ICC Arbitration Rules 2026: Towards enhanced flexibility and procedural efficiency

June 12, 2026

The International Chamber of Commerce (**ICC**) has introduced a revised set of Arbitration Rules, effective for arbitrations commenced on or after June 1, 2026 (the **2026 Rules**). These revisions build on the 2021 framework while introducing targeted reforms aimed at addressing concerns around cost, delay, and procedural rigidity.

While the overall structure of ICC arbitration remains familiar, the 2026 Rules reflect a clear recalibration: a move away from formalistic procedural milestones towards more flexible, case-driven management. The revisions aim to improve efficiency while maintaining fairness, transparency, and the reliability of arbitral outcomes.

Key takeaways

- The removal of mandatory Terms of Reference at the onset of arbitrations marks a fundamental procedural shift.
- The initial case management conference now anchors procedural planning and is the cutoff for new claims.
- New tools, such as early determination and highly expedited arbitration, prioritize speed and cost efficiency.
- The fixed six-month award deadline has been removed, allowing timelines to be tailored to the case.
- Disclosure, confidentiality, and governance provisions have been strengthened.
- Digitalisation is embedded as the default mode of conducting arbitration.

A. The end of mandatory terms of reference

One of the most significant changes is the elimination of mandatory Terms of Reference (**ToR**). Instead, procedural focus shifts to the initial case management conference (**CMC**), which must occur 30 days from receiving the file by the arbitrator and serves as the primary mechanism for structuring the arbitration (Art. 24(1)). In practice, the change removes a long-standing procedural step, while preserving flexibility for tribunals to adopt structured approaches where appropriate.

Additionally, the restrictions on introducing new claims are now tied to the timing of the CMC rather than the ToR. No new claims may be introduced after the initial CMC unless the arbitral tribunal grants permission (Art. 25).

B. Early determination and highly expedited arbitration

The 2026 Rules introduce several mechanisms aiming to accelerate the resolution of disputes.

a. Early determination

For the first time, the ICC Rules expressly permit parties to apply for the early determination of claims or defences that are clearly unmeritorious or outside the tribunal's jurisdiction (Art. 30). Although tribunals may previously have exercised similar powers through implicit powers, codification provides clarity and may encourage more frequent use. This mechanism is likely to be particularly valuable in:

- cases involving threshold jurisdictional challenges; and
- disputes where certain claims can be disposed of without extensive evidence or submissions.

At the same time, parties should carefully consider the strategic risks, including cost implications and potential enforcement challenges if due process concerns are raised.

b. Highly expedited arbitration

A major innovation is the introduction of an opt-in Highly Expedited Arbitration Procedure (**HEAP**) (Art. 33). Under HEAP:

- disputes must be resolved within three months of the initial CMC;
- a sole arbitrator is appointed;
- procedures are streamlined, often proceeding on a documents-only basis;
- parties may agree to an unreasoned award; and
- timelines for submissions are significantly compressed.

Notably, unlike the standard expedited procedure, HEAP is not limited by monetary thresholds and is available solely by agreement of the parties.

This mechanism is likely to appeal in discrete, time-sensitive disputes; particularly where rapid commercial resolution outweighs a fully-developed procedural process.

c. Expedited arbitration threshold

The 2026 Rules also update the existing expedited procedure regime by increasing the default applicability threshold from US$3 million to US$4 million (Appendix V, Art. 1(3)). As a result, a larger proportion of ICC cases will fall within expedited frameworks by default.

C. Expanded tools in emergency arbitration and interim relief

The 2026 Rules introduce meaningful refinements to emergency arbitration.

a. *Ex Parte* preliminary orders

A new mechanism allows a party to seek urgent interim relief without prior notice to the opposing party (*ex parte)*, in the form of a preliminary order. Importantly, procedural safeguards remain, and once an order is issued, other parties must be given an opportunity to respond (Appendix IV, Art. 7).

b. Broader scope of application of emergency arbitration

Emergency arbitrator powers now extend beyond strict signatories to include parties where the President of the ICC Court considers that an arbitration agreement may apply (Appendix IV, Art. 1.2(c)). This expansion reflects the realities of complex corporate structures and may increase the utility of emergency relief in multi-party disputes.

D. Revisiting time limit for the award

The 2026 Rules remove the previous default requirement that awards be rendered within six months of the Terms of Reference. Instead, the time limit is set by the ICC President based on the procedural timetable.

This change reflects a shift away from rigid timelines that in practice required multiple extensions, replacing them with a more flexible and case-specific approach.

E. Disclosure, confidentiality and institutional governance

The 2026 Rules introduce several measures aimed at enhancing transparency and confidence in the arbitral process.

a. Enhanced disclosure obligations

Arbitrator disclosure requirements are strengthened (Art. 12), including:

- an express obligation to resolve doubts in favour of disclosure;
- express confirmation that disclosure alone does not imply bias;
- ongoing disclosure obligations throughout the arbitration; and
- a new requirement for parties to provide relevant entities and individuals to assist conflict checks.

These changes place more responsibility on both arbitrators and parties to identify potential conflicts early and comprehensively.

b. Confidentiality and tribunal secretaries

The 2026 Rules now explicitly impose confidentiality obligations on arbitrators (Art. 12.8), reinforcing protections for sensitive information.

Additionally, the Rules provide a formal framework governing tribunal secretaries, including requirements of independence and oversight (Art. 44) and the relevant fees and expenses (Appendix III, Art. 7).

c. Institutional governance

Some ICC administrative tasks that used to be performed by the ICC Court are now handled by the President and Secretary General to improve efficiency. For example, under the 2026 Rules, the ICC President grants extensions of time to tribunals (Art. 34), and the Secretary General sets the advance on costs (Art. 40). Nevertheless, the Court retains roles including jurisdiction decisions, arbitrator challenges, award scrutiny, and fee determinations.

F. Digitalisation and procedural modernisation

The 2026 Rules embed digital practices as the norm rather than the exception. Key developments include:

- electronic communication as the default form of correspondence (Art. 3);
- express recognition of remote and hybrid hearings (Art. 27(1));
- authorization of electronic signatures on awards, if permitted by applicable law (Art. 38(1)); and
- flexibility for tribunals to deliberate remotely (Art. 19(3)).

These changes reflect lessons from pandemic-era practice and signal a permanent shift toward technologically enabled arbitration.

Conclusion

The 2026 Rules represent a measured but deliberate evolution of the ICC framework rather than a fundamental departure from it. The revisions reflect a clear effort to address longstanding concerns regarding cost, delay, and procedural complexity, while preserving the core attributes that have long underpinned ICC arbitration.

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