

Innovations in International Infrastructure Arbitrations

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Overview

1. Arbitrator innovation - Proactive case management
2. Institutional innovation
3. Court-driven innovation

Infrastructure Disputes Distinguished

- ▶ Numerous participants
- ▶ Technically complex facts
- ▶ Masses of data
- ▶ Critical time and cost risks

Competitors to Arbitration

- ▶ Dispute Boards
- ▶ Adjudication
- ▶ Expert Determination
- ▶ Mediation

PART I: Proactive Case Management - Overview

1. Procedural Order No.1 & CMCs
2. Disclosure
3. Factual Witnesses
4. Party-Appointed Experts
5. Evidentiary Hearing
6. Bespoke Summary Procedures
7. Technology

PART I: Proactive Case Management - Party-Appointed Experts

1. Proactive identification of experts and disciplines
2. List of Issues
3. Alternative methodologies and assumptions
4. Conferral
5. Hot-tubbing
6. Assistance with awards

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PART II: Institutional Innovation - Overview

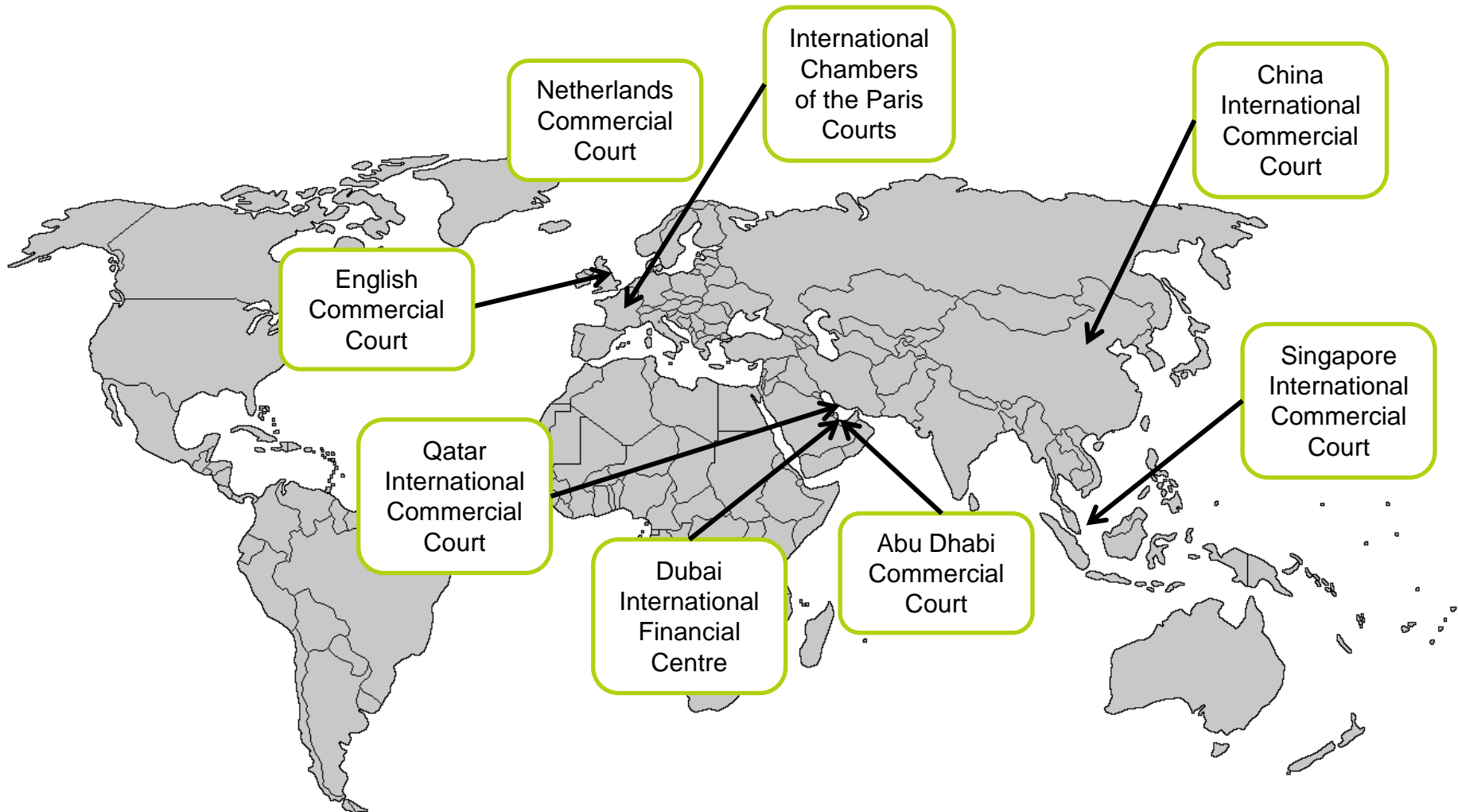
- ▶ Arbitral institutions have been, and will continue to be, a driver of innovation in arbitration as they strive to keep pace with one another.
- ▶ Recent innovations include:
 1. Expedited procedures
 2. Joinder and consolidation
 3. Emergency arbitration
 4. Transparency

PART III: Court-Driven Innovation - Overview

- ▶ Court-driven innovations
 - » Supported arbitration; and
 - » Contributed competitively to the dispute resolution landscape.

- ▶ Recent innovations include:
 - » Arbitration lists
 - » Construction lists
 - » International commercial courts

PART III: Court-Driven Innovation - International Commercial Courts



Concluding Remarks

1. International infrastructure disputes command special attention.
2. Arbitration can remain relevant.

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