



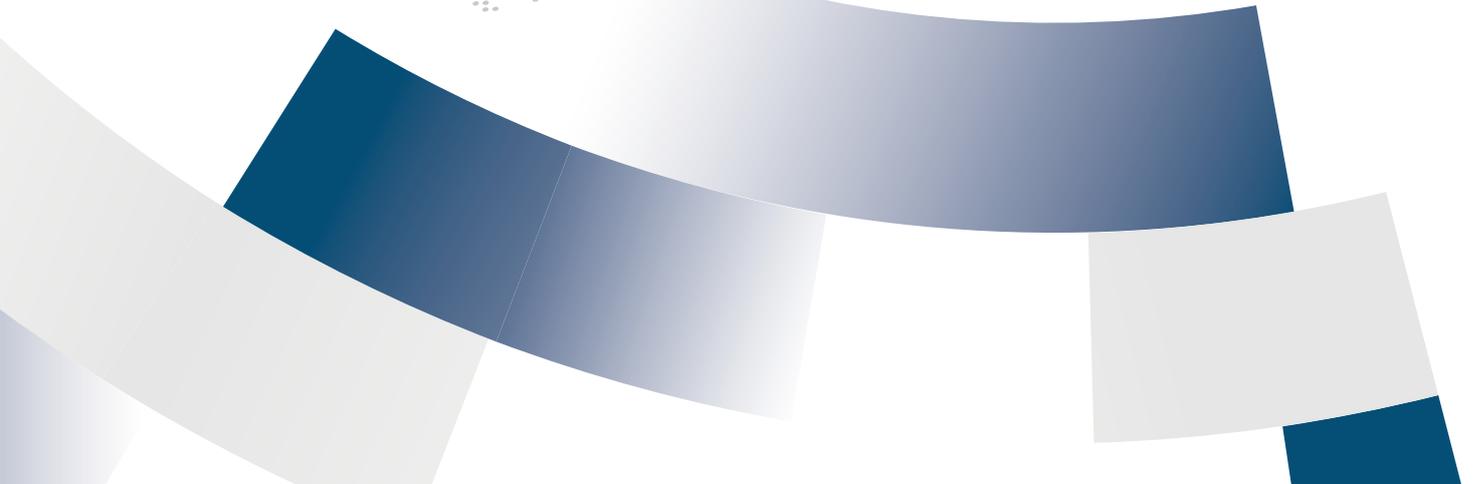
المركز السعودي للتحكيم التجاري
Saudi Center for Commercial Arbitration

2023

SCCA Arbitration Rules



From the International Arbitration Community Perspective





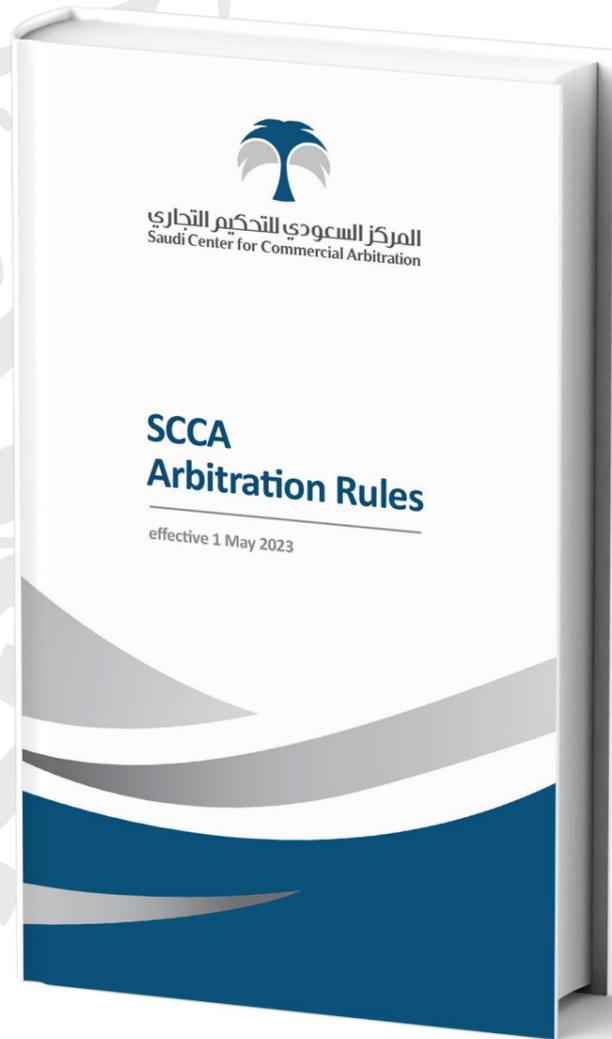
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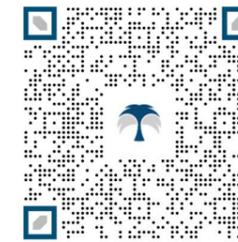




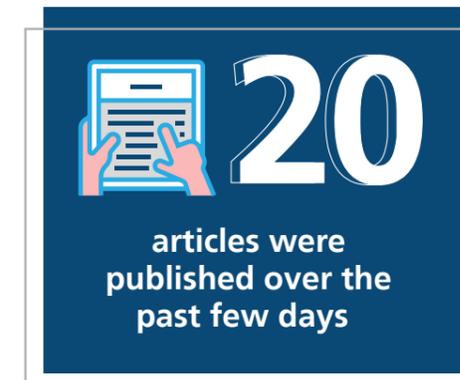
The Saudi Center for Commercial Arbitration (SCCA) published its revised SCCA Arbitration Rules on 1 May 2023. The new Rules apply to all arbitrations filed with the SCCA on or after that date.

The launch of the new Rules followed an extensive internal review and public consultation process in Saudi Arabia and abroad.

The new Rules received widespread, favorable publicity across the local and international arbitration community, including in-depth reviews in well-known ADR industry publications and from over 16 international law firms.



English Edition of the Rules



More about the Rules

This report provides an overview of the media coverage of the new Rules after launch.



How Does the International Arbitration Community See The 2023 SCCA Arbitration Rules?

International Law Firms

"The 2023 SCCA Rules represent another important milestone in the rapid evolution of the SCCA and reaffirm the commitment of the SCCA to pursuing its ambitious vision of becoming 'the preferred ADR choice in the region by 2030'."

"The 2023 SCCA Rules also clearly signal an intention by the SCCA to continue reviewing and updating the rules to address practical and commercial concerns identified by arbitration users and practitioners at a pace that few, if any, other arbitral institutions have matched in recent years. In doing so, the SCCA is positioning itself as a forward-thinking, innovative and modern institution."

"The SCCA has positioned itself as a leading arbitral institution in the Middle East, and the Rules are a reflection of its commitment to providing a world-class arbitration service. By introducing innovative features and expanding its jurisdiction, the SCCA is well-placed to attract a wider range of disputes and parties."

"By enhancing the quality and efficiency of the arbitration process, the SCCA is playing an important role in achieving this vision, and is helping to position Saudi Arabia as a key player in the global arbitration market."

"The 2023 Rules are a timely update given a recent increase in SCCA case registrations, arising from the unprecedented levels of foreign investment and development seen in the KSA at present."

"Our experience is that parties active in the Kingdom take an acute interest in dispute resolution clauses that include reference to SCCA arbitration."

"The SCCA states that its goal «is to create a safe environment that attracts both foreign and domestic investment to the Kingdom...» Its recent updates are consistent with that objective, providing a modern and robust set of rules that will help to secure investor confidence and promote the KSA's international arbitration capabilities."

大成 DENTONS



Ince



Hogan
Lovells



“One of the main driving factors behind the new Rules is the SCCA’s aim of becoming not only a major arbitration centre, but the preferred choice in the region by 2030. Indeed, the new Rules are intended to demonstrate that the KSA is an arbitration-friendly jurisdiction, with a centre and set of Rules that is on a par not only with other centres in the Middle East, but also those around the world.”



“Overall, the product is an enhanced, modern set of rules that aim to allow for more efficient and sophisticated arbitral proceedings and that are likely to benefit a rapidly growing arbitration jurisdiction with ambitions of becoming a central regional hub for dispute resolution.”



“The 2023 Rules are a welcome revision to an already robust set of rules. They demonstrate that the SCCA is closely following developments in international arbitration and is willing to promptly revise them to give users confidence that the SCCA Rules have the tools to efficiently deal with any issues that arise.”



“The revised Rules mark the latest instalment in a series of developments that seek to bring Saudi Arabia’s legal and regulatory arbitration framework in line with best practices in international arbitration.”

“The 2023 Rules evidence a commitment on its part to conduct arbitral proceedings in line with global standards and to further cement its role in the region.”



“The 2023 Rules are a significant achievement for the SCCA as it continues to position itself as a regional industry leader. The 2023 Rules are intended to bring Saudi arbitration in line with international best practice. This is another major step towards the SCCA’s vision to become ‘the preferred ADR choice in the region by 2030’.”



“The publication of the 2023 Rules seeks to embody best international practices and standards with some cutting-edge and innovative approaches.”

“Overall, the stated purpose of the 2023 Rules is to be user-friendly and practitioner focused.”

“The announcement of the 2023 Rules follows a significant increase in case registration numbers at the SCCA in recent years.”



“It’s a really exciting time for arbitration in the region with the rise of the SCCA, having recently opened an office in the Dubai International Financial Centre to supplement its headquarters in Riyadh, and now enhanced its offering further with updated rules.”



“The SCCA appears committed to becoming a regional (and in time international) leader in alternate dispute resolution. The Rules assist in its drive to achieve «Vision 2030». The detailed nature of the Rules, which embrace international best practice, are testament to this.”

“We are confident that the Rules will greatly assist the growing reputation of the SCCA and the Kingdom.”

“Most importantly, the changes introduced under the New Rules will bring SCCA arbitrations in line with international best practice and will further enhance the Kingdom’s growing reputation as an arbitration friendly jurisdiction.”

CLYDE&CO



“This is a further positive extension of the work being done by the SCCA to promote itself as the Middle East’s preferred center for ADR.”

“This brings the SCCA Rules in line with prevailing arbitration practice and will ensure more certainty where parties opt in to the SCCA as ADR forum.”

Baker McKenzie.



“The New Rules are a welcome addition as arbitration increasingly becomes the preferred forum to resolve disputes in most major industries across the Kingdom of Saudi Arabia.”

“The New Rules, as intended, take into account the best practices followed by other international arbitral institutions and have clearly been designed to assure would be arbitral parties that the SCCA can offer proceedings that are efficient, streamlined and that can be tailored to specific cases.”

CMS



“The release of the 2023 Rules is another significant development in the SCCA’s journey to becoming a leading institution in the region. It is clear they have made a concerted effort to demonstrate that they are able to administer proceedings in accordance with international best practice ... in our view, these changes are another welcome development to the arbitration landscape in the Middle East.”

BEALE&CO



HABIB AL MULLA AND PARTNERS



“The Rules also uphold and safeguard the transparency of arbitral proceedings by introducing a requirement for the disclosure of any parties with economic interests in the outcome of the proceedings.”

Crowell



“The new SCCA rules are in line with the organization’s goal of ensuring consistent compliance with the best international arbitration standards and practices. This step forward is in line with the Kingdom of Saudi Arabia’s general goal of becoming a key player in global commerce and, specifically, in international dispute resolution.”

Akin



“Consistent with international best practice, the new SCCA rules stipulate that the Tribunal will look to maintain efficiency and economy in the conduct of the proceedings.”

Comparing the 2023 SCCA Arbitration Rules with the Rules of Arbitral Institutions located in the Middle East



Comparing the 2023 SCCA Arbitration Rules with the Rules of the Top 5 Arbitral Institutions



Media Outlets

“The 2023 Rules has surpassed expectations; it contains provisions that are innovative With the latest revision, the SCCA has ensured that it is well-equipped to resolve disputes fairly and efficiently, in tandem with KSA’s Vision 2030.

No doubt, the modern and revamped procedural framework introduced by the 2023 Rules will contribute to the growth of arbitration as a desired dispute resolution mechanism in KSA, and to the SCCA as a leading arbitration institution in the region and worldwide.”

“The SCCA aspires to become the region’s go-to place for alternative dispute resolution by 2030. The new Rules are a major step in the right direction and undoubtedly bolster the Kingdom’s image as an arbitration-friendly jurisdiction.”

“The new Rules represent a significant upgrade, offering more detail, guidance, and certainty in the arbitration process. Most importantly, the Rules put the SCCA on par with major international arbitration institutions, and we expect the SCCA to give some serious competition to regional players”

“An important feature of the new rules is the general promotion of the use of technology Other new rules cover cybersecurity, privacy and data protection.”

“They also cover a number of emerging practices and issues in international arbitration, including the need for consolidation, coordination of parallel arbitrations, third party funding, publication of redacted awards without party objection, and the need for cybersecurity, privacy, and data protection.”



Dr. Walid Abanumay

Chairman of SCCA Board

“SCCA starts a new chapter with the launching of its revised SCCA Arbitration Rules. SCCA continues its pioneering approach to advance the arbitration industry in the Kingdom of Saudi Arabia and the wider Middle East region by providing the best international standards and practices and achieving SCCA’s vision that was set from day one: to be the preferred ADR choice in the region by 2030.”



Toby Landau KC

Vice Chairman of SCCA Board

“The 2023 SCCA Arbitration Rules are the product of an intensive drafting exercise by an international and diverse panel of leading experts. The new Rules embody cutting-edge innovations with established best practices. The result is undoubtedly a first-class, state-of-the-art framework for international arbitration.”



Prof. Jan Paulsson

President of SCCA Court

“We hope that the new Rules of the SCCA will be given the attention that they deserve, as they have been prepared by a working group including eminent specialists from around the world and at the same time ascertained as being in conformity with local laws and practices in the fullest range of potential venues. They are designed for optimal efficiency while compromising no feature of due process in international arbitration.”



Dr. Hamed Merah

CEO of SCCA

"The launch of the revised SCCA Arbitration Rules is the culmination of the progress achieved by SCCA in its arbitration caseload. Further, SCCA has diversified its client base to now include over 20 different nationalities, a reflection of the international capabilities and level of international acceptance of SCCA. The revised SCCA Arbitration Rules aim to further promote this positive trend and set the necessary provisions to, among others, manage multi-party and multi-contract cases, while reconfirming that foreign and non-lawyers are able to represent parties in arbitration."



Christian P. Alberti

Chief of ADR / General Counsel of SCCA

"The launch of the revised SCCA Arbitration Rules comes timely with a significant increase in case registration and interest in SCCA services. In drafting the new Rules together with its Rules Advisory Committee, SCCA has listened to its users, analyzed what works for other institutions, and taken a pragmatic approach in putting together state-of-the-art Rules."



Richard Naimark

Chair of SCCA Rules Advisory Committee

"Fairness, respect and transparency are the guiding principles of SCCA Arbitration Rules crafted by a talented group of advisors with the experience to develop 'best in class' procedures. Disputing parties, their counsel and Arbitrators can be confident in the procedural balance these Rules provide."



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20 Months 
Led to the 2023 SCCA Arbitration Rules



The Journey in a Nutshell



The project started with a comparative study of the latest rules and other texts reflecting best practice in

International Arbitration

SCCA worked on the Rules Review Project in cooperation with its

Rules Advisory Committee

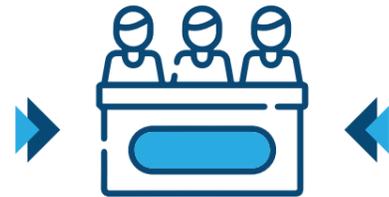
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International experts from 10 countries and chaired by Richard Naimark (former Senior Vice President of AAA-ICDR)



50 Areas Were Explored

Public Consultation including **3 in-person workshops** in Riyadh, Abu Dhabi, and Dubai



A Subcommittee of the Board of Directors

Revised the Draft Rules Chaired by SCCA's Vice Chairman and the International Arbitrator

Toby Landau KC

2023 SCCA Arbitration Rules

Highlights





Promotion of Use of Technology in Case Management

- ▶ Embedding the ODR Procedure Rules as an opt-out where the aggregate amount in dispute does not exceed SAR 200,000 (roughly USD 53,000).
- ▶ Allowing for submission to be filed electronically.
- ▶ The ability of e-signing awards.



Expansion of the Arbitral Tribunal's Discretionary Powers

- ▶ The ability to reject changes in party representation as a procedural safeguard.
- ▶ The ability to encourage parties to resort to mediation where appropriate.
- ▶ The limitation of length of written statements or the request to submit document requests.
- ▶ The determination of the most effective format for hearings, including remote hearings.



Setting Procedural Timetables for Some Proceedings to Assist in Predicting the Duration of Arbitration

- ▶ The Case Management Conference shall be conducted within 30 days of the Tribunal's constitution.
- ▶ Clear demarcation when proceedings shall be closed, triggering the 75-day deadline to issue the award.



Introduction and Empowerment of the SCCA Court

- ▶ Determinations of key administrative aspects by the new SCCA Court in SCCA-administered arbitrations.



Coverage of Various Emerging Practices and Issues in International Arbitration

- ▶ Addressing multi-party and multi-contract arbitrations by way of consolidation, joinder, and coordination of proceedings.
- ▶ Addressing the third-party funding.



المركز السعودي للتحكيم التجاري
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The New Saudi Rules Reviewed



Author:
Michael Patchett-Joyce
Counsel and Independent Arbitrator

GAR Global Arbitration Review



Barrister and arbitrator Michael Patchett-Joyce, of 36 Commercial in London, looks at how the new rules of the Saudi Center for Commercial Arbitration future-proof the arbitral process in Saudi Arabia.

The pace of change in Saudi Arabia in recent years has been extraordinary. It is just over a decade since the kingdom's new arbitration law was passed and exactly a decade since the enforcement law was enacted.

The Saudi Center for Commercial Arbitration (SCCA) did not become operational until late 2016 but, in a little over six years, has established itself as a major player in commercial dispute resolution in the country and beyond.

It has registered close to 300 filings with parties from over 20 different countries since its launch. It has also matured, locally and internationally, into an experienced and trusted arbitral institution handling even the biggest cases with parties from the private as well as the public sector.

Its caseload, meanwhile, has diversified with disputes coming from 21 different industry sectors since launch.

Now, the SCCA has completed a thorough and strategic review of its arbitration rules, led by Christian Alberti, the SCCA's chief of ADR and general counsel, and undertaken by its Rules Advisory Committee chaired by former senior vice-president of the American Arbitration Association International Centre for Dispute Resolution Richard Naimark.

The committee is composed of 16 eminent international arbitration experts, drawn from all sectors including arbitrators, academics, practitioners, judges, and more.

The initiative has involved a detailed revision of the rules over the past 20 months to make sure that they meet the evolving needs of international arbitration in the kingdom and the wider region. The SCCA's internationally renowned board of directors has supported

To have a leading dispute resolution centre combined with state-of-the-art rules is essential to Saudi Arabia's Vision 2030 and reinforces the SCCA's ambition to become the preferred ADR provider in the region by that date.

the process through a special sub-committee composed of board members and chaired by Toby Landau KC.

Among the changes implemented by the new rules are the creation of a new SCCA Court, as cosmopolitan in composition as the board

The rules revision also comes as high profile projects in Saudi Arabia create greater demand for commercial dispute resolution.

of directors. The SCCA Court will be responsible for key administrative decisions to promote the quick and efficient running of arbitrations with leading arbitrator and academic Jan

Paulsson, who is based in neighbouring Bahrain, as its president and Ziad Al-Sudairy, chairman of the board at Riyadh-based Bateel International, and James Hosking, partner at Chaffetz Lindsay in New York, as vice presidents.

The other 13 court members are renowned international arbitration experts from various countries with decades of arbitration court experience.

All this is part of a grand plan. To have a leading dispute resolution centre combined with state-of-the-art rules is essential to Saudi Arabia's Vision 2030 and reinforces the SCCA's ambition to become the preferred ADR provider in the region by that date.

The rules revision also comes as high profile projects in Saudi Arabia create greater demand for commercial dispute resolution. Much of Neom, a development of 10 interrelated projects in the north-west of Saudi Arabia, will be realised between now and 2030. In addition to Neom, Saudi Arabia last month announced the establishment of a further four Special Economic Zones to attract foreign investors and to accelerate the development of key sectors within the country.

With a population of about 36 million and a land mass of well over 2 million square kilometres, Saudi Arabia is, by far, the largest and most populous country in the Gulf. Its size, ambition, rapid infrastructure development and planned industrial and economic diversification mean that it will inevitably become a hotbed for commercial disputes in the coming years.

With commendable foresight, the SCCA has anticipated those trends. It needs to be cutting-edge ready – and it is.

SCCA rule revisions – in detail

The new rules introduce changes at the overarching (macro) level - relating to governance, party autonomy and setting standards - as well at the case-specific (micro) level, with an emphasis on ensuring time- and process-efficiency. Particular attention has been paid to present- and future- proofing the arbitral process.

Macro level revisions

Governance is tackled robustly with the establishment of the new, fully independent SCCA Court to which key administrative powers have been delegated.

As regards autonomy, it is widely accepted that arbitral institutions should support party choice and clamp down on party procedural abuse. To meet those ends, the rules now expressly recognise that parties may be represented by foreign counsel and empower tribunals to supervise and control changes in party representation as a procedural safeguard.

Transparency and standards are related and intertwined. The need to adhere to the SCCA Code of Ethics for Arbitrators is now enshrined in the rules and arbitrators can be challenged for failure to perform, and manifest lack of qualification. Parties can seek reasoned decisions on challenges to the arbitrator panel and other procedural decisions.

The new rules also include express provisions for tribunal secretaries, with separate SCCA Secretary Regulations to encourage their proper use.

Finally, parties must promptly disclose the identity of any third-party funders with an economic interest in the outcome.

Micro (case-level) revisions

International arbitration faces a constant challenge to deliver on its unique selling propositions of speed and efficiency.

The new rules contribute to meeting this challenge by streamlining the process for making and responding to a request for arbitration and enabling an application for emergency relief to be filed in advance if needed.

Jurisdictional concerns are eased by confirmation in the new rules that the SCCA's jurisdictional reach is opt-out.

The benefits of digitalisation and tech are acknowledged at all stages of the process.

The benefits of digitalisation and tech are acknowledged at all stages of the process from initial filing through interlocutory steps and even substantive hearings to the signing and ultimate delivery of the award. The Online Dispute Resolution Procedure Rules have been integrated into the rules as an opt-out.

Such use of electronic means will contribute to greener arbitration, cutting down on paper and reducing the carbon footprint.

The new rules also respond to parties' increasingly complex dispute resolution needs, in particular the growing demand for multi-contract and multiparty arbitrations.

They do this by

- allowing for one compendious registration with the SCCA to cover disputes under multiple contracts between the same parties;
- facilitating joinder of parties;
- providing for consolidation of cases; and
- guiding the coordination of parallel references.

Arbitral proceedings need active institutional management at all stages. Even agreeing the composition of the tribunal can be problematic if one party is recalcitrant (or for other party-specific reasons). The new rules improve process efficiency by clearly defining how arbitrators may be nominated and appointed, and by providing the SCCA Court with overarching powers to make sure that arbitral panels are constituted.

Strict timelines have been laid down. If a first case management conference is required, it must be conducted within 30 days of the tribunal being constituted. Awards should be issued within 75 days of the close of substantive proceedings. Tribunals are vested with the power to summarily dismiss claims or defences that are manifestly unmeritorious.

Prolivity is out; conciseness is in: tribunals can control the length of submissions and the volume of document production.

It is also now expressly within the tribunal's powers to encourage settlement discussions between the parties.

More generally, the new rules seek to allay other present concerns and anticipate future developments. The previous reference to shariah law has been removed from

The Rules also keep the SCCA abreast and a step ahead of global trends.

the rules except from the contractual clauses that address the substantive law for which the SCCA now provides a model clause.

Specific provision is now made for the recovery of deposits in cases where one party has sought to obstruct the process by non-payment of

institutional fees and costs, forcing the other party to make such payments.

The rules also allow awards to be published in anonymised or redacted form unless either party objects.

Data protection and privacy issues have already pushed their way up parties and lawyers' priorities, as has the need for cybersecurity. Those concerns will continue to dominate agendas.

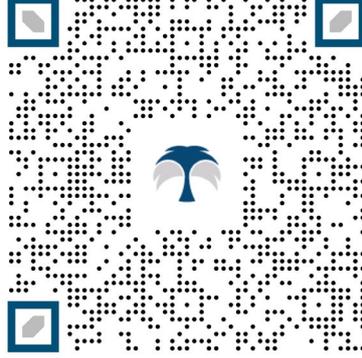
The new rules contain clear and express provisions covering all those issues.

In sum, the new rules proactively engage with the fundamentals of international arbitration: Getting it started – Getting it done – Getting it right. They also keep the SCCA abreast and a step ahead of global trends.





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