

ARBITRATION IN AUSTRALIA

10 March 2021 | Australia

On 9 March 2021, the Australian Centre for International Commercial Arbitration (**ACICA**) released the inaugural [Australian Arbitration Report \(Report\)](#).

The Report analysed data obtained by ACICA and FTI Consulting in the inaugural Australian Arbitration Survey (**Survey**). The Survey collected data on arbitrations commenced, conducted and concluded in the period between 2017 and 2019 with an Australian ‘connection’ from 111 respondents.

Stay tuned as we explore some key findings from the report over the coming weeks.

Arbitration is on the rise in Australia

Key trends

 **223**
active arbitrations

with an Australian connection* in a 3 year period** with an estimated combined value in dispute of

over **\$35 billion**

While the survey recorded a roughly equal case load of 'domestic' and 'international' arbitration, international arbitration accounts for 75% of the total value in dispute.

Diversity



Regrettably, the survey identified that more

than **90%** of tribunal members appointed to arbitrations with an Australian connection are male, and overwhelmingly of Australian or English nationality.

This puts arbitrator diversity in Australia firmly behind with efforts globally to improve diversity. HSF encourages the broader arbitration community in Australia to take proactive steps to address this issue.



Arbitration is now firmly established as a dispute resolution mechanism of choice in the construction and engineering sectors (for both domestic and international disputes).

Arbitration (particularly international arbitration) is also prominent also in the oil and gas, mining and other energy related sectors.

The future of arbitration



Users of arbitration in Australia feel the "efficiency advantages of arbitration are often unrealised" and the "the full potential of arbitration remains untapped"

Some users remain concerned about a tendency, in domestic arbitration in particular, to adopt procedures that reflect court litigation and miss the opportunity to take full advantage of the flexibility of the arbitral process.

* an 'Australian connection' means one or more of the parties involved in the arbitration was an Australian entity, the 'seat' of the arbitration was in Australia or there were participants based in Australia involved in the conduct of the arbitration, as found by the 2020 Australian Arbitration Report based on survey responses for the period from 2016 to 2019.
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SIAC arbitration in Singapore remains the most common forum for active arbitration matters with an Australian connection.

The survey also identified a shift towards the use of ACICA arbitration clauses in international and domestic transaction documents. It will be interesting to follow whether this translates into a greater proportion of Australian seated, ACICA arbitrations in the future.

HSF's fully integrated global arbitration practice



Our Australian-based International Arbitration practice is fully integrated into our global arbitration practice and advises not only on Australia-related arbitrations, but also on international arbitrations across the globe.



40+ partners and **200+** total qualified lawyers around the globe*



Of those in HSF's international arbitration group who are currently sitting as arbitrator,



54.56% are women, while



26.3% of all of HSF's arbitrator appointments made globally were women, including party appointments, sole arbitrator appointments (by agreement of the parties) and chair appointments (by agreement of the parties).

US\$98.64 billion



value of the claims and counterclaims in our portfolio*



Our recent arbitration experience covers over

100 countries



29% of HSF's 52 arbitration partners are female

*For the period 2018-2020

VIDEO: DIVERSITY IN ARBITRATION

PODCAST

ARBITRATION IN AUSTRALIA IS ON THE RISE: DIVERSITY IN ARBITRATION

This is the first in our series exploring the findings in ACICA's Australia Arbitration Survey. The survey unearthed some really promising data regarding the scale of arbitration activity occurring in Australia - most notably, it found evidence of 223 unique arbitrations active over a 3 year period with a combined value in dispute estimated at around \$35 billion.

However, the survey also revealed some confronting statistics regarding the diversity of arbitrator appointments, notably, that more than 90% of arbitrators appointed to arbitrations with an Australian connection were male. Those arbitrators were similarly likely to be either Australian or English.

Our guests discuss these diversity statistics and the measures aimed at tackling this imbalance:

- Deborah Tomkinson, Secretary General, Australian Centre for International Commercial Arbitration (ACICA)

- Paula Hodges, Head of Global Arbitration Practice, Herbert Smith Freehills
- Chad Catterwell, Partner, Herbert Smith Freehills
- Guillermo Garcia-Perrote, Senior Associate, Herbert Smith Freehills

[Herbert Smith Freehills Podcasts](#) · [Arbitration in Australia is on the rise: Diversity in Arbitration](#)

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PRESS RELEASE

ARBITRATION THRIVES IN AUSTRALIA AS HERBERT SMITH FREEHILLS LEADS THE CHARGE ON IMPROVING GENDER DIVERSITY IN THE SECTOR

Global law firm Herbert Smith Freehills has called for greater gender diversity in Australian arbitration following the release of a report that shows a wide gender disparity amongst Australian arbitrators.

[Read more](#)

THOUGHT LEADERSHIP

Explore our articles on Arbitration in Australia.

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[Read More](#)

KEY CONTACTS

If you have any questions, or would like to know how this might affect your business, phone, or email these key contacts.



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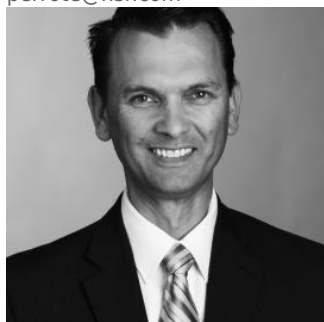
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