

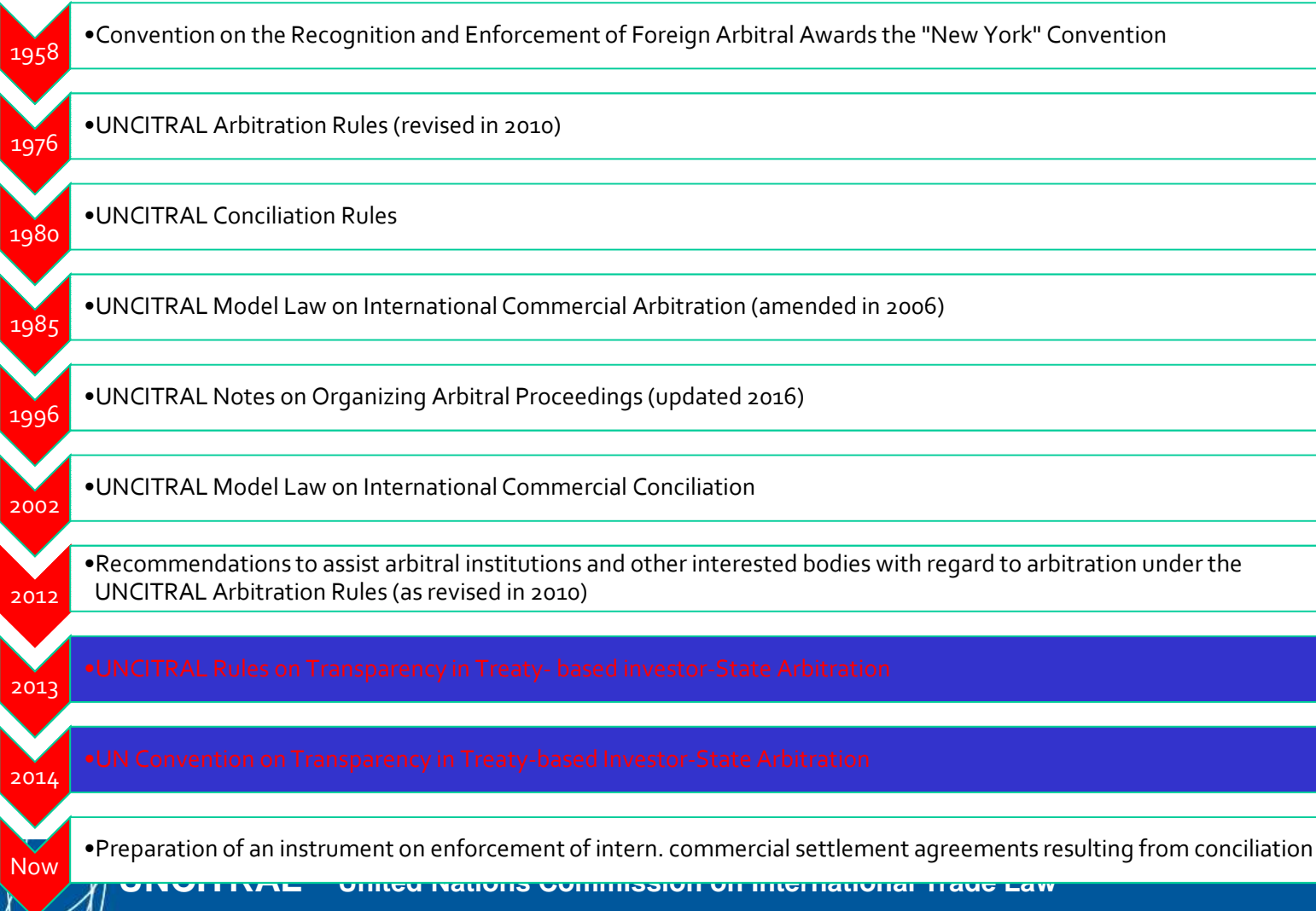


50 years of UNCITRAL
2016/2017



UNCITRAL United Nations Commission on International Trade Law

WG II



UNCITRAL: a Legal Standard on Transparency

2008

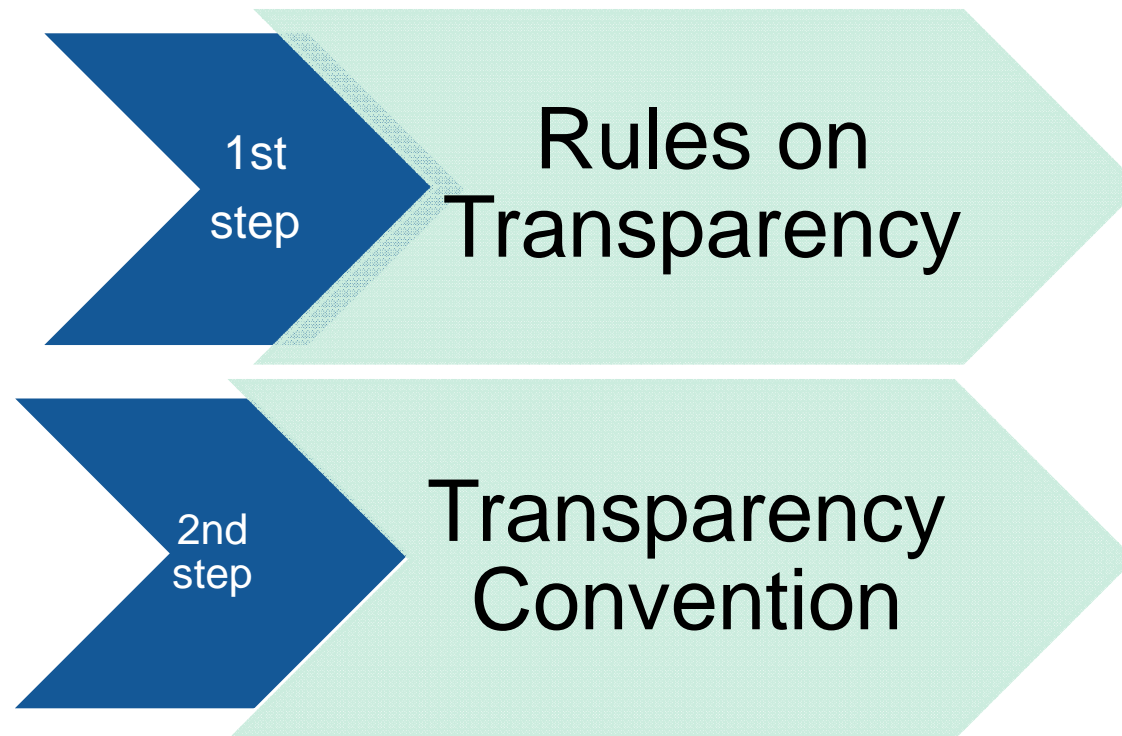
- Commission identifies transparency work to take place as “matter of priority” after finalisation of the Arbitration Rules

2010

- Adoption of UNCITRAL Arbitration Rules and commencement of work on transparency



Reform - Transparency



THE CONCEPT OF TRANSPARENCY

INCREASED PUBLIC INFORMATION ABOUT ARBITRAL PROCEEDINGS

- Publication of Documents
- Open Hearings

INCREASED PUBLIC PARTICIPATION IN ARBITRAL PROCEEDINGS

- Submission by Third Parties

Principle



Procedural Transparency
(public interest)

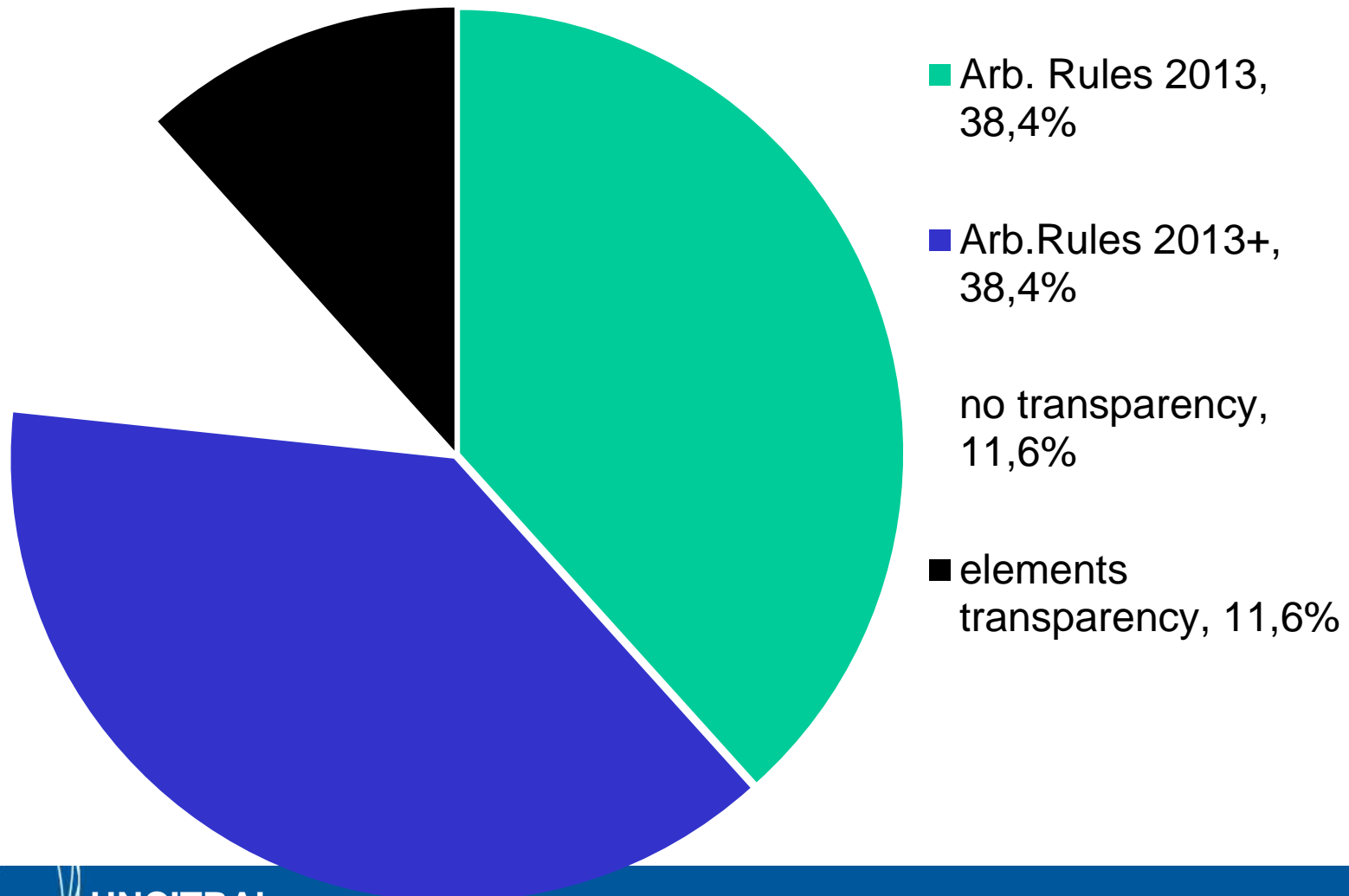
Procedural Efficiency
(interest of disputing parties)

Core issues:

- Public access to procedural documents and arbitral awards
- Open hearings
- Amicus Curiae



Use of Transparency Rules in Treaties since 1 April 2014



Art.1: Scope of application

- **Opt-in for existing treaties**

*In investor-State arbitrations initiated under the UNCITRAL Arbitration Rules pursuant to a treaty concluded **before 01.04.2014** these Rules shall apply only when:*

Scope of application (Existing treaties: opt-in)

- The parties to (and non-disputing parties”) as well as the disputing parties in respect of that arbitration.
- the Parties to the Convention in the case of a multilateral investment agreement between one State of the investor and one or more independent States, have agreed after 01.04.2014 to their application.

Creative solution: UN
Convention on
Transparency in Treaty-
based Investor-State
Arbitration

State	Notes	Signature	Ratification, Accession(*), Approval(†), Acceptance(‡) or Succession(§)	Entry into force
Belgium		15/09/2015		
Canada		17/03/2015	12/12/2016	
Congo		30/09/2015		
Finland		17/03/2015		
France		17/03/2015		
Gabon		29/09/2015		
Germany		17/03/2015		
Iraq		13/02/2017		
Italy		19/05/2015		
Luxembourg		15/09/2015		
Madagascar		01/10/2015		
Mauritius		17/03/2015	05/06/2015	
Netherlands		18/05/2016		
Sweden		17/03/2015		
Switzerland		27/03/2015		
Syrian Arab Republic		24/03/2015		
United Kingdom of Great Britain and Northern Ireland		17/03/2015		
United States of America		17/03/2015		

Parties: 2

(3 ACTIONS ARE REQUIRED FOR ENTRY INTO FORCE)

No reservations



United Nations Convention on Transparency in Treaty-based Investor-State Arbitration

(17 March 2015, Balaclava, Mauritius)
Signature ceremony for the Mauritius Convention on Transparency



(17 May 2015) UK signs



(9 May 2016, Mauritius)

Ban Ki-Moon addresses the International Council for Commercial Arbitration (ICCA) Congress:

‘The “Mauritius Convention on Transparency” promises to be a turning point in investment arbitration. My hope is that this [instrument] can bring greater efficiency and coherence to a system currently based on more than 3,000 treaties’

