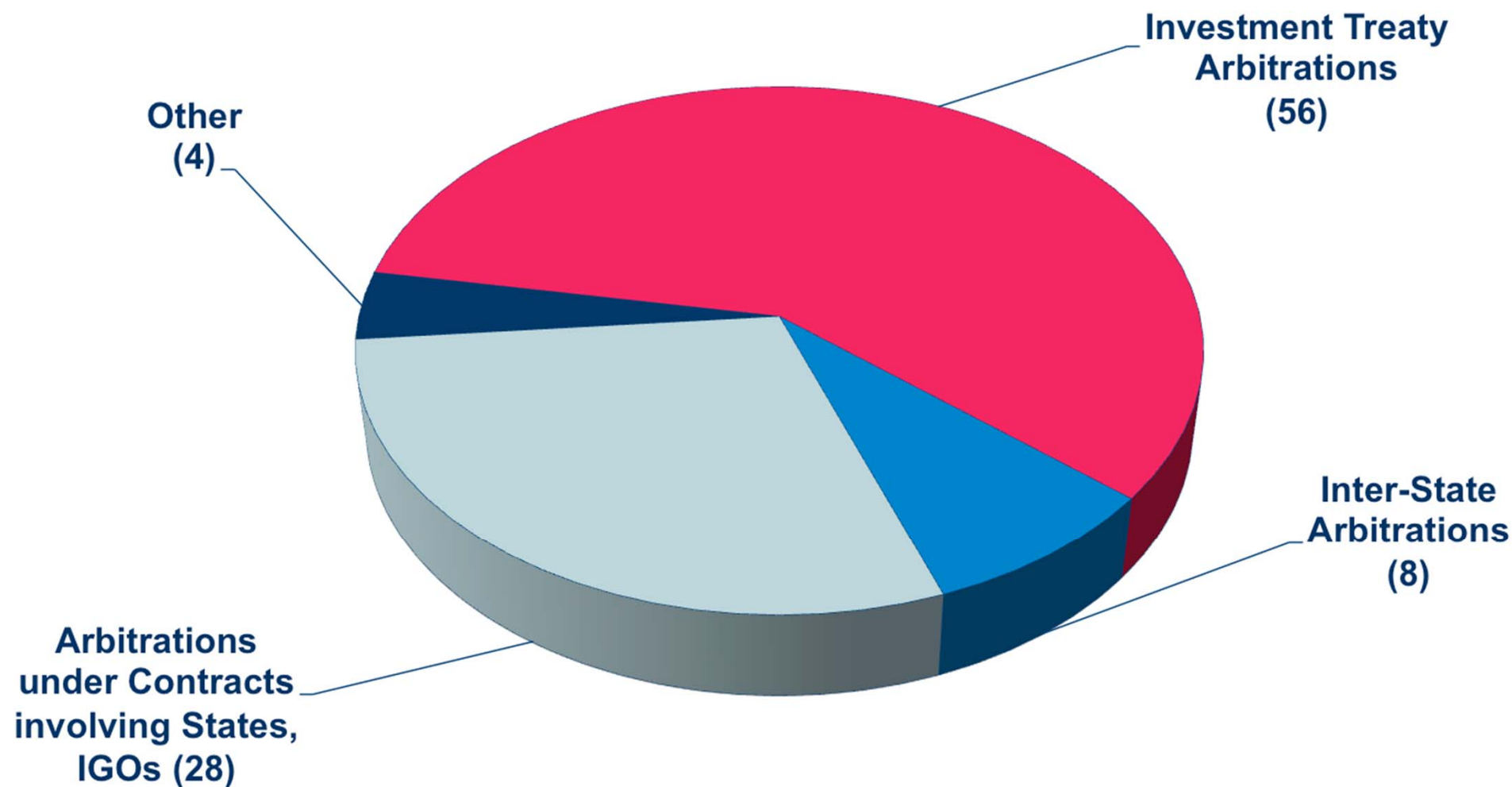
Growth in PCA Caseload since 1900





Current PCA Docket: 96 cases

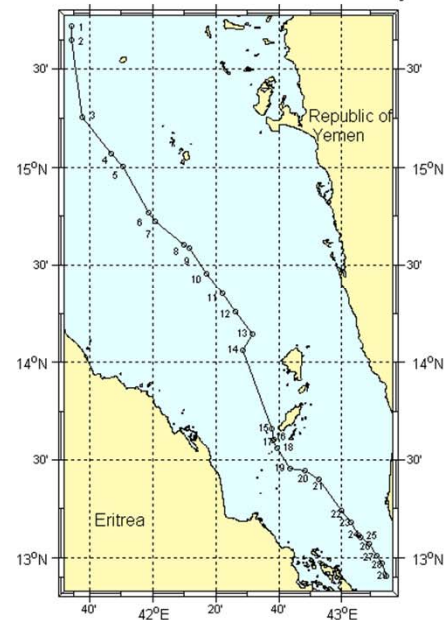
Approximately half involve energy



State-to-State Disputes with with Energy/Environment Angles



The international maritime boundary line



Examples:

MOX Plant (Ireland v. UK) (UNCLOS)

Kishenganga (India v. Pakistan) (1960 Indus Waters Treaty)

Arctic Sunrise (Netherlands v. Russia) (UNCLOS)

Eritrea/Yemen (Special Agreement)



Investor-State Disputes with with Energy/Environment Angles

[mostly under UNCITRAL Rules]



Examples:

Chevron v. Ecuador (US-Ecuador BIT)

Mesa Power v. Canada; Windstream v. Canada (NAFTA)

Guaracachi & Rurelec v. Bolivia (UK & US-Bolivia BITs)

Tailor-Made Dispute Settlement Options

Abyei Arbitration (Govt of Sudan v. SPLM/A)

PCA Optional Rules for State v. non-State Disputes

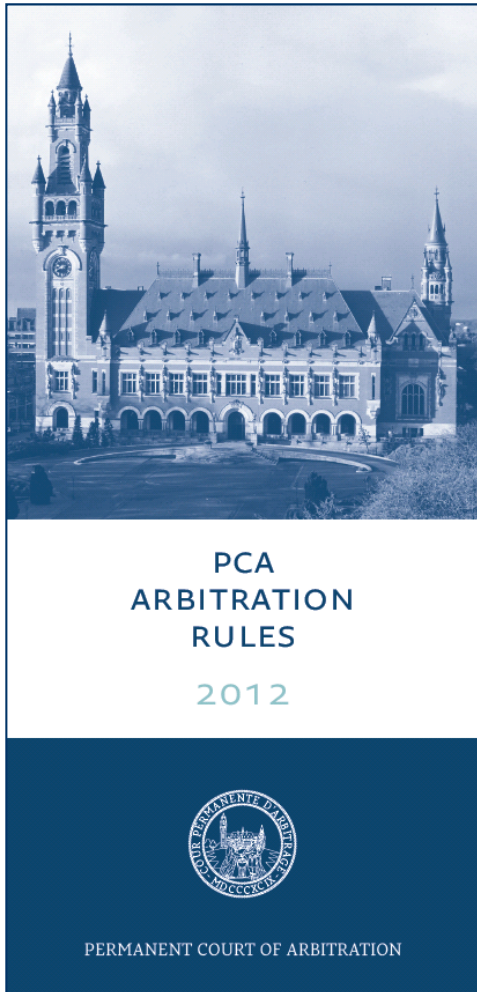
- + full transparency
- + arbitrators from PCA list
- + fast track (9 months)
- + Financial Assistance Fund
- + Arabic / Dinka / English

Southern Pacific High Sea Fisheries Resources Review Panel (4 states, 2 IGOs)

- + 'uber' fast track (a few weeks)
- + all documents and audio recordings on website
- + Russian / Spanish / English



PCA Rules



2001 PCA Natural Resources & Environment Rules

- + panels of experts and arbitrators**
- + provide for multi-party scenarios**
- + provisions on technical information, experts & confidentiality**
- + five CER cases under the Rules (including 1 conciliation)**

2012 PCA Rules

- + updated to reflect 2010 UNCITRAL Arbitration Rules**
- + flexible to adapt to any dispute with public entity**
- + flexibility as to multiple parties, number of arbitrators**
- + PCA role as appointing authority, registry, fee supervision**
- + mechanism for reporting compliance**

Recurring Procedural Issues in Environment-Related Cases

1. Multiple Stake Holders

transparency, non-parties

2. Interim Measures

3. Experts

4. Site Visits



Tak.



→ *More information? See tab 11 of conference binder or go to www.pca-cpa.org*