



SCC Guide

**Guide to the use of artificial intelligence
in cases administered under the SCC rules**

ADOPTED BY THE SCC BOARD ON 16 OCTOBER 2024.

SCC Guide

Introductory remarks

Artificial intelligence (“AI”) is a rapidly evolving and transformative field with no universal definition. At the same time, international arbitration has in recent years been the subject of criticism for perceived increases in time and cost. AI offers exciting possibilities to reverse this.

The SCC Arbitration Institute (“SCC”) provides arbitration users with an independent and impartial forum for the reliable, efficient, and expeditious resolution of disputes worldwide. As a thought leader at the forefront of innovation, the SCC has prepared this Guide to the Use of Artificial Intelligence in Cases Administered Under the SCC Rules¹ (“AI Guide”) to provide flexible guidance to participants in an SCC case without imposing specific obligations. The AI Guide may be updated from time to time based on future technological, legal, and/or regulatory developments.

For the sake of clarity, to the extent that this AI Guide is incompatible with any agreement of the parties, and or applicable mandatory rules and regulations, the latter shall of course prevail.

AI and its uses

AI has been used to describe various computer programs exhibiting capabilities more commonly associated with human intelligence. According to Article 3(1) of the European Union’s (“EU”) Regulation 2024/1689 (“AI Act”),² which entered into force on 1 August 2024, an “*artificial intelligence system*” can be defined as a:

“... machine-based system that is designed to operate with varying levels of autonomy and that may exhibit adaptiveness after deployment, and that, for explicit or implicit objectives, infers, from the input it receives, how to generate outputs such as predictions, content, recommendations, or decisions that can influence physical or virtual environments.”³

AI systems are capable of adapting their behaviour to a certain degree by analysing the effects of previous actions and working autonomously.

AI and arbitration

Arbitration practitioners are already deploying AI in numerous ways, with new uses and tools developing and evolving at an impressive pace. The uses to date include:

- i) legal research, concept searching,
- ii) editing and proof-reading,
- iii) translations and interpretations,

¹ Defined in Article 1 of the SCC Arbitration Rules as “*the Arbitration Rules of the SCC (the “Arbitration Rules”), the Rules for Expedited Arbitrations of the SCC (the “Rules for Expedited Arbitrations”) and other rules and procedures adopted by the Stockholm Chamber of Commerce*”.

² Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence and amending Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (Artificial Intelligence Act).

³ See Recital 12 of the EU AI Act for additional background information.

- iv) transcriptions,
- v) generating briefing notes, diagrams, and summaries of texts,
- vi) drafting communications and submissions,
- vii) document production,
- viii) document management,
- ix) reviewing, analysing, and presenting of evidence,
- x) drafting cross-examination questions,
- xi) arbitrator appointments, and
- xii) case-value analysis.

The list of AI's uses in arbitration continues to expand, with significant potential.

Managing AI's potential

The use of AI in dispute resolution has significant potential to reduce cost and increase efficiency. Because of the societal importance of binding dispute resolution, the EU Act qualifies as high-risk AI systems used by an Arbitral Tribunal *"in researching and interpreting facts and the law and in applying the law to a concrete set of facts."*⁴ The SCC encourages Arbitral Tribunals using AI systems for this purpose, and as appropriate other participants in arbitration, to bear in mind the following.

Confidentiality: Many users value arbitration's ability to respect accords on confidentiality. The use of some AI tools may have unintended consequences for the confidentiality of an arbitration. Participants, in particular the Arbitral Tribunal, are therefore encouraged to inform themselves as to how any data input is employed and deployed when using AI.

Quality: At the present state of development, the use of some AI systems may contribute to the perpetuation of biases or generate incorrect or false information. AI systems may also produce false or manipulated evidence. Therefore, AI systems should be equipped with technical solutions to mark and detect AI-generated or manipulated content, using reliable and interoperable methods. Arbitral Tribunals should ensure any use of AI does not lead to any reduction in the quality of their decisions. To ensure effective human oversight, Arbitral Tribunals should apply an appropriate level of review and verification to any outputs of AI systems before making use of such outputs in an arbitration.

Integrity: The integrity of arbitration is essential to its continued success. Transparency and accountability are key components of integrity. Arbitral Tribunals are therefore encouraged to disclose any use of AI in researching and interpreting facts and the law or applying the law to facts. Such disclosure may assist in ensuring the parties' rights to be heard, and that the Arbitral Tribunal does not exceed its mandate.

Non-delegation of the decision-making mandate: AI tools may be used to support arbitral decision-making but cannot replace it. Arbitral Tribunals cannot delegate the decision or the reasoning leading to it to anyone or anything.

⁴ EU AI Act, Recital 61, Annex III, 8 (a).