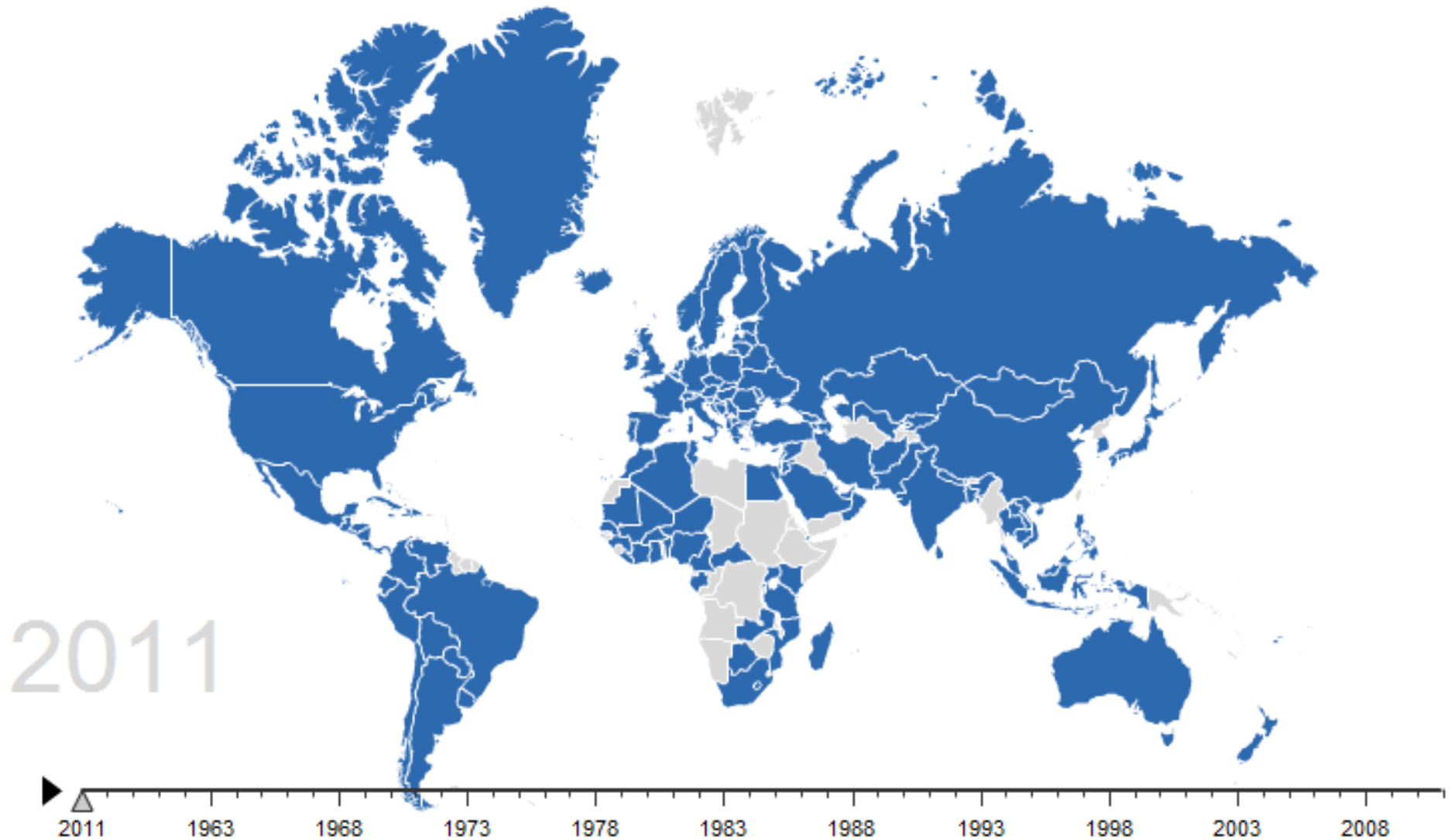


Practical Barriers to Enforcement of Arbitral Awards

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Contracting states to New York Convention



Enforcement Regime for Arbitral Awards in the Region

	NYC in force	Model Law (1985/2006 Version)
 China	22 April 1987	No
 Hong Kong	1 July 1997 ¹	Yes - 2006 Version since 2010.
 Indonesia	5 January 1982	No
 India	11 October 1960	Yes - 1985 Version since 1996.
 Japan	18 September 1961	Yes - 1985 Version since 2003.
 Malaysia	3 February 1986	Yes - 1985 Version since 2005.
 Singapore	19 November 1986	Yes - 1985 Version since 1994.
 South Korea	9 May 1973	Yes - 1985 Version since 1999.
 Vietnam	11 December 1995	No

1. Upon resumption of sovereignty over Hong Kong on 1 July 1997, the Government of China extended the territorial application of the Convention to Hong Kong, Special Administrative Region of China, subject to the statement originally made by China upon accession to the Convention.

Unique Features in China, Indonesia, Vietnam

China

- How to decide “foreign” arbitral awards
- Reporting system for refusal of recognition / enforcement

Indonesia

- Positive requirements for enforcement of awards
- Registration needed / exequatur from the Chief Judge of the District Court of Central Jakarta
- Under limited circumstances, court can set aside foreign awards

Vietnam

- Foreign awards “shall not be enforced” if reasons for refusal exist
- New Civil Proceedings Code – must cancel enforcement decisions if award is set aside in seat

Practical Difficulties in Enforcement – Time

Time limits provided in the law?

Time can become problem even in arbitration friendly jurisdictions

Time becomes a serious problem in certain jurisdictions

Practical Difficulties in Enforcement – court's attitude

Different standards applied by lower courts

Existence of 'arbitration specialist court'?

China's trial of reporting system – pros and cons?

The other side of the spectrum: should every award be enforced?

Practical Difficulties in Enforcement – party's tactics

Use of multiple actions

Use of 'invisible tools' to delay

Use of 'invisible tools' to change conclusion

**Setting aside at the seat
– effect on enforcement in other jurisdictions?**

Thank you



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