

PERMANENT COURT OF ARBITRATION

# The Role of the PCA within the ECT Framework

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**PCA Deputy Secretary-General**

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Energy Charter Forum, Tokyo

# Japanese Delegation 1899 (Ichiro Motono)





# Administrative Council: 116 Member States





## PCA Members of the Court: Japan

- ▶ Judge Shunji Yanai
- ▶ Professor Shinya Murase
- ▶ Dr. Nisuke Ando
- ▶ Judge Hisashi Owada

# PCA International Bureau

## 50 Staff, 27 Nationalities





# PCA and the Energy Charter Treaty



# PCA and the ECT: State v. State

## ARTICLE 27

### SETTLEMENT OF DISPUTES BETWEEN CONTRACTING PARTIES

(...)

- (k) Unless the Contracting Parties parties to the dispute agree otherwise, the tribunal shall sit in The Hague, and use the premises and facilities of the Permanent Court of Arbitration;



# PCA and the ECT: Investor v. State

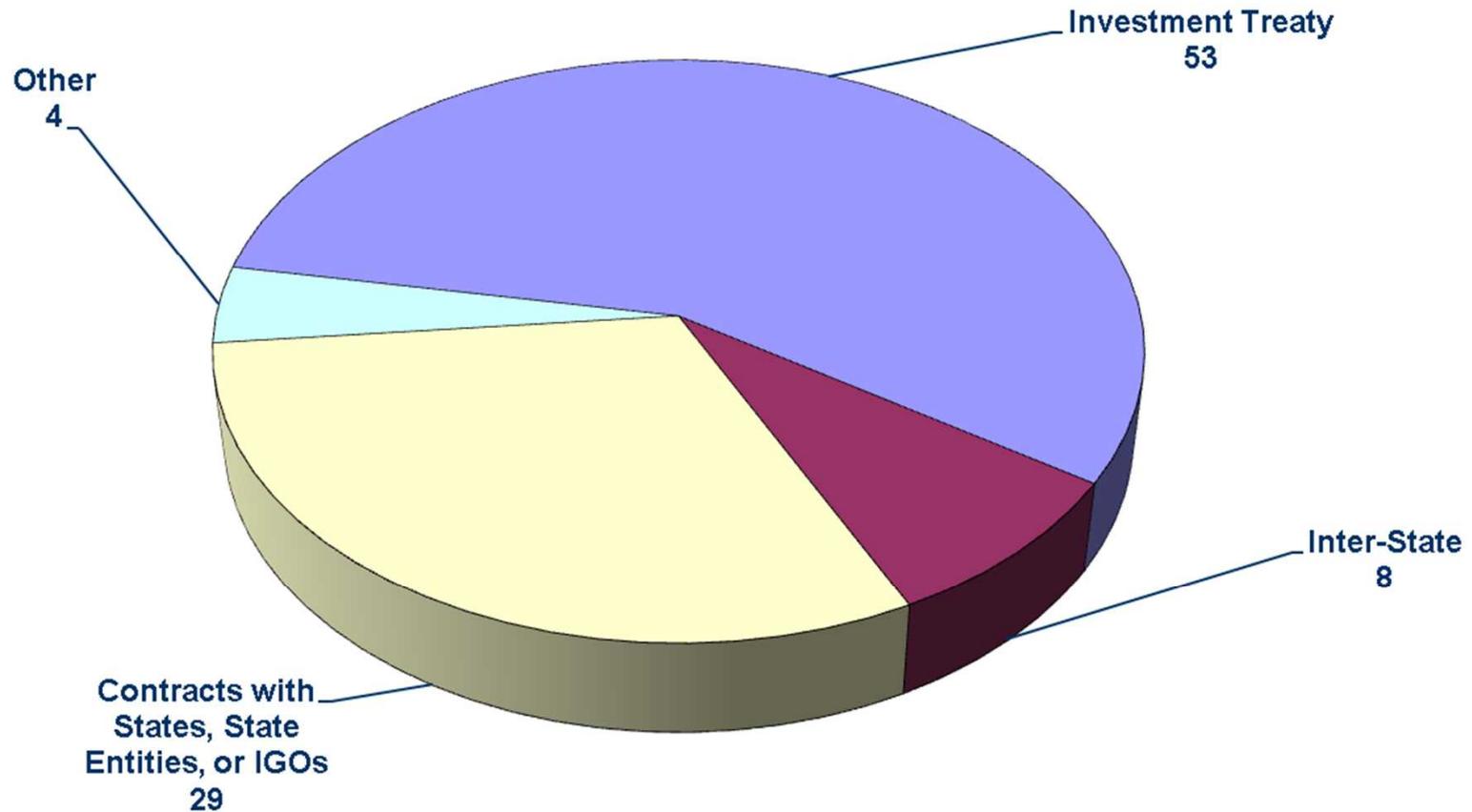
## ARTICLE 26(4)(b)

### SETTLEMENT OF DISPUTES BETWEEN AN INVESTOR AND A CONTRACTING PARTY

...a sole arbitrator or ad hoc arbitration tribunal established under the Arbitration Rules of the United Nations Commission on International Trade Law (hereinafter referred to as “UNCITRAL”); ...



# Current PCA Docket: 94 Cases



# Yukos



***Hulley Enterprises Limited (Cyprus) v. The Russian Federation***

***Yukos Universal Limited (Isle of Man) v. The Russian Federation***

***Veteran Petroleum Limited (Cyprus) v. The Russian Federation***



# Yukos

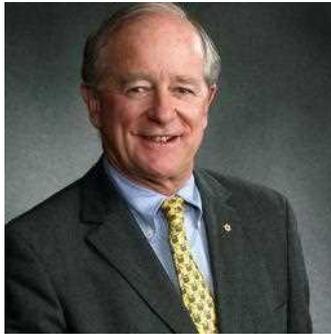
4. By any standard, and as will be seen, these have been mammoth arbitrations. At the highest, Claimants are claiming damages from Respondent of “no less than US\$ 114.174 billion.”<sup>2</sup>





# Role of the PCA: Yukos

## 1. PCA Secretary-General as Appointing Authority



- Appointed the Chairman
- Resolved arbitrator challenge





# Role of the PCA: Yukos

## 2. Organization of Hearings, Procedural Meetings, and Deliberations

- 1 x Procedural Meeting in Paris
- 1 x Procedural Meeting in The Hague
- 2 x Procedural Meetings in London
- Jurisdictional (3 weeks) and Merits Hearings (5 weeks) in The Hague
- Deliberations in The Hague, Washington D.C. and Montreal





# Role of the PCA: Yukos

## 3. Management of Archives

4. ...

The written submissions of the Parties span more than 4,000 pages and the transcripts of the hearings more than 2,700 pages. Over 8,800 exhibits have been filed with the Tribunal.



# Role of the PCA: Yukos

## 4. Facilitate safe passage of witnesses

PCA HQ Agreement with Netherlands grants privileges and immunities to witnesses.



# Role of the PCA: Yukos

## 5. Managed the Deposit

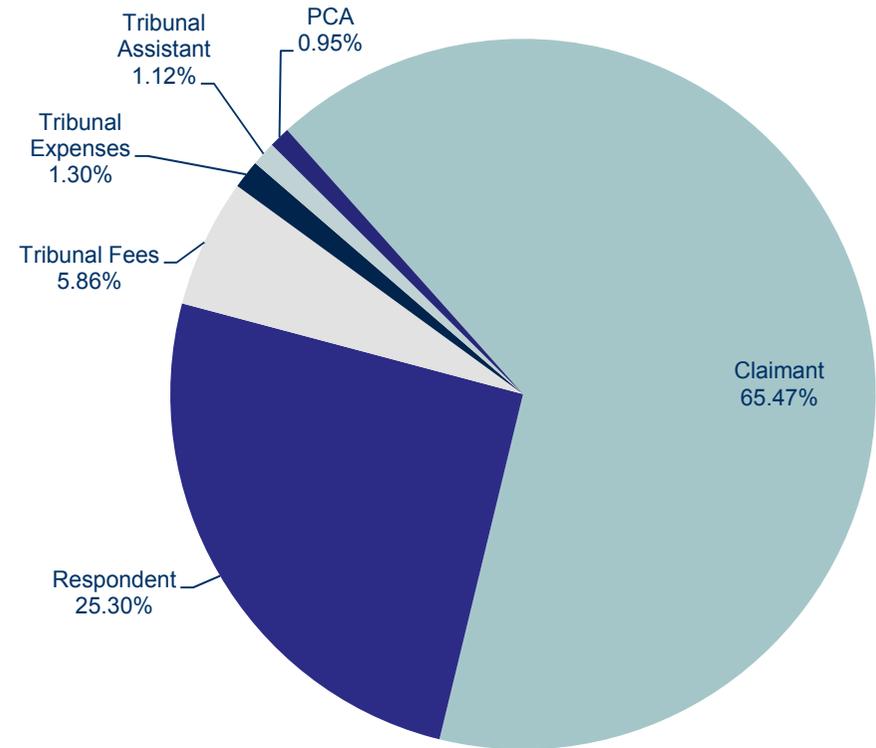
- GAR: “As well as yielding the largest arbitration award in history, the nine-year *Yukos* proceedings notched up a remarkable US\$124 million in legal fees and costs.” ...

<http://globalarbitrationreview.com/news/article/32852/the-costs-yukos/>



# Role of the PCA: Yukos

In context, the costs of Yukos are not disproportionate.



**Proportion of Total Costs of Arbitrations**

# ICC notes on Techniques for Controlling Time and Costs in Arbitration (2007)



Counsel fees and related expenses: 82%

Arbitrator fees and expenses: 16%

Administrative expenses of the institution: 2%



# The Japanese Room, Peace Palace





Thank you.