

EFFICIENCY BY DESIGN – THE 2026 ICC ARBITRATION RULES

Introduction

The 2026 ICC Arbitration Rules ("**2026 ICC Rules**") came into force on 1 June 2026. Applicable to all requests for arbitration filed on or after that date (unless the parties agree to submit to the Rules in effect on an earlier date), the new 2026 ICC Rules mark a significant revision of the previous 2021 ICC Rules. They reflect recent developments in arbitration practice and aim to enhance clarity, efficiency and user-friendliness.

Among the key changes introduced in the 2026 ICC Rules are the removal of mandatory terms of reference, a broadened emergency arbitration framework and the introduction of a Highly Expedited Arbitration Procedure, designed to deliver a final, enforceable award in just over three months. Below is a summary of what has changed and what it means in practice.

No Mandatory Terms of Reference

For a long time, the Terms of Reference were a hallmark of ICC arbitration. They confirmed the parties' consent to arbitrate, recorded procedural agreements and defined the scope of the dispute. However, they increasingly became the subject of debate, not least because in many proceedings, particularly where one party did not participate, the Terms of Reference led to delays.

Building on positive experience under the Expedited Procedure Provisions introduced in 2017 – where Terms of Reference were never mandatory – the **2026 ICC Rules no longer require Terms of Reference**. In their place, **the Case Management Conference ("CMC") now serves as the central procedural tool** for establishing efficient proceedings from the outset. Terms of

Reference remain available on a voluntary basis, and the ICC is also developing a model Procedural Order No. 1 to assist in setting up efficient proceedings.

A critical consequence is that the CMC is now also the cut-off for new claims. After the CMC, no party may introduce new claims without the tribunal's authorisation (Article 25).

Arbitrator Independence and Impartiality

The disclosure standard itself remains unchanged. However, two important principles that were previously in the Note to Parties and Arbitral Tribunals on the Conduct of the Arbitration are now formally included in the Rules: (1) **Any doubt about whether to make a disclosure shall be resolved in favour of disclosure** (Article 12(2)), and (2) a **disclosure does not, by itself, establish a lack of independence or impartiality** (Article 12(4)).

The revised Rules also newly provide that **parties must assist arbitrators in fulfilling their disclosure obligations**, by requiring each party to submit to the Secretariat a list of persons and entities which they believe prospective arbitrators and arbitrators should consider for the purposes of their disclosure obligations, together with the reasons for their inclusion (Article 12(5)).

Lastly, reflecting current practice, Article 14(2) of the 2026 ICC Rules provides that the Secretary General may refer an arbitrator's confirmation to the Court even in the absence of an objection from the parties.

Written Communications

The 2026 ICC Rules formally note that written communications with the Secretariat shall be made by email or other means of **electronic communication** that creates a record of the sending thereof. This formalises what has become the standard practice in ICC arbitrations.

Time Limit for Final Award

The previously applicable six-month time limit – measured from the last signature of the Terms of Reference – for rendering final awards was routinely extended and rarely observed in practice. Under Article 34 of the 2026 ICC Rules, time limits are now tailored to each arbitration: The President of the ICC Court fixes (or extends) the time limit based on the procedural timetable or a reasoned request from the tribunal.

Signature and Notification of Awards

Article 38 of the 2026 ICC Rules introduces **flexibility** in how awards are signed and notified. After consulting with the parties and considering all relevant circumstances, the tribunal may sign the award electronically, sign in counterparts and/or request the Secretariat to notify the award in paper form, electronic format or any other manner permitted by law.

Emergency Arbitration

The 2026 ICC Rules adopt a more flexible approach to **emergency arbitration** by clarifying that such proceedings may be initiated **not only against signatories and their successors**, but also against parties that may be bound by the arbitration agreement based on a *prima facie* assessment by the President of the ICC Court. This is a meaningful expansion aimed at ensuring effective access to urgent interim relief while preserving the arbitral tribunal's final authority on jurisdiction and admissibility.

The 2026 ICC Rules also expressly recognise **preliminary orders** for the first time. These allow emergency arbitrators to grant measures even **without prior notice** to the opposing party to prevent actions that could frustrate the requested relief, such as asset dissipation or destruction of evidence. At the same time, the Rules preserve due process by requiring that all other parties be immediately given a reasonable opportunity to present their case, and by allowing the emergency arbitrator to modify or revoke the order considering subsequent submissions.

Expedited (EPP) and Highly Expedited Arbitration (HEAP)

The 2026 ICC Rules retain the **expedited procedure** framework (EPP) but expand the range of disputes automatically in scope of expedited arbitration while preserving the parties' freedom to opt in or opt out: The monetary threshold for automatic application now includes disputes up to USD 4 million for arbitration agreements concluded on or after 1 June 2026. For arbitration agreements concluded before 1 June 2026, the previously applicable thresholds of USD 3 million and USD 2 million, respectively, still apply (see Appendix V, Article 1(3) 2026 ICC Rules).

The 2026 ICC Rules also introduce a new procedure framework for super-speed arbitrations: **highly expedited arbitration** (or HEAP), designed to conclude procedures within three months from the initial CMC, which itself must take place within seven days of the sole arbitrator's receipt of the case file. HEAP applies on an opt-in basis only. Parties may opt in to the mechanism either in the arbitration agreement or after a dispute has arisen (Appendix VI of the 2026 ICC Rules).

Unlike the expedited procedure provisions, the highly expedited arbitration provisions are available irrespective of the amount in dispute. They are likely to be attractive for lower-complexity commercial disputes, claims involving a straightforward factual matrix or matters where speed is of the essence.

A few key features include:

- front-loaded substantive submissions – the Statement of Claim must accompany the Request for Arbitration, and the Statement of Defence must accompany the Answer,
- shortened procedural timelines, and
- a tribunal consisting of a sole arbitrator, to be appointed by the Court if the parties cannot agree within 20 days.

The sole arbitrator has broad procedural discretion, including whether to permit document production or hold a hearing, and may limit further submissions and witness evidence to ensure compliance with the expedited timetable. The parties may also agree on an unreasoned award.

The ICC provides model clauses for parties to agree on expedited or highly expedited arbitration proceedings, which can be found [here](#).

Tribunal Secretaries

The 2026 ICC Rules now formally provide in Article 44 that – after consulting with the parties – the tribunal may appoint a tribunal secretary to work under the tribunal's direction and control, without delegating its decision-making authority.

Tribunal secretaries must satisfy the same independence, impartiality and confidentiality requirements as arbitrators and must sign a statement of acceptance, availability, impartiality and independence before their appointment. The tribunal may claim reimbursement of a tribunal secretary's reasonable and justified expenses. The appointment of a tribunal secretary may not, however, create any additional financial burden on the parties. Direct arrangements between the tribunal and the parties regarding fees for tribunal secretaries are prohibited (Appendix III, Article 7).

Confidentiality

An **express confidentiality obligation** is now imposed on arbitrators in Article 12(8) of the 2026 ICC Rules. Arbitrators shall keep confidential all matters relating to the arbitration unless such matters are otherwise in the public domain, agreed by the parties, required by applicable law, or necessary to protect a legal right or comply with disclosure obligations.

The existing confidentiality obligation on the Court and the Secretariat is retained.

The new provision on confidentiality does not extend to the parties. As under the previous version of the rules, the parties may request the tribunal to make orders concerning the confidentiality of the arbitration proceedings (Article 23(3) 2026 ICC Rules).

Early Determination

Under Article 30 of the 2026 ICC Rules, any party may apply to the tribunal for the **early determination** of one or more claims or defences on the grounds that they are **manifestly without merit or manifestly outside the tribunal's jurisdiction**. The tribunal retains discretion over whether to allow the application to proceed and, if it does, shall adopt appropriate procedural measures after consulting the parties.

Truncated Tribunals

Where an arbitrator has died or been removed by the Court after the last hearing or the filing of the last substantive submissions, whichever is later, the Court may decide that the remaining arbitrators shall continue the arbitration, avoiding the

cost and delay of a full replacement. In making this determination, the Court will consider the views of the remaining arbitrators, the parties and any other relevant matters (Article 16(5) 2026 ICC Rules).

Fees and Costs

The 2026 ICC Rules transfer greater responsibility for financial matters to the Secretary General, while the ICC Court retains authority over arbitrators' fees and ICC administrative expenses. The Rules also incorporate additional transparency measures previously contained in the Note, including provisions on third-party payments and tribunal secretary fees. The scales for ICC administrative expenses in US dollars have also been revised. The ICC has reduced fees for lower-value disputes to promote accessibility, while introducing targeted increases for disputes above USD 10 million, and raising the maximum fee cap for very large disputes.

Case Management

The 2026 ICC Rules provide that effective case management may include one or more techniques described in guidance notes issued by the Secretariat, considering the work of the Commission on Arbitration and ADR. The former Appendix IV on Case Management Techniques has accordingly been removed, allowing the evolution of practice without requiring any formal rules revision.

Conclusion

The 2026 ICC Rules build on long-standing practice and respond to the evolving expectations of parties and arbitrators in different jurisdictions around the world, with the aim of making ICC arbitration faster, more flexible and better aligned with the needs of modern dispute resolution. Parties may wish to review their existing arbitration clauses and consider the implications of these changes when drafting future arbitration clauses, including, for example, whether to opt in to the new HEAP for disputes where rapid resolution is of the essence, or whether the revised scope of the EPP is appropriate for their anticipated disputes.



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