

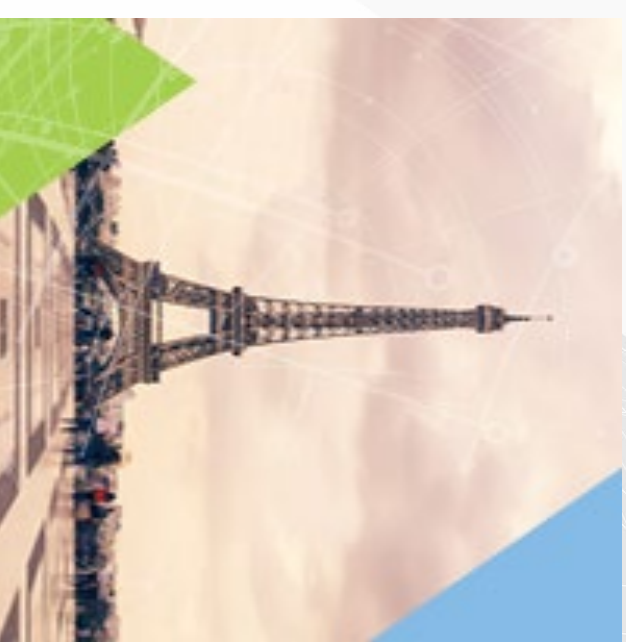
ICC COMMISSION ON ARBITRATION AND ADR

Commission Meeting Paris

29 March 2022 | 9:00 – 16:00 CET

For those participating **online**:

- Please post your questions and comments on the **Q&A section** in the Zoom webinar.
- The Chat section is also available, but will not be monitored for questions.



ICC COMMISSION ON ARBITRATION AND ADR

Melanie van Leeuwen

Chair of the ICC Commission on Arbitration and ADR

Hélène van Lith

Secretary to the ICC Commission on Arbitration and ADR

► The Evolution of the ICC Commission on Arbitration and ADR

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► Current picture of membership: **Composition**

916 Members:

- 690 Delegates appointed by NCs or Groups, as well as some Members who have been directly appointed by the (previous) Commission Chair (which possibility has been abolished in the ToR);
- 17 Direct Members;
- 209 *Ex Officio* Members: comprising 196 Court Members and 13 ADR Standing Committee Members.

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THE EVOLUTION

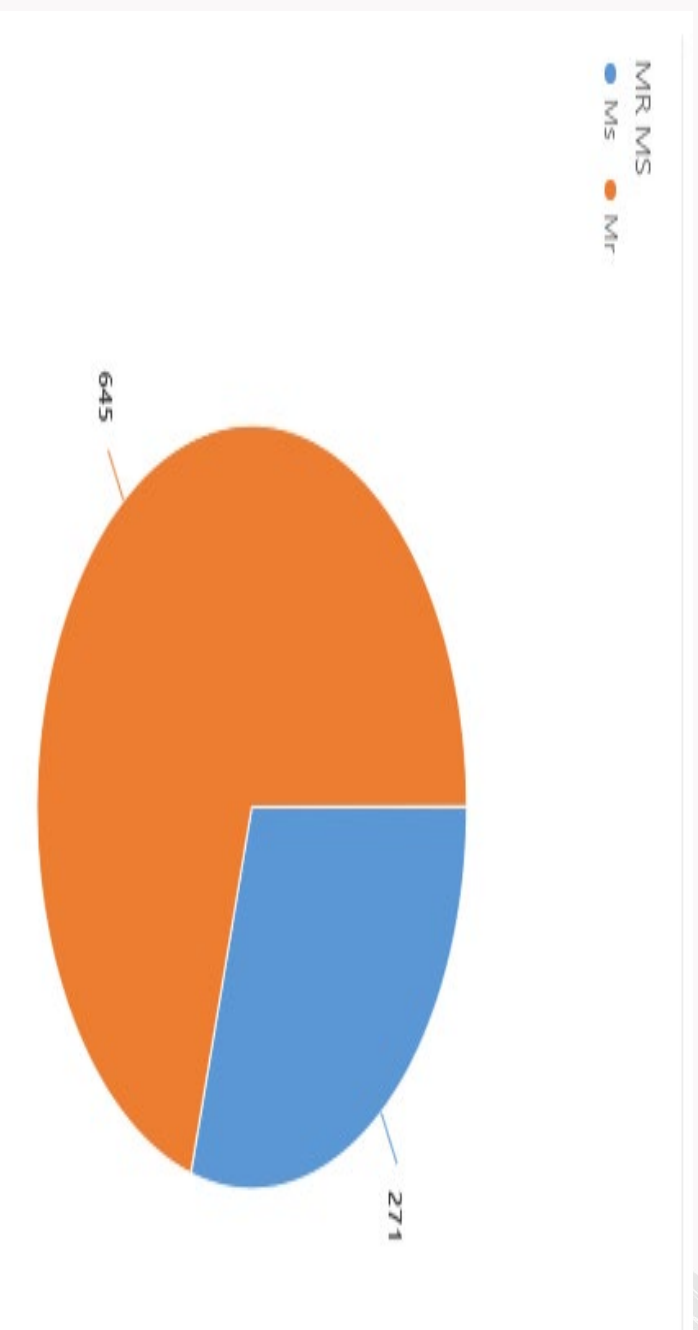
► Current picture on membership: **Seniority**

690 NC Delegates have been Members since:

- > 3 years: 487 Members (out of which 112 never participated; 53 once; 55 twice)
- < 3 years: 203 Members (out of which 53 never participated);

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- **Current picture on Membership: Gender diversity**
70% of the current Members are men.



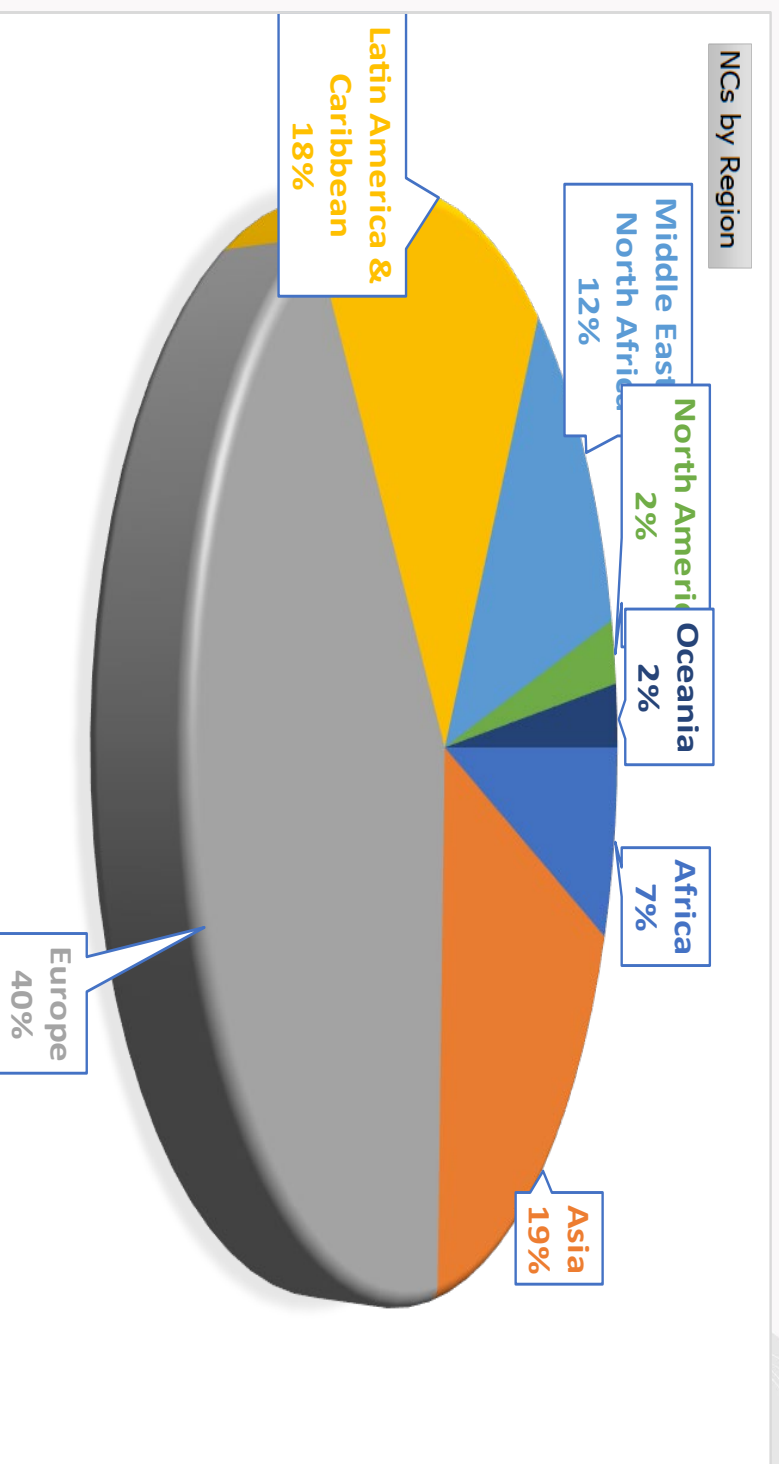
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► Current picture on Membership - Professional distribution:

- 24 In-house counsel/company representatives
- Everyone else: providers of dispute services (lawyers, mediators, arbitrators, representatives of institutions) and some academics

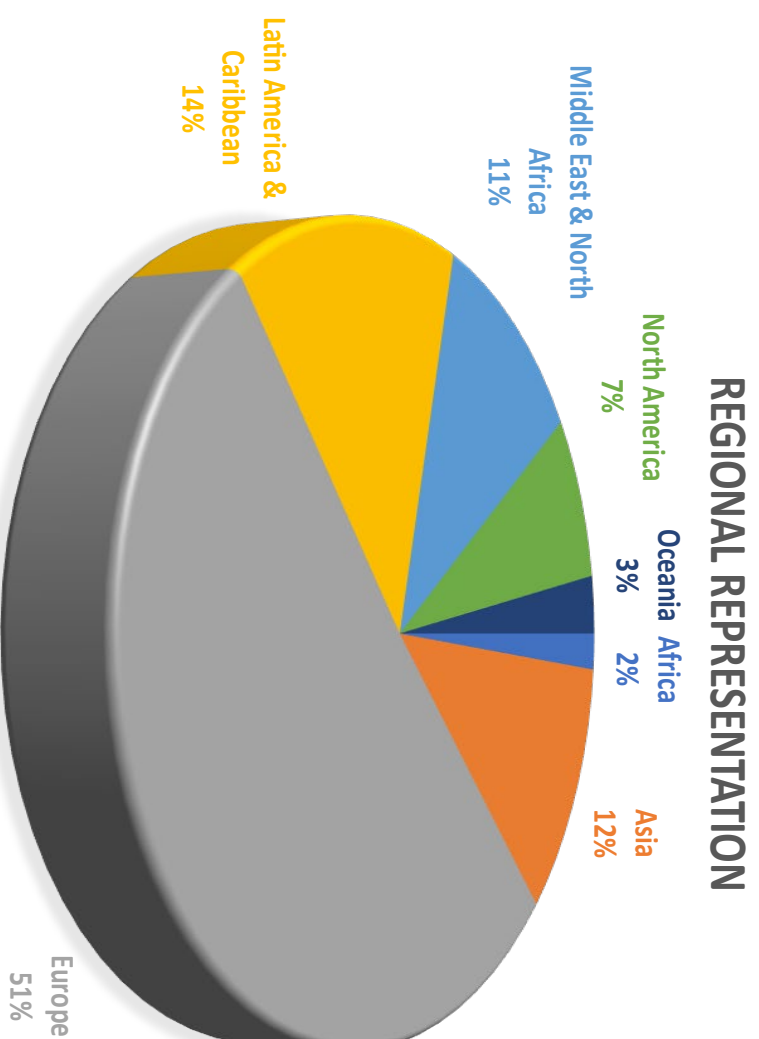
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► Current picture on Membership Geographical diversity: NCS Presence by Regions



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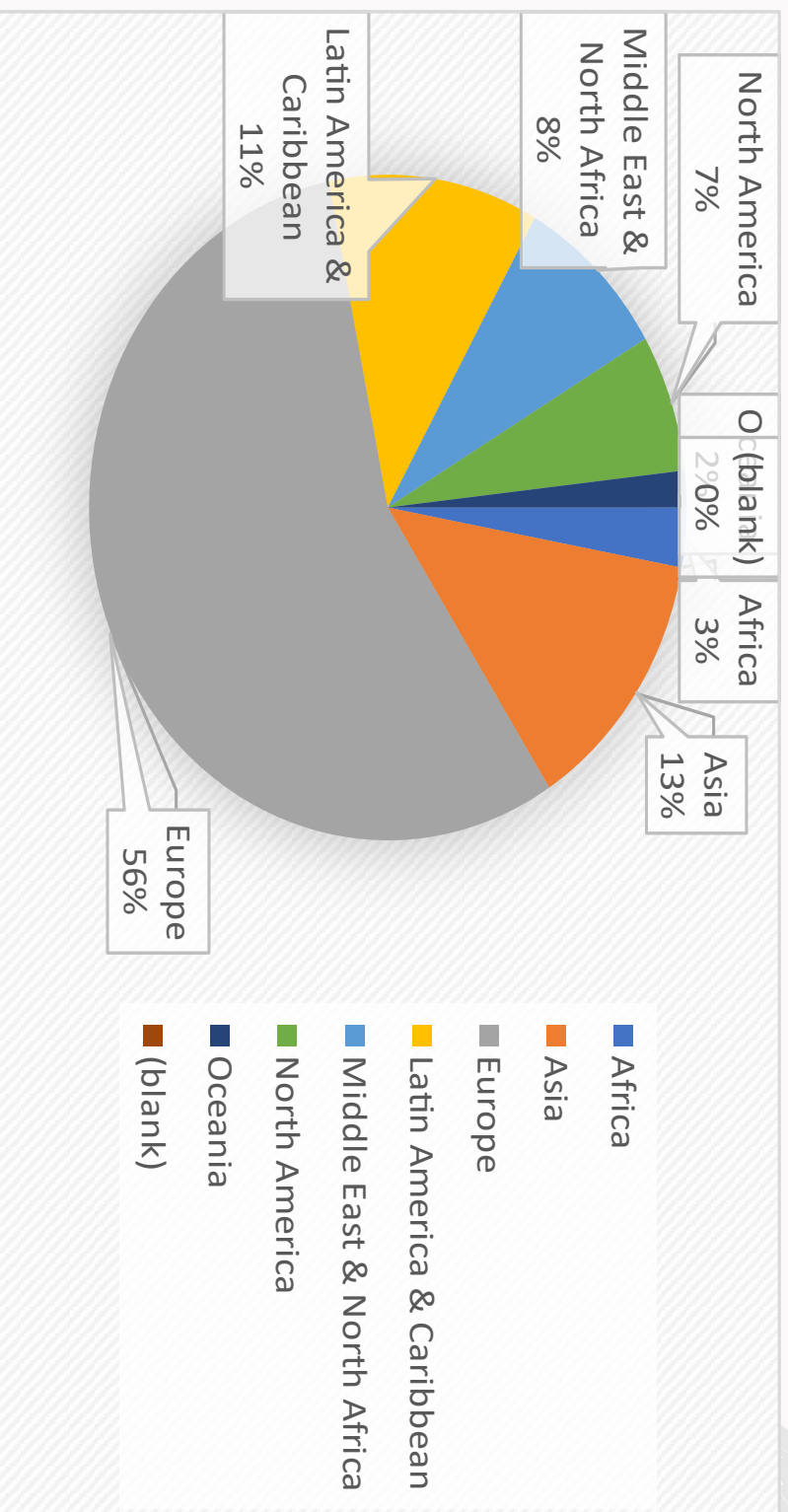
► Current picture on Membership Geographical diversity: Membership per NC



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► Current picture on Membership

- Geographical diversity: Professional location of Membership



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ToR – Appendix A – Mission Commission on Arbitration and ADR

1. The Commission gathers expertise on arbitration and ADR across the ICC network to enable thought leadership, in line with the strategic objectives of ICC Dispute Resolution Services and ICC's mission and values.
2. In fulfilling its mission, the Commission specifically:
 - a. raises awareness and understanding on practical issues in arbitration and ADR in the form of reports;
 - b. facilitates engagement from and between National Committee and Group members, Direct Members and third parties active in ICC DRS in the development of arbitration and ADR;
 - c. provides input on proposed modifications of dispute resolution rules applied in ICC DRS Rules prior to their submission to the Executive Board for approval, as said Rules provide;
 - d. channels expertise to inform the development of activities led by other ICC DRS departments upon request of the ICC DRS Secretary General; and
 - e. collaborates with other ICC Commissions when so required.

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► **Article 4.2 ToR** - The Commission's membership comprises of:

- 1) Delegates of NC and Groups
- 2) Delegates of Direct Members
- 3) *Ex-officio*'s: Court members and members of the Standing Committee for the International Centre for ADR.

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► Article 4.3 ToR:

- Appointment of Commission members occurs every three years,
- for a 3-year term,
- renewal of membership is subject to review and approval of PCCOM, considering the following four criteria:
 - active engagement and participation;
 - expertise;
 - whether the renewal of membership of Delegate members appointed by NCs and Groups is supported by their NC; and
 - the diversity of the Commission as a whole

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► Article 5 ToR: Commission Member Responsibilities

5.1. Commission Members must:

- actively participate in Commission activities and initiatives;
- provide thought-leadership and expertise
- support the selection, development and implementation of Commission activities and initiatives;
- prepare and finalize high-quality outputs and Commission Documents
- provide support to the Commission Officers and the Commission Secretary where necessary.

5.2. Activities carried out by Commission Members are not remunerated.

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► Article 10 ToR:

- The Commission must meet regularly throughout the year,
- at least twice a year, or more frequently if needed,
- Commission Members are expected to attend Commission meetings;
 - in person
 - by videoconference
- If a Commission Member is unable to participate in two Commission Meetings in a row, the Commission Member should consider removing themselves from the Commission

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Evolution: the Rules

- ▶ Article 4.6 ToR requires the Steering Committee to establish;
 - rules in relation to the number of Commission Members and
 - additional membership prerequisites

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Evolution: the Rules

- Overall manageable size
- Promote active engagement
- Foster regional diversity, including from emerging jurisdiction and hubs
- Foster corporate engagement: 20% in-house counsel
- Foster professional diversity: arbitration and ADR
- Foster diversity (gender parity)

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Evolution: overall manageable size

Specified Number of Delegates

per NC in accordance with the following objectives:

- ensuring a fair distribution of Commission Members among NCs;
- ensuring regional representation that is proportionate to the composition of the ICC global network;
- reflecting the importance of emerging jurisdictions; and
- reflecting the strategic importance of arbitration and ADR hubs

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Evolution: fostering professional and regional diversity

Additional Delegates

NCs may appoint up to five additional NC members as delegates over and above their specified number of delegates within their category, who:

- 1) are in-house counsel or otherwise corporate representatives with experience in arbitration and/or ADR; (professional diversity)
- 2) are nationals of or are professionally based in the same region, in a country where there is no NC. (regional diversity)

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Evolution: fostering professional and regional diversity

National Arbitration and/or ADR Groups/Committees

The head of an NC-established national arbitration or ADR group or committee (one head per NC only) is a Commission Member for the duration of their term as the head of such a group or committee and will not be counted against the specified number of delegates allotted to the NC Delegation.

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Evolution: fostering professional and regional diversity

Balanced Overall Representation and Diversity

- NC Delegation must be balanced, diverse and suitably representative of the expertise, experience, and talent present in the territory's legal, business and academic community active in the field of arbitration and ADR.
- NCs must ensure that the NC Delegation reflects diversity, broadly defined (including but not limited to diversity of origin, culture, generations and gender). NCs should endeavour to reach gender parity within their NC Delegation.

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Evolution: fostering professional and regional diversity

Experience and Talent

It is essential that the membership of the Commission reflects both senior experience and expertise, as well as rising talent in the arbitration and ADR community.

Each Commission Member should be a skilled and active arbitration or ADR specialist and:

- a) have experience in arbitration and arbitration-related procedures; or
- b) have experience with ADR procedures (such as mediation, expert determination and dispute boards); or
- c) pursue an academic career in the field of arbitration and ADR.

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Evolution: fostering professional and regional diversity

Balance among Law Firms, Chambers, and Companies

- The NC Delegation must not have more than one delegate per law firm or company at any given time.
- The NC Delegation must endeavour to have no more than one delegate per arbitration chamber at any given time.

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Evolution: fostering professional and regional diversity

Corporate Engagement

- NCs play a crucial role in connecting their corporate members to ICC Dispute Resolution Services. To understand the dispute resolution needs and the expectations of the members of ICC Global Network, the Commission seeks to have 20 percent of its membership comprise corporate users (including SMEs and larger corporations) and in-house counsel.
- Accordingly, the NC should endeavour to have at least 20 percent of the NC Delegation (within the specified number of delegates as stated in Annexure A) be corporate users and in-house counsel.

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The appointment process of new Members:

- All NCs will receive a call for the nomination of new Commission members.
- NCs must follow the process of appointment to the Commission as established and communicated by the Commission Secretary.
- New delegates will be appointed by 30 June 2022, for a term starting on 1 July 2022 and expiring on 1 July 2024.
- The details of the established appointment process will be communicated at the same time and will close on 1 June 2022

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Call for Nominations: Additional Vice Chairs

- Following Article 6 ToR, we invite all NCs to nominate candidates for appointment of additional Vice Chairs to serve on the Steering Committee as of 1 July 2022.
- Nominees must be Commission Members.
- Individual Commission Members may also express their interest in serving as a Vice Chair.
- Nominations and statements of interest accompanied by a curriculum vitae must be submitted by 1 June 2022 to the following email address:
commission.adr@iccwbo.org.

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Transitional Provisions - **first term, < 3 years, article 1.2. a);**

Delegate Members who as of 15 November 2021 served on the Commission for less than three years, are deemed to be serving a first term that will expire on 30 June 2024,

- > unless the Member, or the NC which appointed the Member as delegate, informs the Commission Secretary by 1 June 2022 that the relevant Member will no longer be a Member of the Commission, in which case their term expires on 30 June 2022

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► Transitional Provisions – renewed term > 3 years, article 1.2. b);

Delegate Members who as of 15 November 2021 served on the Commission for more than three years, are deemed to be serving a renewed term, expiring on 30 June 2024, unless:

- > since their appointment to the Commission, the relevant Member has not made any substantive contribution to the Commission's Task Forces, Working Groups or projects, in which case they will be informed by the Steering Committee by 1 June 2022 that their term expires on 30 June 2022; or
- > the Member or NC informs the Commission Secretary by 1 June 2022 that no term renewal is sought, in which case their term expires on 30 June 2022.

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CONTACTS

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