

ARTICLES

EMERGING INTERNAL CONTROL IN INSTITUTIONAL ARBITRATION

*Meng Chen**

I. INTRODUCTION

To some extent, the charm of international commercial arbitration derives from its complexity, involving many inherent contradictions. It is developed as autonomous and internationalized dispute resolution, while it inevitably relies on sovereign support. With arbitration becoming more and more internationalized and autonomous, rules and regulations generated inside of the arbitration community have gradually played important roles in arbitration governance.¹ Contributions from numerous international arbitration institutions are particularly noticeable in this development. Institutional arbitration takes the lead in the development of international commercial arbitration. Rules and regulations generated in institutional arbitration practice not only facilitate single institutional arbitration processes, but also contribute to arbitration autonomy.

This article presents a completed picture of the emerging internal control in the international commercial arbitration regime. It first examines numerous arbitration rules and analyzes their revision history. After exploring empirical research on representative institutional arbitration rules, this article exposes uniformity and divergence in these rules. In conclusion, this article attempts to bring the international community's attention to the emerging and rising internal control and its contribution to the development of the whole arbitration world.

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¹ Alec Stone Sweet, *The New Lex Mercatoria and Transnational Governance*, 13 J. EUR. PUB. POL'Y 627 (2006).

II. EMPIRICAL RESEARCH ON INSTITUTIONAL
ARBITRATION RULES

This research sorts out eight world-leading arbitration institutions as research samples, including the London Court of International Arbitration (LCIA), International Chamber of Commerce (ICC), American Arbitration Association (AAA), the Arbitration Institute of the Stockholm Chamber of Commerce (SCC), Australian Centre for International Commercial Arbitration (ACICA), China International Economic and Trade Arbitration Commission (CIETAC), Hong Kong International Arbitration Center (HKIAC), and Singapore International Arbitration Center (SIAC). These arbitration institutions are located all over the world and are capable of representing an integrated image of worldwide developments in institutional arbitration. In recent years, institutional arbitration enjoyed rocketing numbers of caseloads. The following table demonstrates amounts of cases administered by several world-leading arbitration institutions from 2006 to 2015.

Year	ICC ²	LCIA ³	SCC ⁴	AAA/ICDR ⁵	HKIAC ⁶	CIETAC ⁷	SIAC ⁸	Total
2006	593	133	141	586	394	442	90	2379
2007	599	137	170	621	448	429	86	2490
2008	663	215	176	703	602	548	99	3006
2009	817	272	216	836	649	559	160	3509
2010	793	246	197	888	624	418	198	3364
2011	796	224	199	994	502	470	188	3373
2012	759	265	177	996	456	331	235	3219
2013	767	290	203	Nearly 1200 ⁹	463	375	259	3557
2014	791	296	183	Nearly 1100	477	387	222	3456
2015	801	326	181	1063	520	437	271	3599

² *Statistics*, ICC, <http://www.iccwbo.org/Products-and-Services/Arbitration-and-ADR/Arbitration/Introduction-to-ICC-Arbitration/Statistics/> (last visited Oct. 31, 2016).

³ *Reports*, LCIA, <http://www.lcia.org/LCIA/reports.aspx> (last visited Oct. 31, 2016).

⁴ *Statistics*, SCC, <http://www.sccinstitute.com/statistics/> (last visited Oct. 31, 2016).

⁵ *Annual Reports*, AAA/ICDR, https://www.adr.org/aaa/faces/s/about/annualreports?_afzWindowId=null&_afzLoop=275850272494984&_afzWindowMode=0&_adf.ctrl-state=x5k6ucl00_74#%40%3F_afzWindowId%3Dnull%26_afzLoop%3D275850272494984%26_afzWindowMode%3D0%26_adf.ctrl-state%3Dwg386gi55_4 (last visited Oct. 31, 2016); Thomas Dietz, *Does International Commercial Arbitration Provide Efficient Contract Enforcement Institutions For International Trade?*, in *INTERNATIONAL ARBITRATION AND GLOBAL GOVERNANCE* 168, 172 (Walter Mattli & Thomas Dietz eds., 2014).

⁶ *Case Statistics*, HKIAC, <http://220.241.190.1/en/hkiac/statisticsstatistics> (last visited June 13, 2016); Dietz, *supra* note 5.

⁷ *Statistics*, CIETAC, <http://www.cietac.org/index.php?m=page&a=index&id=24> (last visited Oct. 31, 2016).

⁸ *Statistics*, SIAC, <http://www.siac.org.sg/2014-11-03-13-33-43/facts-figures/statistics> (last visited Oct. 31, 2016).

⁹ *2014 Annual Report*, AAA, <https://www.icdr.org/icdr/ShowProperty?nodeId=%2FUCM%2FADRSTAGE2021420&revision=latestreleased> (last visited Oct. 31, 2016).

When institutional arbitration gradually won the dispute resolution market, these arbitration institutions consistently made efforts to provide more detailed and thoughtful services to their clients. This part attempts to elaborate development of institutional arbitration by analyzing their arbitration rules. Firstly, this part demonstrates revision of institutional arbitration rules related to their number, establishing date, and content. Then, it compares and concludes convergent and divergent trends in institutional arbitration.

A. Increasing Institutional Arbitration Rules and Regulations

1. London Court of International Arbitration (LCIA)

The London Court of International Arbitration (LCIA) was established on April 5, 1891 in London, United Kingdom.¹⁰ The LCIA is one of the oldest and best-known international arbitration institutions for commercial dispute resolution. The LCIA has its headquarters in London, and also establishes Users’ Councils in every geographic region in the world.¹¹ The current version of the LCIA Rules was effective as of October 1, 2014. The LCIA does not enact arbitration rules to regulate specific subject matters. The revision history of the LCIA arbitration rules is displayed in the following table.

Date	LCIA Arbitration Rules (Key Changes)
Effective October 1, 2014	Emergency Arbitrator and Expedited Formation of Tribunal (Article 9), Consolidation of Parallel Proceedings (Article 22), Conduct of Legal Representatives (Article 18), Shortened Deadlines (Article 2, 10, and 27), Arbitrator’s Availability (Articles 5 and 14), Number of Tribunal Members (Article 5.8), Initial Case Management (Articles 14), Hearings Through Video and Telephone (Article 19), Timetable for the Final Award (Article 15), Allocation of Costs (Article 28), Changeable Default Seat (Article 16), Law Applicable to the Arbitration Agreement (Article 16). ¹²

¹⁰ History, LCIA, <http://www.lcia.org/LCIA/history.aspx> (last visited Oct. 31, 2016).

¹¹ 1 DAVID K. SCHOLLENBERGER & STEVEN P. FINIZIO, TRANSNATIONAL BUSINESS TRANSACTIONS § 8:32 (Westlaw 2016).

¹² MAXI SCHERER, LISA M. RICHMAN & RÉMY GERBAY, ARBITRATING UNDER THE 2014 LCIA RULES: A USER’S GUIDE (Wolters Kluwer Law & Business, 2015).

Effective January 1, 1998	Notices and Periods of Time (Article 4), Three or More Parties (Article 8), Expedited Formation of the Tribunal (Article 9), Majority Power to Continue Proceedings (Article 12), Time for Submission of Written Statements and Documents (Article 15), Seat and Place of Arbitration (Article 16), Language of Arbitration (Article 17), The Right to a Hearing (Article 19), Additional Powers of the Tribunal (Article 22), Interim and Conservatory Measures (Article 25), Confidentiality (Article 30). ¹³
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2. International Chamber of Commerce (ICC)

The International Chamber of Commerce (ICC) is a private world business organization. In 1923, it established the ICC International Court of Arbitration in Paris, France, to administrate international commercial arbitration.¹⁴ The ICC Court not only appoints arbitrators (absent party agreement) and administers the proceedings, but also supervises the application of ICC Rules and the progress of each arbitration.¹⁵ The current version of the ICC Arbitration Rules came into force on January 1, 2012. Except for emergency arbitrator provisions, these new rules apply to all ICC arbitrations, even when the arbitration agreement was entered into beforehand.¹⁶ The ICC does not enact arbitration rules to regulate specific subject matters.

Date	ICC Arbitration Rules (Key Changes)
Effective January 1, 2012	Requirements at the Commencement of Arbitration (Article 4), Emergency Arbitrators (Article 29), “Impartial and Independent” Arbitrators (Article 11), Challenges to Jurisdiction (Article 6), Multiple Contracts and Parties (Article 7), Case Management Procedures (Article 22 and 24), Other Miscellaneous Changes (Article 17). ¹⁷

¹³ Adrian Winstanley BSc, *The New Rules of the London Court of International Arbitration (LCIA)*, 8 AM. REV. INT’L ARB. 59 (1997).

¹⁴ *ICC Dispute Resolution Services*, ICC, <http://www.iccwbo.org/about-icc/organization/dispute-resolution-services/> (last visited May 14, 2016).

¹⁵ THOMAS L. GRAVELLE & MARY A. BEDIKIAN, *MICHIGAN PLEADING AND PRACTICE*, 8A MICH. PL. & PR. § 62C:151 (Westlaw).

¹⁶ LILLIAN V. BLAGEFF, *LEGAL ASPECTS OF INTERNATIONAL SOURCING*, 1 LEGAL ASPECTS OF INT’L SOURCING § 6:4 (Westlaw).

¹⁷ Linnea Ignatius, *A Decade and Some Change: A Look into the New 2012 ICC Rules of Arbitration*, 4 Y.B. ON ARB. & MEDIATION 420 (2012).

3. American Arbitration Association (AAA)

The AAA, which was founded in 1926 and based in New York, is a nonprofit organization that provides alternative dispute resolution services.¹⁸ In 1996, the AAA established an international division, the International Centre for Dispute Resolution (ICDR) in Dublin, to provide conflict-management services in more than eighty countries.¹⁹ The AAA/ICDR published many arbitration rules and codes specializing in consumer, labor, domain name, construction, insurance, real estate arbitrations, and so on. The current AAA Arbitration Rules were amended and made effective on June 1, 2014. Because the number of arbitration rules provided by the AAA/ICDR are numerous, it is not necessary to introduce all of their revision history and key changes. The following table displays a summary of some important arbitration rules and codes enacted by the AAA/ICDR.²⁰

AAA/ICDR Arbitration Rules ²¹	AAA/ICDR Codes and Protocols ²²
<ol style="list-style-type: none"> 1. International Dispute Resolution Procedures (Including Mediation and Arbitration Rules) 2. Consumer Arbitration Rules 3. AAA/ICDR Optional Appellate Arbitration Rules 4. Commercial Arbitration Rules and Mediation Procedures 5. Labor Arbitration Rules 6. Procedures for Cases Under the UNCITRAL Arbitration Rules 7. Inter-American Commercial Arbitration Commission Rules 8. Supplementary Procedures for Internet Corporation for Assigned Names and Numbers (ICANN) Independent Review Process 9. Judicial Settlement Conference Procedures 10. AAA Domain Name Disputes Supplementary Rules 11. Employment Arbitration Rules and Mediation Procedures 12. Construction Industry Arbitration Rules and Mediation Procedures 13. Real Estate Industry Rules 14. Insurance Arbitration Rules and Mediation Procedures 	<ol style="list-style-type: none"> 1. Policy Statement of the MN No-fault Standing Committee 2. MN Supreme Court No-Fault Arbitrators' Standard of Conduct 3. Labor Neutrals Code of Professional Responsibility 4. ICDR Protocol for Manufacturer/Supplier Disputes 5. Healthcare Due Process Protocol 6. Employment Due Process Protocol 7. Consumer Due Process Protocol Statement of Principles 8. Consumer Due Process Protocol 9. Code of Ethics for Arbitrators in Commercial Disputes

¹⁸ SCHOLLENBERGER & FINIZIO, *supra* note 11.

¹⁹ *About AAA*, AAA, https://www.adr.org/aaa/faces/s/about?_afLoop=203469165792926&_afWindowMode=0&_afWindowId=xmkdluu4j_138#%40%3F_afWindowId%3Dxmkdluu4j_138%26_afLoop%3D203469165792926%26_afWindowMode%3D0%26_adf.ctrl-state%3Dxmkdluu4j_158 (last visited Oct. 31, 2016).

²⁰ The number of arbitration rules enacted by AAA/ICDR is around sixty-three by February 12, 2015; most of them govern very specific issues and are not relevant to the topic of this research.

²¹ *Rules and Forms*, AAA, https://www.adr.org/aaa/faces/rules?_afLoop=1137759676994483&_afWindowMode=0&_afWindowId=11uau56zl_163#%40%3F_afWindowId%3D11uau

4. Arbitration Institute of the Stockholm Chamber of Commerce (SCC)

The Arbitration Institute of the Stockholm Chamber of Commerce (SCC), which was established in 1917 in Stockholm, Sweden, is an independent institution within the Stockholm Chamber of Commerce providing alternative dispute resolution services.²³ The current arbitration rules of the SCC were entered into force on January 1, 2010. In addition to the SCC Rules, the SCC Institute has enacted “Rules for Expedited Arbitration” and recommends that they be used primarily for minor disputes for which the parties require a speedy and inexpensive procedure.²⁴ The SCC does not provide arbitration rules for specific arbitrations. The current active arbitration rules enacted by the SCC include Arbitration Rules, Expedited Arbitration Rules, and Mediation Rules. The SCC also develops a series of procedures for administering cases under the UNICITRAL Arbitration Rules. The following table displays a summary of arbitration rules enacted by the SCC.

Date	SCC Arbitration Rules
Effective January 1, 2010	Arbitration Rules
Effective January 1, 2010	Expedited Arbitration Rules
Effective 2014	Mediation Rules
Effective 2015	UNCITRAL at SCC

5. Australian Centre for International Commercial Arbitration (ACICA)

The Australian Centre for International Commercial Arbitration (ACICA), which was established in 1985, is Australia’s leading international dispute resolution organization, providing international and domestic arbitration and mediation services. ACICA does not provide specialized arbitration rules except for the ACICA Arbitration Rules and ACICA Expedited Arbitration Rules. In 2011, the Australian Government confirmed the ACICA as the sole default appointing authority competent to perform the arbitrator appointment functions under the amended International Arbitration Act of 1974. To give effect to this, the ACICA has de-

56zl_163%26_afrLoop%3D1137759676994483%26_afrWindowMode%3D0%26_adf.ctrl-state%3D11uau56zl_203 (last visited May 14, 2016).

²² *Id.*

²³ *About the SCC*, SCC, <http://www.sccinstitute.com/about-the-scc/> (last visited May 14, 2016).

²⁴ *Id.*

veloped the Appointment of Arbitrators Rules 2011.²⁵ In 2011, the ACICA incorporated emergency arbitrator provisions into its Arbitration Rules—a first for an Australian arbitral body—for speeding up the resolution of international commercial disputes. This provision provides parties with greater flexibility, including an option to seek urgent interim measures of protection from an emergency arbitrator before the arbitral tribunal is constituted.²⁶ The new ACICA Arbitration Rules and Expedited Arbitration rules come into effect on January 1, 2016. The following table displays a summary of arbitration rules enacted by the ACICA.

Date	ACICA arbitration rules
Effective January 1, 2016	ACICA Expedited Arbitration Rules
Effective January 1, 2016	ACICA Arbitration Rules incorporating Emergency Arbitrator Provisions (2016)
Effective July 17, 2007	ACICA Mediation Rules
Effective 2011	Appointment of Arbitrators' Rules

6. China International Economic and Trade Arbitration Commission (CIETAC)

The China International Economic and Trade Arbitration Commission (CIETAC) was established by China Council for the Promotion of International Trade (CCPIT) in Beijing, China, in 1956.²⁷ With its headquarters in Beijing, CIETAC established its South Sub-Commission in Shenzhen, Shanghai Sub-Commission, Tianjin International Economic and Financial Arbitration Center (Tianjin Sub-Commission), and Southwest Sub-Commission in Chongqing.²⁸ CIETAC administrates both international and national commercial arbitrations, most of which have certain business relations with China. It rapidly developed into the busiest arbitration institution in the world. Notably, in 2012 the CIETAC South Commission in Shenzhen and CIETAC Shanghai Commission in Shanghai announced their independence from CIETAC headquarters in Beijing. Their split caused an unparalleled crisis within the CIETAC System, which is still unsettled at the moment.²⁹ Currently, the former CIETAC South Commission and Shanghai Com-

²⁵ Introduction, ACICA, <https://acica.org.au/> (last visited Oct. 31, 2016).

²⁶ Expanded in Part II.B.

²⁷ About CIETAC, CIETAC, <http://www.cietac.org/index.php?m=page&a=index&id=34&language=en> (last visited May 14, 2016).

²⁸ *Id.*

²⁹ Meng Chen, *Is CIETAC Breaking Apart? An Analysis of the Split in the CIETAC System*, 6(1) CONTEMP. ASIA ARB. J. 107 (2013).

mission respectively changed their names to Shenzhen Court of International Arbitration and Shanghai International Arbitration Center. Arbitral awards administrated by these two former commissions of CIETAC have been recognized and admitted by local Chinese courts. After this split, CIETAC reestablished offices in Shanghai and Shenzhen. The current CIETAC Arbitration Rules entered into force on January 1, 2015. CIETAC also enacted the CIETAC Financial Disputes Arbitration Rules, CIETAC Online Arbitration Rules, and CIETAC Construction Dispute Review Rules in November 2014, and all of these rules came into force on January 1, 2015. A summary of the CIETAC Arbitration Rules is displayed in the following table.

Date	CIETAC Arbitration Rules
Effective January 1, 2015	CIETAC Arbitration Rules
Effective January 1, 2015	CIETAC Financial Disputes Arbitration Rules
Effective January 1, 2015	CIETAC Construction Dispute Review Rules
Effective January 1, 2015	CIETAC Online Arbitration Rules

7. Hong Kong International Arbitration Centre (HKIAC)

The Hong Kong International Arbitration Centre (HKIAC) was established in 1985 to meet the growing need for arbitral services in Asia.³⁰ The current HKIAC Administrated Arbitration Rules are effective beginning November 1, 2013. The HKIAC also formulated several sets of rules for domestic arbitrations, “short form” proceedings, small claims, documents-only proceedings, and electronic transaction disputes, which the parties are free to adopt.³¹ Here is a summary of the HKIAC Arbitration Rules and Practice Note.

³⁰ *About Us*, HKIAC, <http://www.hkiac.org/about-us> (last visited May 14, 2016).

³¹ *Rules & Practice Notes*, HKIAC, <http://hkiac.org/arbitration/rules-practice-notes> (last visited Oct. 31, 2016).

Date	HKIAC Arbitration Rules
Effective January 1, 2016	Practice Note on Consolidation of Arbitrations
Effective October 31, 2014	Practice Note on the Challenge of an Arbitrator
Effective January 1, 2015	HKIAC Procedures for the Administration of Arbitration under the UNCITRAL Arbitration Rules
Effective August 1, 1999	HKIAC Mediation Rules
Effective September 9, 2008	HKIAC Adjudication Rules
Effective July 1, 1993	HKIAC Securities Arbitration Rules
Effective January 1, 2002	HKIAC Electronic Transaction Arbitration Rules
Effective August 1, 1992	HKIAC Short Form Arbitration Rules
Effective January 1, 2000	HKIAC Small Claims and “Documents Only” Procedures

8. Singapore International Arbitration Centre (SIAC)

The Singapore International Arbitration Centre (SIAC) was established in 1991.³² The SIAC Arbitration Rules, which were recently revised in 2010 and again in 2013, draw heavily upon the ICC Rules.³³ In addition, the SIAC developed its Code of Ethics for an Arbitrator to regulate appointed arbitrators’ ethical issues. The SIAC also provides special arbitration rules to regulate expedited arbitrations for disputes arising from derivative trading and derivative clearing, respectively.³⁴ The following table displays a summary of arbitration rules enacted by the SIAC.

Date	SCIA Arbitration Rules
Effective April 1, 2013	2013 SIAC Rules
Effective 2009	Code of Ethics for An Arbitrator
Effective July 1, 2005	SIAC SGX-DT Arbitration Rules
Effective March 27, 2006	SIAC SGX-DC Arbitration Rules

B. *Uniformity and Divergence in Institutional Arbitration*

Revision activities of the arbitration rules enacted by these world-leading international arbitration institutions expose an interesting phenomenon: that most arbitration institutions revised their arbitration rules in the same narrow period of time. For example, most institutional arbitration rules now in effect came into force

³² *About Us*, SIAC, <http://www.siac.org.sg/2014-11-03-13-33-43/about-us> (last visited Oct. 31, 2016).

³³ STEVEN L. SMITH & IVANA J. CINGE, 1 ALTERNATIVE DISPUTE RESOLUTION PRACTICE GUIDE § 19:15 (Westlaw 2016).

³⁴ *Our Rules*, SIAC, <http://siac.org.sg/our-rules> (last visited Oct. 31, 2016).

after 2010, which means that most arbitration institutions revised their arbitration rules around 2012 and 2013. It is intriguing to explore the possible underlying motivations of worldwide revision activities in arbitration institutions. Some researchers pointed out that a revolution in legal rules is a reflection of the dynamic macro international environment.³⁵ At this point, some scholars may be right to argue that the international arbitration community has gradually generated arbitration culture or even some standard norms that imposed universal influence on international arbitration activities.³⁶ If institutions' revision activities comply with this theory, it is not hard to predict that institutions' revision activities not only took place in a similar time, but also focused on similar content that was influenced by prevailing arbitration ideologies at that time.

Examining the main changes in the most recently revised institutional arbitration rules can provide more empirical evidence to this assumption. The following table presents the main changes in content of current effective institutional arbitration rules. A comparison between these key changes indicates that recent institutional arbitration rules' revision do involve many common issues. For example, most institutional arbitration rules added provisions allowing for the appointment of an emergency arbitrator or emergency proceedings for awarding emergency relief before the constitution of an arbitral tribunal.³⁷ Revision of consolidation provisions is also a common choice among these institutional arbitration rules.³⁸ Moreover, similar changes can also be found in provisions regarding expedited proceedings, interim measures, and

³⁵ See generally PETER STEIN, *LEGAL EVOLUTION: THE STORY OF AN IDEA* (1980); E. Donald Elliott, *The Evolutionary Tradition in Jurisprudence*, 85 COLUM. L. REV. 38 (1985); E. Donald Elliott, *Law and Biology: The New Synthesis?*, 41 ST. LOUIS U. L.J. 595 (1997); E. Donald Elliott, *The Tragi-Comedy of the Commons: Evolutionary Biology, Economics and Environmental Law*, 20 VT. J. ENVTL. L. 17 (2001).

³⁶ See generally JOSHUA KARTON, *THE CULTURE OF INTERNATIONAL ARBITRATION AND THE EVOLUTION OF CONTRACT LAW* (2014).

³⁷ Relevant institutional rules include LCIA Arbitration Rules, ICC Rules of Arbitration, ACICA Arbitration Rules, AAA International Dispute Resolution Procedures, SCC Arbitration Rules, CIETAC Arbitration Rules, and HKIAC Adminstrated Arbitration Rules.

³⁸ For example, LCIA ARBITRATION AND ADR WORLDWIDE, ARTICLE 22, http://www.lcia.org/dispute_Resolution_Services/lcia-arbitration-rules-2014.aspx#; AMERICAN ARBITRATION ASSOCIATION AAA, ARTICLE 7 AND 8, https://www.adr.org/aaa/ShowPDF?jsessionid=Q6F3PXhf8pXPBtCSvyQQvyJGxt1VpxzzQGvD3JxczZWn8hTGvkLH!924145485?doc=ADRSTG_002008; CIETAC ARTICLE 19, <http://www.cietac.org/index.php?m=page&a=index&id=36&l=en>; James Rogers, Benjamin Ridgeon, & Chuan Tat Yeo, *HKIAC Rules: A Quick Guide*, NORTON ROSE FULBRIGHT, <http://www.nortonrosefulbright.com/files/hkiac-rules-115913.pdf> (Article 27 and 28); LCIA Article 22, AAA Article 7 and 8, CITEAC Article 19, HKIAC Article 27 and 28.

mediation proceedings. Generally, arbitration institutions do have different emphases in revising their arbitration rules, but the major direction of their revisions is streamlining arbitration proceedings by granting arbitral tribunals more discretionary power and providing faster and simpler procedural options. Maybe it is still too early to contend that similar revisions in institutional arbitration rules evidence that international arbitration culture or standard norms have been formed. At least, it is clear that, institutional arbitration rules all over the world comply more and more with a uniform trend by taking similar revisionary paths.

Arbitration Rules	Effective Date	Main Changes Compared to Previous Version
LCIA Arbitration Rules ³⁹	October 1, 2014	Emergency Arbitrator and Expedited Formation of Tribunal (Article 9), Consolidation of parallel proceedings (Article 22), Conduct of Legal Representatives (Article 18), Shortened Deadlines (Article 2, 10 and 27), Arbitrator's Availability (Articles 5 and 14), Number of Tribunal Members (Article 5.8), Initial Case Management (Article 14), Hearings Through Video and Telephone (Article 19), Timetable for the Final Award (Article 15), Allocation of Costs (Article 28), Changeable Default Seat (Article 16), Law Applicable to the Arbitration Agreement (Article 16).
ICC Rules of Arbitration ⁴⁰	January 1, 2012	Requirements at the Commencement of Arbitration (Article 4), Emergency Arbitrators (Article 29), "Impartial and Independent" Arbitrators (Article 11), Challenges to Jurisdiction (Article 6), Multiple Contracts and Parties (Article 7), Case Management Procedures (Article 22 and 24), Other Miscellaneous Changes (Article 17).
AAA International Dispute Resolution Procedures (Including Mediation and Arbitration Rules) ⁴¹	June 1, 2014	Joinder and Consolidation (Article 7 and 8), Expedited Procedures (Article 1 and E1 to E10), Mediation (Article 5), Appointing Arbitrators (Article 12), Privilege (Article 22), Streamlining Provisions (Article 20, 21, and 30).
AAA Commercial Arbitration Rules and Mediation Procedures ⁴²	October 1, 2013	Mediation Steps (Article R-9), Discovery (Article R-21, 22, and 23), Emergency Measures (Article R-38), Dispositive Motions (Article R-33), Appellate Procedure.

³⁹ *LCIA Arbitration Rules (2014)*, LCIA, http://www.lcia.org/Dispute_Resolution_Services/lcia-arbitration-rules-2014.aspx (last visited May 14, 2016).

⁴⁰ *ICC Rules of Arbitration*, INTERNATIONAL CRIMINAL COURT, <http://www.iccwbo.org/products-and-services/arbitration-and-adr/arbitration/icc-rules-of-arbitration/> (last visited May 14, 2016).

⁴¹ *International Centre for Dispute Resolution: International Dispute Resolution Procedures (Including Mediation and Arbitration Rules)*, AAA, <https://www.adr.org/aaa/ShowProperty?nodeId=UCM/ADRSTAGE2020868&revision=latestreleased> (last visited May 14, 2016).

⁴² *AAA Commercial Arbitration Rules and Mediation Procedures*, AAA, https://www.adr.org/aaa/ShowProperty?nodeId=UCM/ADRSTG_004103&revision=latestreleased (last visited May 14, 2016).

SCC Arbitration Rules ⁴³	January 1, 2010	Emergency Proceedings (Article 32).
ACICA Arbitration Rules incorporating Emergency Arbitrator Provisions (2016) ⁴⁴	January 1, 2016	Consolidation and joinder of arbitration (Article 14 & 15); Expedited procedure (Article 7); Conduct of legal representation (Article 8); Overriding objective (Article 3).
CIETAC Arbitration Rules ⁴⁵	January 1, 2015	Consolidation (Article 19), Interim Measures (Article 21), Emergency Arbitrators (Article 23), Appointment of Arbitrators (Article 28), Suspension of Arbitration (Article 43), Conciliation (Article 45), The Law of the Arbitration (Article 47), Summary Procedure (Article 56), Special Provisions for Hong Kong Arbitration (Articles 73 to 80).
HKIAC Administered Arbitration Rules ⁴⁶	November 1, 2013	Joinder and Consolidation (Article 27 and 28), Emergency Arbitrator Provisions (Article 23 and Schedule 4), Single Arbitration under Multiple Contracts (Article 29), Expedited Procedure (Article 41), Security for Costs (Article 24), Fees of the Tribunal (Article 10 and Schedules 2 and 3).
2013 SIAC Rules ⁴⁷	April 1, 2013	Commencement of Arbitration (Rule 3), Substitute Arbitrators (Rule 14), Witness Interviews (Rule 22), Additional Powers of Tribunals (Rule 24), Investment Arbitration (Rule 3), Jurisdiction Challenges (Rule 25), Publication of Redacted Awards (Rule 28), Waiver of Right to Appeal Against Decisions of the President, Court and Registrar (Rule 36).

Contrary to uniform trends in arbitration rules, these arbitration institutions follow disparate paths on establishing arbitration rules governing specific subject matters. All arbitration institutions located in Europe choose to rely on arbitration rules and mediation rules to provide effective service, while the AAA from the United States takes another path. The AAA enacted more than sixty arbitration rules, codes, and protocols to govern very specific subject matters, including but not limited to consumer disputes, labor disputes, security disputes, construction disputes, internet disputes, electronic transaction disputes, ethical issues, real estate disputes, insurance disputes, and class arbitration issues. These regulations significantly enrich AAA's services in dispute resolution. Arbitration institutions in Asia are inspired by both European and American styles, and decide to take a middle ground. Although

⁴³ *Arbitration Rules 2010*, Arbitration Institute of the SCC, SCC, http://www.sccinstitute.com/media/40129/k4_skiljedomsregler-eng-arb-tryck_1_100927.pdf (last visited May 14, 2016).

⁴⁴ *ACICA Rules 2016 Booklet*, ACICA, https://acica.org.au/wp-content/uploads/2016/02/ACICA_Rules_2016_Booklet.pdf (last visited Oct. 31, 2016).

⁴⁵ *CIETAC Arbitration Rules*, CIETAC, <http://www.cietac.org/index.php?m=page&a=index&id=106&l=en> (last visited Oct. 31, 2016).

⁴⁶ *HKIAC Administered Arbitration Rules*, HKIAC, <http://www.hkiac.org/arbitration/rules-practice-notes/administered-arbitration-rules> (last visited May 14, 2016).

⁴⁷ *SIAC Rules 2013*, SIAC, <http://www.siac.org.sg/our-rules/rules/siac-rules-2013> (last visited May 14, 2016).

Asian arbitration institutions do not enact as many specific arbitration rules as the AAA, they do establish several arbitration rules to cover different subject matters. For example, the HKIAC enacted its Securities Arbitration Rules, Electronic Transaction Arbitration Rules, Short Form Arbitration Rules, Small Claims, and “Documents Only” Procedures. CIETAC provides specific rules to govern financial disputes, construction disputes and online arbitration. The SIAC places emphases on arbitrators’ code of ethics, derivative trading, and derivative clearing disputes.

III. EMERGING INTERNAL CONTROLS IN INSTITUTIONAL ARBITRATION

Professor Reisman used a mechanical norm “control” to describe mechanisms that are incorporated into the abstract international arbitration system to keep it operating functionally, and, more importantly, safely.⁴⁸ Reisman’s theory focused on the supervisory responsibility of national courts, and contended that post-award national judicial review plays the most important and major role in controlling the arbitration process.⁴⁹ In other scholarship, extent of national judicial review or supervision from national legal systems is one of the most important topics in international commercial arbitration. Academic views vary widely on this topic. Most scholars contended that the involvement of national courts in the arbitration process is inevitable and necessary, as long as it does not severely impede party autonomy.⁵⁰ There are other groups of scholars, mostly from Europe, who rebutted the presumed justification of courts’ involvement and asserted that international commercial arbitration is a highly autonomous and internationalized system that should be detached from any national legal systems.⁵¹ Overall, existing academic discussions concentrated

⁴⁸ W. MICHAEL REISMAN, *SYSTEM OF CONTROL IN INTERNATIONAL ADJUDICATION AND ARBITRATION BREAKDOWN AND REPAIR* 127–28, 140 (1992).

⁴⁹ *Id.* at 107.

⁵⁰ Julian D. M. Lew, *Does National Court Involvement Undermine the International Arbitration Process?*, 24 *AM. U. INT’L L. REV.* 489 (2009).

⁵¹ JEAN-FRANÇOIS POUURET & SÉBASTIEN BESSON, *COMPARATIVE LAW OF INTERNATIONAL ARBITRATION* 120–34 (2007); NIGEL BLACKABY ET AL., *REDFERN AND HUNTER ON INTERNATIONAL ARBITRATION* 188–91 (Redfern et al. eds., 5th Ed., 2009); MAURO RUBINO-SAMMARTANO, *INTERNATIONAL COMMERCIAL ARBITRATION* 283–98 (Kluwer Law and Taxation Publishers, 1990).

on extent of judicial supervision and their impacts on the arbitration process.

Except for judicial review, arbitration institutions also play important roles in controlling international arbitration process. Arbitration rules and regulations established by numerous arbitration institutions take on major responsibility to regulate arbitration process in the modern age. Because arbitration institutions are at the leading positions that can make sensitive and timely responses to their clients' needs and have sophisticated legislative experience, institutional arbitration rules and regulations are tailored as practice-oriented and have effective enforcement. In addition, arbitration institutions can interpret and execute their own arbitration rules in a more consistent and certain manner. Furthermore, defects discovered in arbitration rules are easier and faster to get revised or repaired in practice. Even though parties select ad hoc arbitration, they are suggested to designate arbitration procedural rules. Otherwise, they may find themselves in disagreement over arbitral procedures after disputes arise.

Based on empirical evidence analyzed in last chapter, institutional arbitration rules established by different organizations have similar revisions in recent years. Uniformity exposed in institutional arbitration rules' revision greatly enhanced arbitration autonomy. That sort of internal control is also enriched by other self-regulations, such as the ethics code for arbitrators. Arbitration institutions take heralded efforts to establish relevant regulations, including the Code of Ethics for Arbitrators in Commercial Disputes (2004) published by the AAA,⁵² and the Code of Ethics for An Arbitrator (2009) published by the SIAC.⁵³ Then, there are some professional associations publishing several rules and "guidelines" to regulate ethical conduct of arbitrators.⁵⁴ These efforts not only

⁵² "The Code of Ethics for Arbitrators in Commercial Disputes was originally prepared in 1977 by a joint committee consisting of a special committee of the American Arbitration Association and a special committee of the American Bar Association. The Code was revised in 2003 by an ABA Task Force and special committee of the AAA." American Bar Association, *The Code of Ethics for Arbitrators in Commercial Disputes* (2004), ABA, http://www.americanbar.org/content/dam/aba/migrated/dispute/commercial_disputes.authcheckdam.pdf.

⁵³ *Code of Ethics for An Arbitrator*, SIAC, <http://www.siac.org.sg/our-rules/code-of-ethics-for-an-arbitrator> (last visited May 14, 2016).

⁵⁴ For example, the International Bar Association ("IBA") published a series of rules and "guidelines" to cover various ethical issues in arbitration that are not limited to ethics codes for arbitrators, including its Guidelines on Conflicts of Interest in International Arbitration (2014), Guidelines on Party Representation in International Arbitration (2013), International Principles on Conduct for the Legal Profession (2011), and Rules of Ethics for International Arbitrators (1987).

reflect a movement of codifying ethics regulations for arbitrators, but also form the source and basis for establishing a uniform ethics code for arbitrators at the international level. Some scholars have proposed workable drafts based on common norms of truthfulness, fairness, independence, loyalty, and confidentiality drawn from these rules and “guidelines.”⁵⁵ More and more arbitration institutions have commenced in enacting ethics codes for arbitrators,⁵⁶ or at least included relevant provisions when revising their arbitration rules.⁵⁷

Therefore, arbitration institutions established internal control mechanisms inside arbitration systems by enacting gradually convergent arbitration rules. With controls from international convention and national judicial review decreased greatly,⁵⁸ emerging internal controls will supplement this omission and even do better in regulating arbitration activities.

IV. CONCLUSION

Empirical research on data collected from eight world-leading arbitration institutions indicates that: first, these arbitration institutions are constantly revising and enriching their arbitration rules to improve dispute resolution services; second, institutional arbitration rules are revised to a more uniform way at the worldwide level; third, arbitration institutions take different paths in establishing arbitration rules and regulations for specific subject matters. While most of the arbitration community’s attention was drawn to collapsing national supervision on international commercial arbitration⁵⁹ and deficient international convention,⁶⁰ significance of the internal control established inside the arbitration system was severely underestimated. Institutional arbitration constitutes an essential part of arbitration autonomy and internationalism develop-

⁵⁵ Henry Gabriela & Anjanette H. Raymond, *Ethics for Commercial Arbitrators: Basic Principles and Emerging Standards*, 5 WYO. L. REV. 453 (2005).

⁵⁶ For example, AAA, *The Code of Ethics for Arbitrators in Commercial Disputes*, and SIAC *Code of Ethics for An Arbitrator*.

⁵⁷ *ICC Rules of Arbitration*, *supra* note 40, Article 11.

⁵⁸ REISMAN, *supra* note 48.

⁵⁹ REISMAN, *supra* note 48; Lew, *supra* note 50.

⁶⁰ SHEN WEI, *RETHINKING THE NEW YORK CONVENTION: A LAW AND ECONOMICS APPROACH* (2013); Robert C. Bird, *Enforcement of Annulled Arbitration Awards: A Company Perspective and an Evaluation of a “New” New York Convention*, 37 N.C. J. INT’L L. & COM. REG. 1013, 1039, n. 179 (2012).

ment. Arbitration institutions are located in leading positions where they are capable of sensitively detecting and fulfilling new priorities in the arbitration world. Institutional arbitration rules may not be applied as widely as international conventions, but they are much easier to establish and revise than any other national and international provisions, and have better and more consistent implementation in arbitration practice. Arbitration rules also cover all aspects of arbitration proceedings and are the most useful mechanisms for regulating and facilitating arbitration process. Therefore, institutional arbitration rules supplement the vacuum of controls on arbitration proceedings, and greatly improve control effectiveness. In addition, more and more self-regulation rules, such as ethics codes for arbitrators, were proposed to enrich the internal control. A uniform code of ethics for arbitrators is quite promising in the current arbitration regime, considering that many groups have taken concrete steps in drafting and enacting relevant codes, rules, and guidelines.

In conclusion, the rising internal control is experiencing ongoing development responding to the needs of arbitration autonomy and efficient control. Enhancing the internal control can greatly supplement insufficiencies in national controls over international commercial arbitration. With more improvement, the internal control has the potential to play a more and more important role in the whole arbitration world.