

SCC
Arbitration
Institute

SCC Express – On time, on track:

First experiences with the SCC Arbitration Institute's neutral expert assessment service

12 September 2023

08.15–09.45
Berlin Dispute Resolution Days

 **Berlin**
WilmerHale,
Friedrichstr. 95,
22nd floor, 10117

Program:

8.15	Doors open <i>Breakfast served</i>
8.30	Welcome Remarks - Ole Jensen, WilmerHale
8.35	SCC Express – On time, On Track - Barton Legum, Honlet Legum Arbitration & SCC Board Member - Jake Lowther, SCC Arbitration Institute - Sarah Ganz, WilmerHale (Moderator)
9.15	Q/A - Sarah Ganz, WilmerHale (Moderator)
9.20-9.45	<i>Fika</i> <i>Mingle with kaffe & kanelbullar</i>

Event description

All aboard! Join WilmerHale and the SCC Arbitration Institute ("SCC"), supported by the Association of Corporate Counsel – Germany ("ACC"), for a *frukost* (breakfast) featuring a *smörgåsbord*, *kanelbullar* and an engaging discussion about the SCC Express.

- Embark on a journey through the intricacies of the SCC Express, the SCC's swift neutral expert assessment service, where an assessment is rendered within three weeks for a flat fee
- Hear the latest insights and take aways from the first SCC Express case
- Explore how SCC Express can provide effective solutions for complex legal disputes, offering a streamlined and efficient process, keeping business relations on track

Don't miss this exceptional opportunity to learn more about the SCC Express, gain valuable insights into neutral expert assessment, and enjoy some traditional Swedish cinnamon buns with colleagues!

Seating is limited, so please RSVP at your earliest convenience to secure your place.

Välkommen!

Organizers: SCC Arbitration Institute, WilmerHale; supported by ACC Germany

Date: Tuesday, 12 September 2023

Time: 08.15-09.45

Venue: WilmerHale Berlin Office
Friedrichstr. 95, 22nd floor, 10117 Berlin

[REGISTRATION HERE](#)

Moderators



Dr. Sarah Ganz
Special Counsel
WilmerHale
London / Berlin

Speakers



Barton Legum
Member of the SCC Board
Partner
Honlet Legum Arbitration
Paris



Jake Lowther
Legal Counsel
SCC Arbitration Institute
Stockholm



Dr. Ole Jensen
Senior Associate
WilmerHale
Berlin / London

SCC Express

Resolve your dispute in three weeks for a fixed fee

Jake Lowther, Legal Counsel

12 September 2023

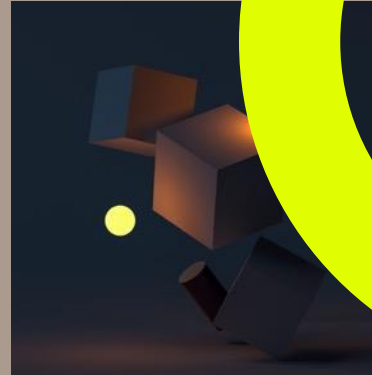


Agenda

- SCC Arbitration Institute
- SCC Express
- Q&A

Who is the SCC?

- Independent and reliable since 1917
- “The most modern arbitration institute in the world”
- Typical annual caseload 150–215
- 50 % international cases
- East-West disputes
- Energy and “green” disputes



The history of the SCC

“Arbitrating for **peace.**”

SCC established

US-USSR Optional Clause Agreement

Co-operation Agreement with China Council for Promotion of International Trade

First investor-state dispute

1917

1977

1984

1993

SCC innovation



SCC services

SCC
Arbitration >

SCC
Expedited
Arbitration >

SCC
Express >

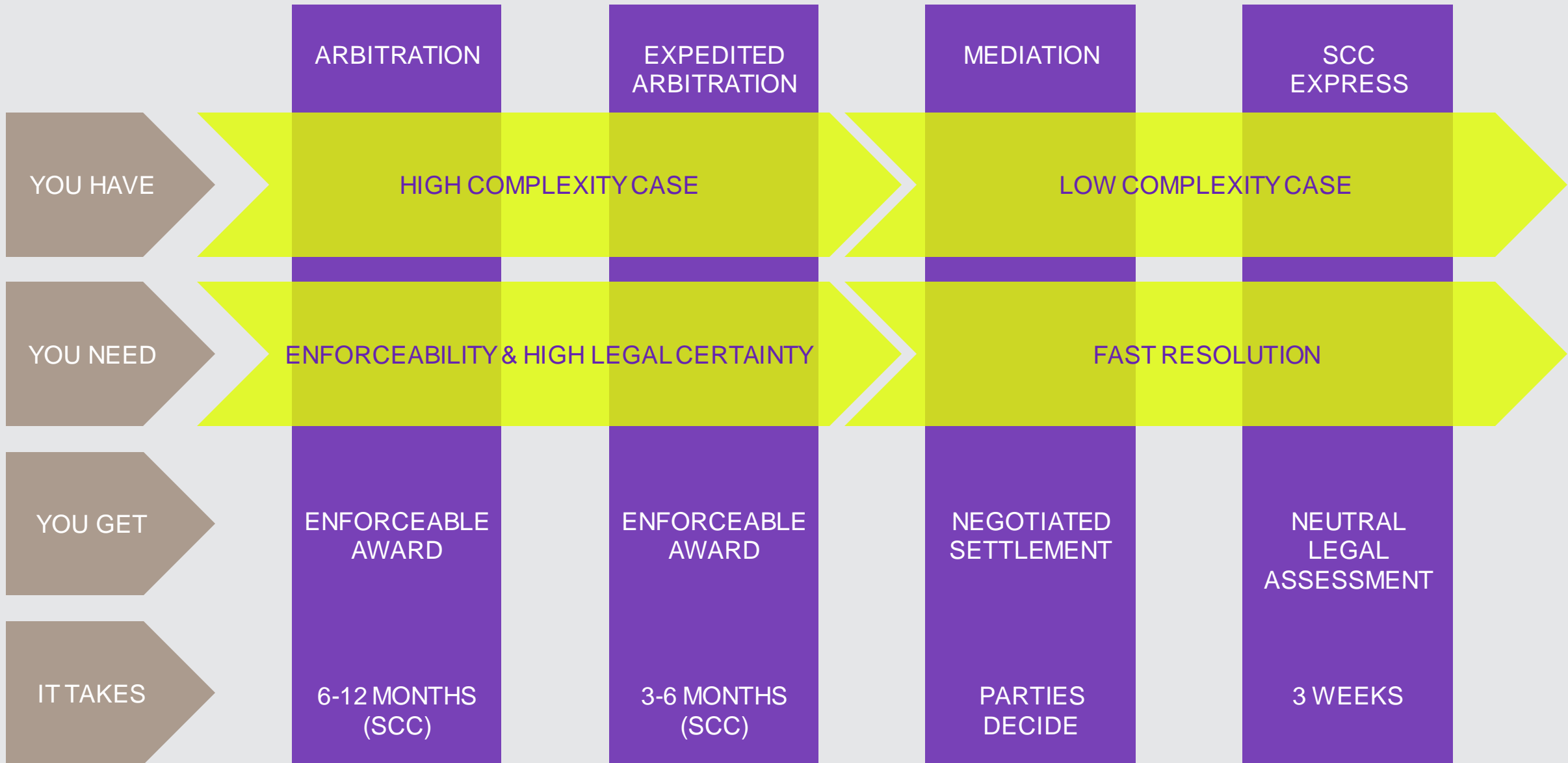
SCC
Emergency
Arbitrator >

SCC
Mediation >

SCC
Investment
Disputes >

SCC
Ad Hoc
Services >

SCC
UNCITRAL >



The scent of world class arbitration

Explore a better process – a better solution



SCC Express

Using the right tool for the right dispute

Resolve your dispute in 3 weeks for a fixed fee

- New dispute resolution tool
- Invented to fill a gap in the market
- Parties wish to move on with their business together
- Parties consent needed
- Neutral legal assessment within 3 weeks
- Fixed fee of EUR 29 000

SCC Express

The need for a new tool

Trends indicating a need for a new tool

- Tools being used for *prima facie* assessments
- Disputes as a financial transaction
- Explicit requests for a new tool

Two years of investigating if, what and how

- Board discussions and reviews
- Task Force under SCC umbrella
- Market evaluation with in-house counsels and practitioners

When?

- If the parties:
 - have a good, ongoing business relationship.
 - value being able to work quickly on a joint project.
 - have (de)limited substantive questions in issue.
 - are looking for a timely and cost-effective dispute resolution process.
 - are likely to accept the assessment without an enforceable judgment.
 - want to get an idea of how an issue in dispute would be assessed in a full-scale arbitration.

Why?

- Spend your time on business - not on disputes
- Not all disputes merit a full procedure
- Not all counterparties require enforcement to comply
- Quickly move on with the business at hand

The proceedings

- Request for appointment of the Neutral and payment of registration fee
- Communication of request to and consent from other party
- Payment of the remainder of the fee
- SCC appoints the Neutral within 48 hours
- The parties present their views
- The Neutral provides its assessment within 3 weeks of appointment

The first SCC Express

- The assessment arrived on time
- A domestic case concerning the right to additional payments and, if such right existed, how much
- The parties were well-prepared with delimited contentious questions for assessment
- Parties influence the time to resolve the dispute
- More preparation equals less drama
- An attorney is not required, but can be helpful

Model Agreement - for submitting existing dispute to SCC Express

The undersigned parties hereby agree to submit their dispute arising out of [name/date of the Contract] and relating to [description of the dispute] to be submitted to proceedings in accordance with the Rules for Express Dispute Assessment of the SCC Arbitration Institute.

Model clause - for submitting disputes regarding a specific contractual provision to SCC Express

- In the event of a dispute regarding the interpretation or application of [this contractual provision], the following applies.
- In order to limit the scope of disputes arising in connection with this agreement, the parties have agreed that, in the event that the dispute concerns the interpretation or application of [this contractual provision], they should primarily request an assessment according to the SCC Rules for Express Dispute Assessment. This understanding does however not prevent any of the parties from referring, at any time, the dispute to arbitration, as prescribed [in clause [....] of this agreement].

Model clause - for submitting disputes regarding the interpretation or application of the contract to SCC Express and, if the dispute is not resolved, to SCC arbitration

- In the event of a dispute arising from this agreement, the parties agree to first request an assessment of the dispute or certain issue(s) of importance to the dispute according to the SCC Rules for Express Dispute Assessment.
- This understanding does however not prevent any of the parties from referring, at any time, disputes under this agreement to arbitration and in such case any dispute, controversy or claim arising out of or in connection with this contract, or the breach, termination or invalidity thereof, shall be finally settled by arbitration in accordance with the SCC Arbitration Rules.

Recommended additions:

- The seat of arbitration shall be [...].
- The language to be used in the arbitral proceedings shall be [...].
- This contract shall be governed by the substantive law of [...].

Model clause - a model multi-tiered dispute resolution clause with SCC Express and SCC arbitration as two of the steps

- Disputes arising out of [this agreement/this provision] shall primarily be settled by [the order for discussion of disputed issues that the parties' agreement prescribes, for example meetings between the CEO's.]
- In the event that the dispute cannot be resolved in accordance with what is prescribed in [paragraph above], the parties, as a second step, undertake to request an assessment of the dispute or certain question(s) of importance to the dispute according to the SCC Rules for Express Dispute Assessment.
- If the dispute cannot be resolved in accordance with the provisions stated above, the parties shall refer the dispute to be finally settled by arbitration in accordance with the SCC Arbitration Rules. The seat of the arbitration shall be [...]. The language to be used in the arbitral proceedings shall be [...]. This contract shall be governed by the substantive law of [...].
- This understanding does not prevent the parties from referring, at any time, a dispute under this agreement to arbitration in accordance with the foregoing paragraph.

Recommended additions:

- The seat of arbitration shall be [...].
- The language to be used in the arbitral proceedings shall be [...].
- This contract shall be governed by the substantive law of [...].

Possible additions

Additions 1 and 2 are alternate options:

1. The findings of the Neutral delivered in accordance with the SCC Rules for Express Dispute Assessment shall be contractually binding upon the parties.
2. The findings of the Neutral delivered in accordance with the SCC Rules for Express Dispute Assessment shall be contractually binding upon the parties. If either party requests arbitration within [30] days of receiving the assessment, the assessment shall only be binding and valid until otherwise ordered or decided by the arbitral tribunal.

Possible additions

3. The parties may, in a subsequent arbitration or otherwise, use the findings of the Neutral and the information learned in the context of or in connection with an assessment in accordance with the SCC Rules for Express Dispute Assessment.
4. [One of the parties] shall be liable for the costs of the SCC Express pursuant to § 11 of the SCC Rules for Express Dispute Assessment.

Questions?

More information available here:

- <https://sccarbitrationinstitute.se/en/our-services/scc-express>
- <https://sccarbitrationinstitute.se/en/model-clauses/model-clause-english>
- https://sccarbitrationinstitute.se/sites/default/files/2022-11/scc-rules-for-express-dispute-assessment_20210524_0.pdf

Contact:

- Jake Lowther
- jake.l@sccarbitrationinstitute.com