

International: ICC Introduces 2026 Arbitration Rules

Faster procedures and new procedural tools for arbitration users

In brief

The International Chamber of Commerce (ICC) has introduced its 2026 Arbitration Rules ("**2026 Rules**"), which entered into force on 1 June 2026 and will apply to any arbitrations commenced on or after this date, unless the parties have agreed to submit to the Rules in effect on an earlier date. The revisions do not fundamentally alter the ICC arbitration framework but they continue a clear trend towards faster, more proportionate and technology-enabled dispute resolution, while preserving the procedural integrity and enforceability that have long distinguished ICC arbitration.

Key changes include the abolition of the Terms of Reference, a new early determination mechanism, the introduction of a Highly Expedited Arbitration Provisions, change of the automatic threshold for the application of Expedited Procedure Provisions, enhanced disclosure requirements and changes to the emergency arbitrator regime.

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Key takeaways

The 2026 Rules continue the ICC's broader shift towards faster, more flexible and technology-enabled dispute resolution. The most significant changes for users are:

- abolition of the Terms of Reference;
- formal early determination;
- introduction of the Highly Expedited Arbitration Procedure;
- amended threshold for the automatic application of the Expedited Procedure Provisions;
- enhanced disclosure obligations; and
- stronger emergency relief and digitalization measures.

Businesses that regularly use ICC arbitration may wish to review their standard arbitration clauses and consider whether expedited procedures, Highly Expedited Arbitration Procedure (HEAP) and other new procedural tools align with their dispute-resolution objectives.

In more detail

The abolition of the Terms of Reference

- The most significant structural change under the 2026 Rules is the abolition of the mandatory Terms of Reference (TOR), a long-standing hallmark of ICC arbitration. The TOR process has been replaced with a case-management framework centred on an initial Case Management Conference (CMC), which must generally take place within 30 days of the tribunal receiving the file. The purpose of the CMC is to consult the parties on procedural measures that may be adopted pursuant to Article 23(2) of 2026 Rules.

- Although highly debated, the change is intended to streamline the commencement phase of arbitrations and limit the costs of arbitration by eliminating a phase that, undisputably had advantages, but has diminished its value over time. Specifically, the introduction, broad use and success of the Expedited Procedure Provisions, where TOR are not used, has been a factor towards the abolition of the TOR altogether.
- The practical effects of the change remain to be seen, as tribunals and parties may be reluctant to dispose of the long used tool or to include the same provisions in a Procedural Order No. 1.

Formal early determination

- The 2026 Rules now expressly provide for a procedure for parties to seek early determination of one or more claims or defences, on the grounds that the claims are either manifestly without merit or manifestly outside the tribunal's jurisdiction.
- The express inclusion of early determination aligns with the practice and guidance embodied in ICC Note to Parties and Arbitral Tribunals on the Conduct of the Arbitration under the ICC Rules of Arbitration of 1 January 2021 ("**2021 Note**"). The 2021 Note included guidance as to how an application for the expeditious determination of manifestly unmeritorious claims or defences may be addressed within the broad scope of Article 22 of the previous ICC Rules. Article 30 of the 2026 Rules mirrors this guidance to a significant extent.
- The updated version of the ICC Note of 1 June 2026 ("**2026 Note**") provides additional guidance in terms of the nature of the resulting award, clarifying that the Court expects any decision that finally disposes of the parties' dispute to be in the form of an award, while decisions rejecting the application may be in the form of procedural orders.
- It is important to note that the early determination procedure is not a summary procedure by itself, as it does not allow dismissing claims without trial. It rather recognizes the power of a tribunal to dismiss some claims as a matter of priority at an earlier stage of the proceedings.

A new highly expedited arbitration procedure

- Another notable innovation under the 2026 Rules is the introduction of the HEAP.
- Available where all parties agree, HEAP provides for a significantly streamlined process involving a sole arbitrator, compressed procedural deadlines and a target award within three months of the initial CMC. Tribunals may further accelerate the proceedings by limiting or excluding document production, limiting the number, length and scope of written submissions and written witness evidence and deciding the dispute solely based on documents (without a hearing).
- Parties may also agree that awards need not contain reasons.

New threshold for Expedited Procedure

- The ICC has also increased the threshold for automatic application of the existing Expedited Procedure Provisions. The Expedited Procedure Provisions will apply automatically if the amount of dispute does not exceed USD 4 million (the previous threshold being USD 3 million). However, the new threshold applies to arbitration agreements concluded on or after 1 June 2026 only.
- These changes reflect increasing user demand for faster and more cost-effective dispute resolution and the continued success and user satisfaction with the Expedited Procedure Provisions.

Tribunal integrity and transparency

- The 2026 Rules introduce enhanced conflict disclosure obligations. Parties must now identify persons and entities that prospective arbitrators should consider for conflict-checking purposes and submit to the Secretariat the list of such persons to assist prospective arbitrators and arbitrators with complying with their disclosure obligations. Importantly, this change does not impact the scope of the arbitrators' and prospective arbitrators' disclosure obligations. In fact, this obligation have been emphasized by including into the rules the guidance previously given in the 2021 Note that any doubts the prospective arbitrator may have about whether to make a disclosure should be resolved in favour of disclosure.
- The Rules also expressly introduce a dedicated framework governing tribunal secretaries, something that was also previously present in the 2021 Note. Tribunal secretaries must satisfy the same standards of independence, impartiality and confidentiality applicable to arbitrators and may not generate additional fees beyond reasonable expenses. The 2026 Note

continues to include further guidance on the particular functions tribunal secretaries may perform, remuneration and disbursements, procedure for appointment, etc.

- These amendments are intended to strengthen confidence in tribunal appointments and reduce the potential for later challenges.

Stronger emergency relief and other amendments

- The ICC has strengthened its emergency arbitrator regime. The 2026 Rules have introduced preliminary orders designed to prevent parties from frustrating emergency applications before they can be fully heard.
- The 2026 Rules also now provide that the Emergency Arbitrator Provisions apply not only to parties who are signatories to the arbitration agreement and their successors, but also to any party for which the President is satisfied that an arbitration agreement binding such party may exist. The last change opens a significant door to applications for emergency measures against non-signatories, however, the standard to be applied will still be likely high, and the rules will not be applied lightly.
- Other notable amendments include expanded focus on digitalization of proceedings.

Baker McKenzie's International Arbitration team is actively advising clients on the implications of the 2026 Rules. If you would like to discuss how these changes may affect your arbitration agreements, ongoing disputes or enforcement strategy, please reach out to one of the contacts listed below.

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