

# ICC Releases Revised Arbitration Rules, Effective June 1, 2026

May 28, 2026

On March 22, 2026, the International Chamber of Commerce (ICC) published its revised Rules of Arbitration (the 2026 ICC Rules), which will enter into force on June 1, 2026. The 2026 ICC Rules will supersede the current version of the Rules, in force since January 2021 (the 2021 ICC Rules).

The 2026 ICC Rules introduce significant modifications across several key areas, predominantly aimed at promoting efficiency. The most significant revisions include the now-optional Terms of Reference, a new early determination mechanism, a highly expedited arbitration procedure, expanded emergency arbitration provisions, and strengthened independence and impartiality requirements for arbitrators, as well as tribunal secretaries.

The 2026 ICC Rules also include a number of procedural and administrative changes, including a revised framework for setting and extending the time limit for rendering the final award, electronic communications as the default mode of correspondence, and broader discretion for tribunals to conduct virtual or hybrid hearings.<sup>1</sup>

<sup>1</sup> This article was prepared with contributions from Cleary Gottlieb associates Marianne Diab, Alberto Favro, Valeria Fasciani, Roberta Mayerle, Alberto Rocco, Valentin Rougier, Katerina Wright, and Elisa Zavala.  
clearygottlieb.com



If you have any questions concerning this memorandum, please reach out to your regular firm contact or the following authors

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NEW YORK

**Jeffrey A. Rosenthal**  
+1 212 225 2086  
[jrosenthal@cgsh.com](mailto:jrosenthal@cgsh.com)

**Ari D. MacKinnon**  
+1 212 225 2243  
[amackinnon@cgsh.com](mailto:amackinnon@cgsh.com)

**Katie L. Gonzalez**  
+1 212 225 2423  
[kgonzalez@cgsh.com](mailto:kgonzalez@cgsh.com)

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LONDON

**Christopher P. Moore**  
+44 20 7614 2227  
[cmoore@cgsh.com](mailto:cmoore@cgsh.com)

**James Brady-Banzet**  
+44 20 7614 2364  
[jbradybanzet@cgsh.com](mailto:jbradybanzet@cgsh.com)

**James Norris-Jones**  
+44 20 7614 2336  
[jnorrisjones@cgsh.com](mailto:jnorrisjones@cgsh.com)

**Naomi Tarawali**  
+44 20 7614 2304  
[ntarawali@cgsh.com](mailto:ntarawali@cgsh.com)

**Paul Kleist**  
+44 20 7614 2209  
[pkleist@cgsh.com](mailto:pkleist@cgsh.com)

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PARIS

**Jean-Yves Garaud**  
+33 1 40 74 68 00  
[jgaraud@cgsh.com](mailto:jgaraud@cgsh.com)

**Laurie Ahtouk-Spivak**  
+33 1 40 74 68 00  
[lachtoukspivak@cgsh.com](mailto:lachtoukspivak@cgsh.com)

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MILAN

**Carlo Santoro**  
+39 02 7260 8280  
[csantoro@cgsh.com](mailto:csantoro@cgsh.com)

**Paolo Bertoli**  
+39 02 7260 8624  
[pbertoli@cgsh.com](mailto:pbertoli@cgsh.com)

The key changes from the 2026 ICC Rules are summarized below.

### Mandatory Terms of Reference Eliminated

Among the most significant changes to the ICC Rules is that the Terms of Reference – a document which summarizes each party’s claims and relief sought, the issues to be determined, and other key procedural details – is no longer mandatory.<sup>2</sup> Under the 2026 ICC Rules, tribunals retain the discretion to use Terms of Reference as they “consider[] appropriate.”<sup>3</sup>

Terms of Reference have been a distinctive feature of ICC arbitration since its inception, as they are not required under other institutional arbitration rules.<sup>4</sup> The Terms of Reference have historically functioned as a procedural gateway, as new claims outside the scope of the Terms of Reference could not be introduced without tribunal authorization,<sup>5</sup> and once signed, the default six-month time limit for issuing a final award began to run.<sup>6</sup> Over time, however, the original justifications for the Terms of Reference have largely disappeared, and some commentators have criticized the Terms of Reference as an unnecessary step in ICC arbitration with little practical value.<sup>7</sup> The elimination of Terms of Reference as a mandatory requirement now brings the 2026 ICC Rules in line with the approach of virtually every other major arbitral institution.

The change should expedite ICC proceedings and make them more cost-effective, by removing the time spent negotiating and finalizing the Terms of Reference. In the absence of the Terms of Reference, the cut-off point for introducing new claims will be the initial Case

Management Conference, unless authorized by the tribunal to do so later in the process.<sup>8</sup>

### Early Determination Mechanism

Codifying existing case management practice,<sup>9</sup> the 2026 ICC Rules introduce an early determination mechanism, enabling a party to request that the tribunal dispose of any claim or defense that is “manifestly without merit” or “outside the arbitral tribunal’s jurisdiction,” without the need to proceed to a final merits hearing.<sup>10</sup> Similar early disposition mechanisms have already been adopted by a number of leading arbitral institutions, including ICSID (2006), SIAC (2016), HKIAC (2018), and LCIA (2020).<sup>11</sup> As a result, this new provision reflects what has become a more common feature of international arbitration.

While the 2026 ICC Rules do not define the “manifestly without merit” standard that tribunals are directed to apply to determine whether early determination is appropriate, tribunals operating under other institutional rules have held that the standard is meant to “capture cases that are clearly and unequivocally unmeritorious, not those which are novel, difficult,” or reasonably arguable.<sup>12</sup> Tribunals have treated the threshold as a demanding one, requiring claims to be so plainly devoid of merit that they may be dismissed summarily.<sup>13</sup>

The new early determination mechanism will likely offer several practical benefits to parties. It can significantly narrow the scope of a dispute by disposing of manifestly unfounded claims or defenses before unnecessary evidentiary phases. Its mere availability may also deter parties from advancing positions with no

<sup>2</sup> 2021 ICC Rules, Art. 23(1).

<sup>3</sup> See 2026 ICC Rules, Arts. 23, 24.

<sup>4</sup> See Gary B. Born, *International Commercial Arbitration* § 15.01[S] (3d ed. 2009).

<sup>5</sup> 2021 ICC Rules, Art. 23(4).

<sup>6</sup> 2021 ICC Rules, Art. 31(1).

<sup>7</sup> See, e.g., Vijaya Kumar Rajah, *W(h)ither Institutional Terms of Reference?*, 39 J. Int’l Arb. 183.

<sup>8</sup> 2026 ICC Rules, Art. 25.

<sup>9</sup> Note to Parties and Arbitral Tribunals on the Conduct of the Arbitration under the ICC Rules Of Arbitration, Jan. 1, 2021, ¶¶ 109-114.

<sup>10</sup> 2026 ICC Rules, Art. 30(1).

<sup>11</sup> 2006 ICSID Rules, Rule 41(5); 2016 SIAC Rules, Rule 29, 2018 HKIAC Rules, Rule 43; 2020 LCIA Rules, Rule 22.1(viii).

<sup>12</sup> *Lion Mex, Consol. L.P. v. United Mex. States*, ICSID Case No. ARB(AF)/15/2, Decision on the Respondent’s Preliminary Objection, ¶ 66 (Dec. 12, 2016).

<sup>13</sup> Arbitration commenced under the HKIAC Rules in 2019, Decision on Claimant’s Request for Early Determination, cited in J. Liu, *A Commentary to the HKIAC Early Determination Procedure*, 8 BCDR Int’l Arb. Rev. 245 (2021).

realistic prospect of success. At the same time, the tribunal retains discretion to decline requests that are abusive or unsuited to summary disposition.

## Highly Expedited Arbitration

The 2026 ICC Rules increase the monetary threshold for the automatic application of the Expedited Procedure provisions to USD 4 million for claims brought under agreements concluded on or after June 1, 2026.<sup>14</sup> Parties retain the flexibility to opt in to or out of the Expedited Procedure, depending on the nature of the dispute.<sup>15</sup>

The 2026 ICC Rules also introduce opt-in “Highly Expedited Arbitration Provisions,” designed for disputes of limited procedural complexity requiring swift resolution.<sup>16</sup> Under the 2026 ICC Rules, disputes for which the Highly Expedited Arbitration Provisions are applicable are decided by a sole arbitrator vested with broad procedural discretion – including the power to limit the number of written submissions or dispense with document production or hearings.<sup>17</sup> The procedural framework is significantly compressed, as the Request for Arbitration must include a Statement of Claim, and the Answer must include a Statement of Defense (and any counterclaims), supported by evidence, which requires significant pre-filing preparation.<sup>18</sup> Unlike the 2021 ICC’s Expedited Procedure Provisions, the Highly Expedited Arbitration

Provisions have no automatic application or monetary threshold. They only apply “[w]hen all parties so agree,”<sup>19</sup> whether in the arbitration agreement or after a dispute has arisen.<sup>20</sup>

Because the Highly Expedited Arbitration Provisions are reserved for disputes of limited procedural complexity, neither joinder nor consolidation is permitted.<sup>21</sup> The final award must be rendered and scrutinized by the ICC Court within three months of the date of the initial case management conference.<sup>22</sup> Additionally, parties may agree to an unreasoned award,<sup>23</sup> which may not be permitted in certain jurisdictions, in which the absence of reasoning may constitute grounds for setting aside or refusing enforcement. While the Highly Expedited Arbitration Provisions may be attractive for relatively straightforward disputes, it will be interesting to see whether the three-month timeframe is workable in practice.

## Emergency Arbitration

The 2026 ICC Rules include important amendments to the Emergency Arbitrator rules.<sup>24</sup> Article 7(1) of Appendix IV provides that a party may, “at any stage of the emergency arbitrator proceedings, request a preliminary order directing another party not to frustrate the purpose” of an application for emergency measures.<sup>25</sup> Critically, the 2026 ICC Rules provide that

<sup>14</sup> 2026 ICC Rules, Appendix V, Art. 1(3).

<sup>15</sup> See 2026 ICC Rules, Appendix V, Art. 32. See also ICC, *Unveiling the 2026 ICC Arbitration Rules, Part 3: Expedited Procedure Provisions and Emergency Arbitration*, <https://iccwbo.org/news-publications/news/unveiling-the-2026-icc-arbitration-rules-part-3-expedited-procedure-provisions-and-emergency-arbitration/> (May 19, 2026).

<sup>16</sup> See 2026 ICC Rules, Art. 33, Appendix VI. See also ICC, *Unveiling the 2026 ICC Arbitration Rules, Part 4: Highly Expedited Arbitration Provisions*, <https://iccwbo.org/news-publications/news/unveiling-the-2026-icc-arbitration-rules-part-4-highly-expedited-arbitration-provisions/> (May 22, 2026). These Highly Expedited Arbitration Provisions bear similarities to the SIAC “streamlined procedure,” see 2025 SIAC Arbitration Rules, Rule 13 and Schedule 2, and the Corte Española de Arbitraje’s “hyper-expedited procedure,” see 2026 CEA Rules of Arbitration, Art. 54, both

requiring the award to be rendered by a single arbitrator within three months.

<sup>17</sup> 2026 ICC Rules, Appendix VI, Art. 6.

<sup>18</sup> 2026 ICC Rules, Appendix VI, Art. 2.

<sup>19</sup> 2026 ICC Rules, Art. 33.

<sup>20</sup> A model clause to opt-in to Highly Expedited Arbitration Provisions is available on the ICC website: <https://iccwbo.org/dispute-resolution/dispute-resolution-services/arbitration/rules-procedure/arbitration-clause/>.

<sup>21</sup> 2026 ICC Rules, Appendix VI, Art. 3.

<sup>22</sup> 2026 ICC Rules, Appendix VI, Art. 7(1).

<sup>23</sup> 2026 ICC Rules, Appendix VI, Art. 7(2).

<sup>24</sup> See generally ICC Rules, Appendix IV.

<sup>25</sup> See ICC, *New ICC Rules of Arbitration enhance efficiency, clarity and usability*, <https://iccwbo.org/news-publications/news/new-icc-rules-of-arbitration-enhance-efficiency-clarity-and-usability/>.

such applications may be made and decided without prior notice to the other parties,<sup>26</sup> addressing situations where advance notification could undermine the relief sought, for example, due to destruction of evidence or asset dissipation. Due process is safeguarded by transmitting the application and any resulting order to all parties as soon as the Emergency Arbitrator makes a decision. If the order is granted, the Emergency Arbitrator “must immediately afford all other parties a reasonable opportunity to present their case.”<sup>27</sup>

While not entirely novel in ICC arbitration practice, the 2026 ICC Rules expressly contemplate preliminary orders in emergency arbitrator proceedings. In 2025, SIAC became the first major arbitral institution to introduce such provisions, which impose a 24-hour deadline for the arbitrator to rule after its appointment, and a 14-day expiry date after issuance of the *ex parte* preliminary order.<sup>28</sup> The 2026 ICC Rules are silent on timing, leaving broad discretion to the Emergency Arbitrator.

The scope of Emergency Arbitrator proceedings also changed. Proceedings may now be commenced against “any party for which the President is satisfied, on a *prima facie* basis, that a binding arbitration agreement exists.”<sup>29</sup> Additionally, the categories of excluded disputes have been broadened to cover arbitrations arising from an investment protection law, in addition to treaty-based arbitration, ensuring that any investor-state disputes are excluded from Emergency Arbitration.<sup>30</sup>

Finally, the previous requirement that the Emergency Arbitrator make a preliminary admissibility determination – *i.e.*, whether the requested measure

could await the constitution of the tribunal – has been removed, streamlining the decision-making process by eliminating what was effectively a duplicative urgency assessment.<sup>31</sup>

## Arbitrator Independence and Impartiality

The 2026 ICC Rules also make important revisions to the framework governing arbitrator impartiality and independence, which now formally extends to tribunal secretaries as well.<sup>32</sup>

Article 12(2) provides that “[a]ny doubts the prospective arbitrator may have about whether to make a disclosure shall be resolved in favour of disclosure.”<sup>33</sup> This makes the ICC one of the first major arbitral institutions to codify the “when in doubt, disclose” standard long reflected in the ICC’s own practice<sup>34</sup> and recognized in soft law instruments like the IBA Guidelines on Conflicts of Interest in International Arbitration.<sup>35</sup> The 2026 ICC Rules also characterize the disclosure obligation as an “ongoing duty,” reinforcing that the obligation to disclose is continuous and not limited to the pre-appointment period.<sup>36</sup> At the same time, the new rules make clear that “[a] disclosure does not, by itself, establish a lack of independence or impartiality.”<sup>37</sup> This should encourage arbitrators to disclose freely without fearing that doing so will be treated as automatic grounds for challenge.

Article 12(5) also now requires parties to assist in the conflicts identification process. Under the revised rule, each party must, at the time of filing their first submission, submit to the Secretariat a reasoned list of persons and entities that it believes the (prospective) arbitrators should consider in complying with their disclosure obligations.<sup>38</sup> This represents a meaningful

[usability/](#) (May 22, 2026); 2026 ICC Rules, Appendix IV, Art. 7(1).

<sup>26</sup> 2026 ICC Rules, Appendix IV, Art. 7(1).

<sup>27</sup> 2026 ICC Rules, Appendix IV, Art. 7(3)-(4).

<sup>28</sup> 2025 SIAC Rules, Schedule 1, Arts. 27, 33.

<sup>29</sup> 2026 ICC Rules, Appendix IV, Art. 1(2).

<sup>30</sup> 2026 ICC Rules, Appendix IV, Art. 1(3)(c).

<sup>31</sup> 2026 ICC Rules, Appendix IV, Art. 6(2).

<sup>32</sup> See 2026 ICC Rules, Art. 44(2).

<sup>33</sup> 2026 ICC Rules, Art. 12(2).

<sup>34</sup> *Supra* n.9, ¶ 25.

<sup>35</sup> See IBA Guidelines on Conflicts of Interest in International Arbitration, May 25, 2024, Part I(3)(d).

<sup>36</sup> This aligns the ICC with the rules of other major institutions. See, e.g., 2020 LCIA Rules, Art. 5.5; 2025 SIAC Rules, Rule 20.3; 2022 ICSID Rules, Rule 19(6).

<sup>37</sup> See 2026 ICC Rules, Art. 12(4).

<sup>38</sup> In particular, the list must be submitted at the time of filing the respective Request for Arbitration, Answer, Request for Joinder, Answer to Request for Joinder, or request for an extension of time to submit an Answer. See 2026 ICC Rules, Art. 12(6).

shift: whereas the 2021 ICC Rules placed the burden of identifying conflicts squarely on the arbitrators alone, the 2026 ICC Rules contemplate a more collaborative process, similar to one used by the AAA-ICDR.

Additionally, under Article 14(2), if there is an objection to the confirmation of arbitrators or the Secretary General otherwise considers it appropriate, the matter is referred to the full ICC Court for a decision. This broadens the referral trigger, which used to require resolution by the Court only when the Secretary General considered that an arbitrator “should not be confirmed.”<sup>39</sup>

### Other Significant Changes

In addition to these headline reforms, the 2026 ICC Rules introduce other changes with significant practical implications.

- **Truncated Tribunals (Art. 16(5)).** The 2026 ICC Rules expand the period during which the ICC Court may decide not to replace a co-arbitrator who has died or been removed, and instead allow the remaining members of the tribunal to continue the proceedings without a full panel (referred to by the ICC as a “truncated tribunal”).<sup>40</sup> Under Article 16(5), this option is available once the last hearing has taken place or the last substantive submissions have been filed (whichever is later), rather than only after closing of proceedings, as was the case under the 2021 ICC Rules.<sup>41</sup> While this may enhance efficiency by preventing reconstitution of a full panel, practitioners should be mindful that awards rendered by truncated tribunals may face enforcement challenges in certain jurisdictions.
- **Confidentiality (Art. 12(8)).** The 2026 ICC Rules codify for the first time a duty of confidentiality for arbitrators, extended to tribunal secretaries under Article 44(2). This obligation is subject to specific carve-outs and does not extend to the

parties themselves, in recognition of the fact that some parties, including sovereigns, are not comfortable with a default strict confidentiality regime.<sup>42</sup> However, parties seeking broader confidentiality protections should incorporate express provisions in their arbitration agreements or underlying contractual instruments or, alternatively, request a protective order from the tribunal under Article 23(3).

- **Electronic Communications and Signatures (Arts. 3 and 38).** Electronic communication is now the default mode for all written correspondence in ICC proceedings, and tribunals are authorized to sign awards electronically or in counterparts and to direct electronic notification of awards. These changes align ICC practice with the broader institutional trend toward procedural efficiency,<sup>43</sup> though some jurisdictions may continue to require certified hard copies or originally signed instruments for recognition and enforcement.
- **Hybrid Hearings (Art. 27).** Tribunals are afforded broad discretion to conduct hearings “in person, in hybrid form or by videoconference, teleconference, or any other form of electronic communication,” without requiring the parties’ consent, but subject to a duty to consult with them.
- **Time limit to issue award (Art. 34).** The six-month time limit for rendering the final award was eliminated, and instead the President of the ICC Court will set the time limit for issuing an award, or subsequently extend it, taking into account “the procedural timetable established pursuant to Article 24(2); or . . . a reasoned request from the arbitral tribunal.”

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CLEARY GOTTlieb

<sup>39</sup> 2021 ICC Rules, Art. 13(2).

<sup>40</sup> *Supra* n.27.

<sup>41</sup> *See* 2021 ICC Rules, Art. 15(5).

<sup>42</sup> Conversely, other leading institutional rules impose confidentiality obligations on both arbitrators and parties

as a default position. *See, e.g.*, 2020 LCIA Rules, Art. 30.1; 2025 SIAC Rules, Rule 59.1; 2024 HKIAC Rules, Art. 45.1.

<sup>43</sup> *See, e.g., supra* n.9, ¶ 199.