



The Kyoto Congress Ancillary Meeting
“The Rule of Law and International Arbitration / Mediation”

International Arbitration in Japan –
D'où venons-nous ? Que sommes-nous ? Où allons-nous ?

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Yoshimi Ohara

Partner, Nagashima Ohno & Tsunematsu
Governing Board member of ICCA
Executive Director of JAA

Golden Era of International Arbitration in Asia

The number of arbitration cases in Asia has been on the rise.

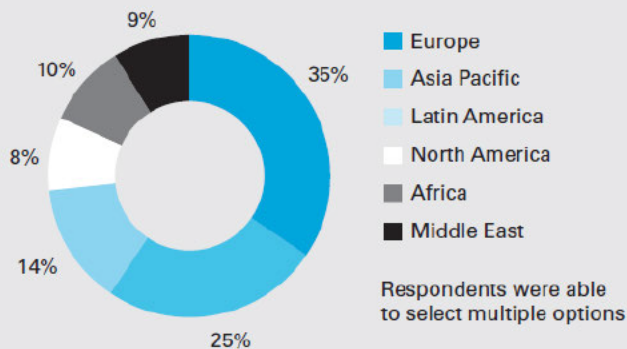
Asia Pacific is now the second biggest region in which users principally practise or operate.

The number of new cases handled **SIAC** increased by almost **200%** in 10 years.

HKIAC has consistently received over **400 new cases** every year since 2014.

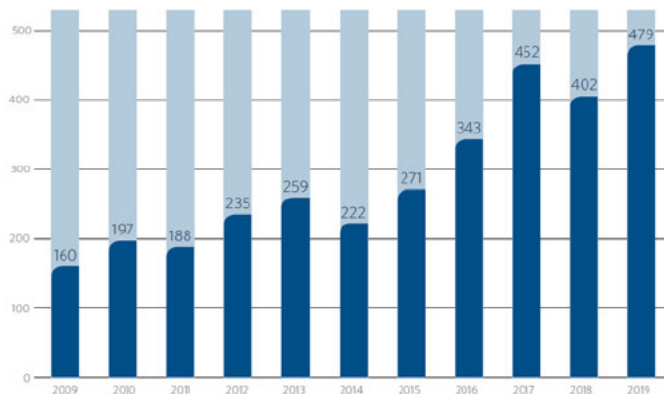
KCAB has seen more than **30% increase** in arbitration cases in 7 years.

Chart 42: In which region(s) do you principally practise or operate?

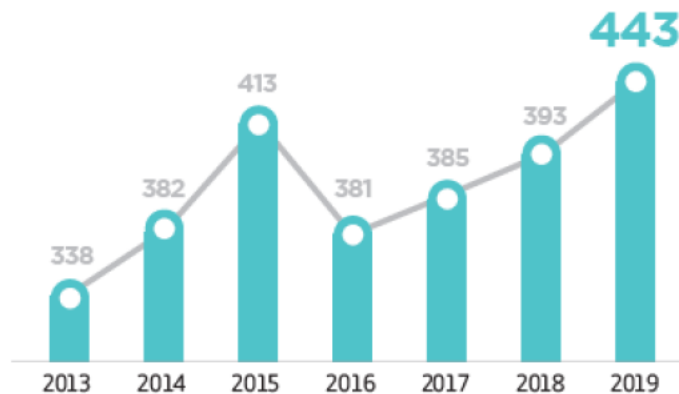


Source: 2018 International Arbitration Survey: The Evolution of International Arbitration, Chart 42. (<http://www.arbitration.qmul.ac.uk/research/2018/>)

TOTAL NUMBER OF NEW CASES HANDLED BY SIAC (2009-2019)

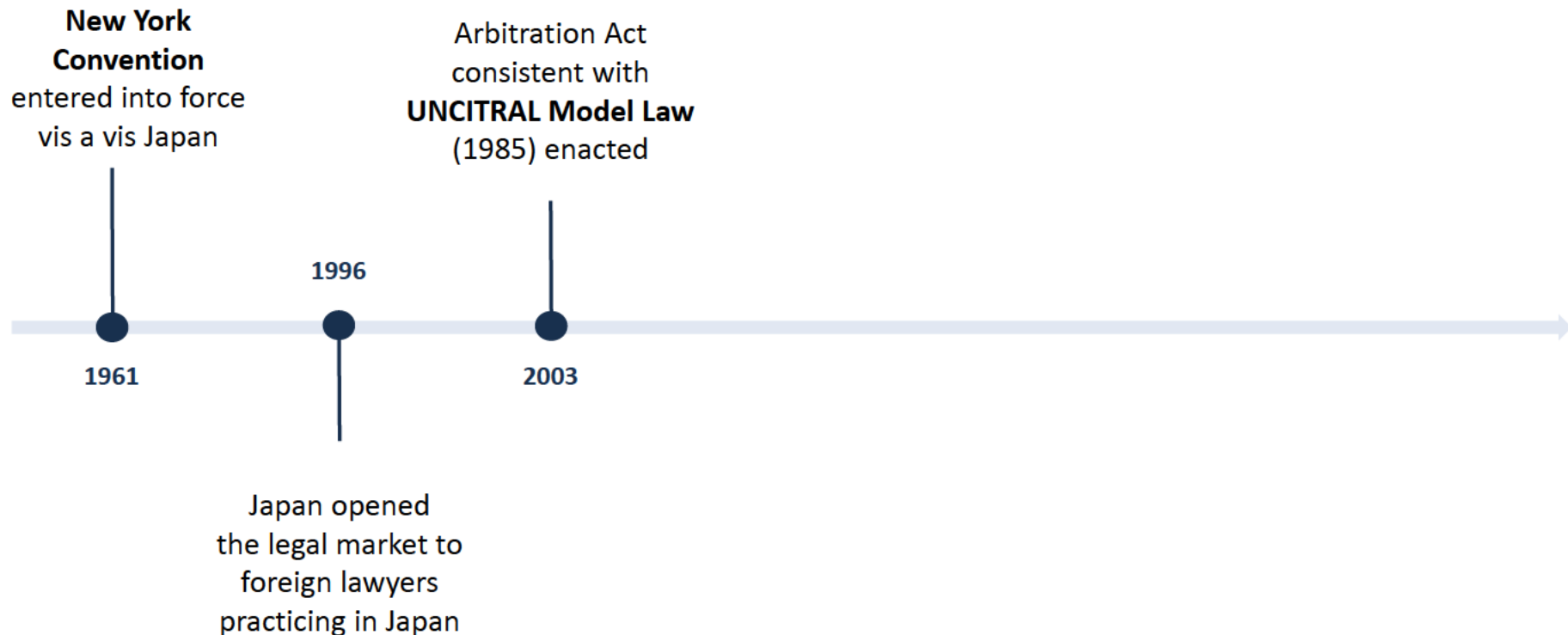


Source: SIAC Annual Report 2019, p 14.



Source: KCAB Annual Report 2019, p 10.

Japan had already built a good foundation for IA



International Arbitration in Japan – “Greenfield”

The number of new filings in JCAA

	2012	2013	2014	2015	2016
JCAA	19	26	14	20	18

Source: JCAA

The number of ICC cases seated in Japan

	2012	2013	2014	2015	2016
Seat	2	3	3	3	0

Source: ICC Bulletin 2012-2016

Japanese government's new policy to promote IA (2018 Basic Policies)

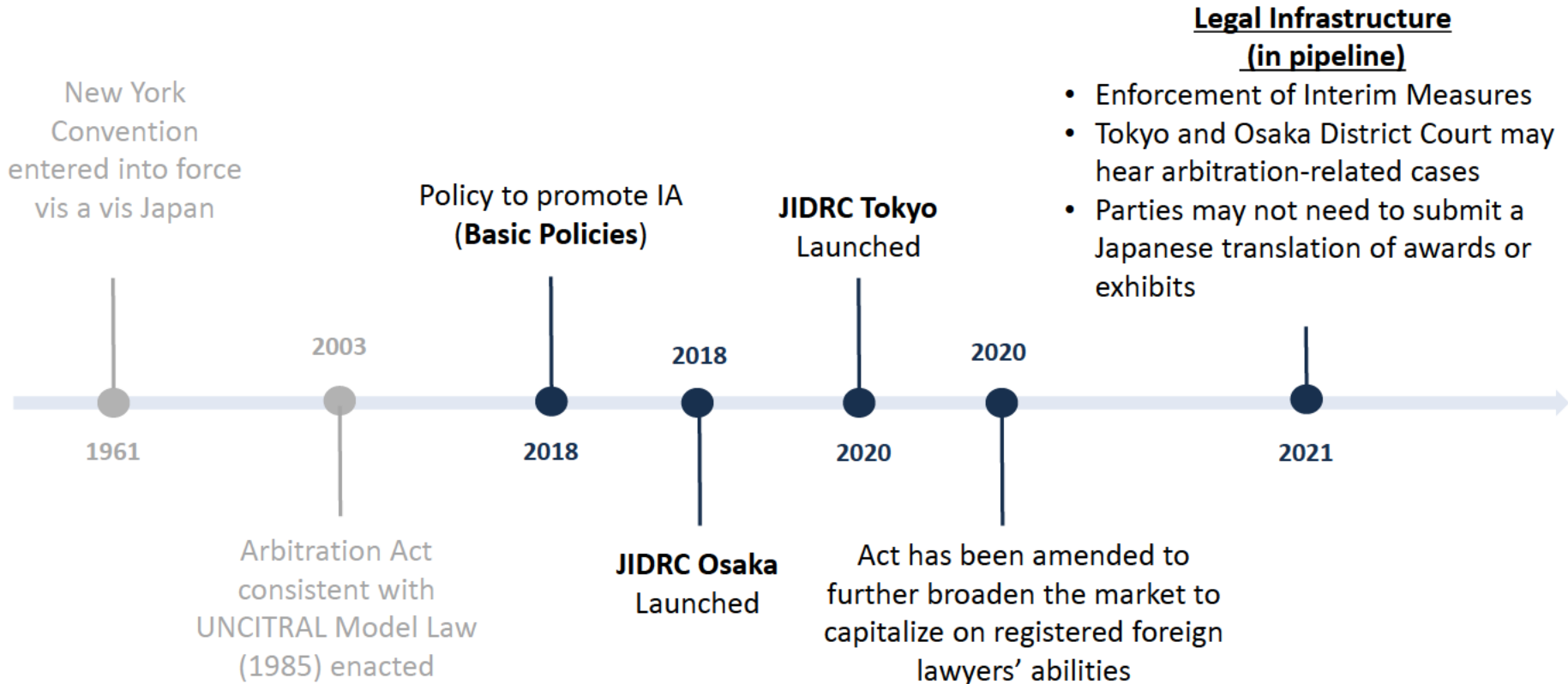
Why is the promotion of IA important?

1. IA is an essential legal infrastructure in a globalized economy
2. IA supports cross border investment into and outside of Japan
3. IA promotes the rule of law

How to promote IA among Japanese business and legal communities?

1. Increase awareness of the advantages of IA in cross border dispute resolutions and settlements
2. Strengthen the legal infrastructure: revisit the Arbitration Act and Foreign Registered Lawyers Act
3. Build capacity and capability through trainings, workshops, and secondments to arbitral institutions
4. Have well-equipped facilities that can provide a fully-serviced physical venue for the conduct of hearings, learning about IA, and building an arbitration community
5. Promotion of Japan as seat of IA

Japan's initiatives to promote IA



Initiatives that have been achieved – JIDRC Tokyo & JIDRC Osaka



State of the art hearing facility



<https://idrc.jp/en/>

Hearing venue

- State-of-the-art facilities
- Flexible arrangements for space

Virtual hearing

- Major videoconference platforms available
- Connect between rooms, across Tokyo and Osaka facilities, or remotely

Simultaneous Interpretation Booth

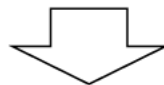
- Dedicated booths for interpreters
- Connected to hearing room

Building Capacity

- Offered 16 training/conferences during the second half of 2020
- E-learning programs
- Virtual hearing protocol

Initiatives that have been achieved – More opportunities for registered foreign lawyers in Japan

Registered foreign lawyers in Japan are now regarded as precious resources for IA practice in Japan



1. **Relax the registration requirement of three years of practice** ↔ fly-in fly-out
 - Three-year requirement can be met by:
 - 1 year* of experience of home jurisdiction plus *2 years* of legal services in Japan
2. **Broaden the scope of IA to include arbitration between Japanese parties with foreign elements**, such as foreign governing law or a subsidiary of foreign parents.

http://www.japaneselawtranslation.go.jp/common/data/outline/200522151124_200522.pdf

Initiatives that are in pipeline – Upgrade Arbitration Act to be more user-friendly

Legal Infrastructure to further accommodate IA

Facilitate the parties' use of interim measures ordered by the tribunal

- Set out requirements for interim measures
- Set out procedures for enforcement of interim measures

Tokyo or Osaka District Court may hear arbitration-related cases

- A district court other than Tokyo and Osaka may transfer the case to Tokyo or Osaka upon a party's request or *sua sponte*
- Tokyo and Osaka District Court to increase relevant expertise on arbitration principles and international arbitration best practices

Court may decide not to require a Japanese translation of awards and/or exhibits

- Ease the burden of translation when appropriate

JCAA has been evolving



New Innovative Rules that keep up with users' needs

- JCAA offers 3 sets of arbitration rules – “Global Standard and Beyond”
 - ✓ UNCITRAL Arbitration Rules (2010) + Administrative Rules for UNCITRAL Arbitration (2019)
 - ✓ JCAA Commercial Arbitration Rules (2019)
 - ✓ Interactive Arbitration Rules (2019) provide parties with a ready-made set of procedures for those that prefer a “civil law approach”
 - Arbitrators required to communicate their preliminary views to the parties before the evidentiary hearing
 - Offers maximum predictability and efficiency
- JCAA Mediation Rules (2020)

Transparency

- Publication of Information on Arbitrators (Appointment record & Panel of arbitrators)
https://www.jcaa.or.jp/en/common/pdf/arbitration/Arbitrator_and_Mediator_appointment_record.pdf?201125

Enhanced Users Accessibility

- New leader, new officers, new staff
- Improved public relations
- User friendly website (in both English and Japanese)

Why arbitrate in Japan – because it has trusted infrastructure to support IA

- **Trusted legal infrastructure dedicated to supporting IA**
 - NY Convention
 - Arbitration Act consistent with UNCITRAL Model Law (1985 and 2006 to come)
 - ***Pro-Arbitration Courts***: Long tradition of enforcing arbitration agreements and awards
- **Government commitment to support IA**
- **Collegiate arbitration community** to build capacity among business and legal communities
- **State-of-the-art hearing facilities** that are able to accommodate both physical and remote hearings

Why arbitrate in Japan – because it makes sense geographically



Why arbitration in Japan – because it is a popular destination



Safety (The Economist 2019)

Tokyo	Ranked 1 st
Osaka	Ranked 3 rd



Travel & Tourism Competitiveness Index (World Economic Forum 2019)

Japan	Ranked 4 th
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Michelin-starred restaurants (MICHELIN 2020)

Tokyo	(226)	Ranked 1 st
Paris	(119)	Ranked 2 nd
Kyoto	(108)	Ranked 3 rd
Osaka	(98)	Ranked 4 th
NY	(76)	Ranked 5 th

We will welcome you in Japan!

Yoshimi Ohara

Nagashima Ohno & Tsunematsu

yoshimi_ohara@noandt.com