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KEY AMENDMENTS TO THE ICC RULES 2026

In a long-awaited development, the International Chamber of Commerce (“ICC”) has updated its Rules of Arbitration (“**ICC Rules 2026**”). The ICC Rules 2026 apply to any ICC arbitration commenced on or after 1 June 2026, unless the parties have agreed to submit to the Rules in effect on an earlier date.

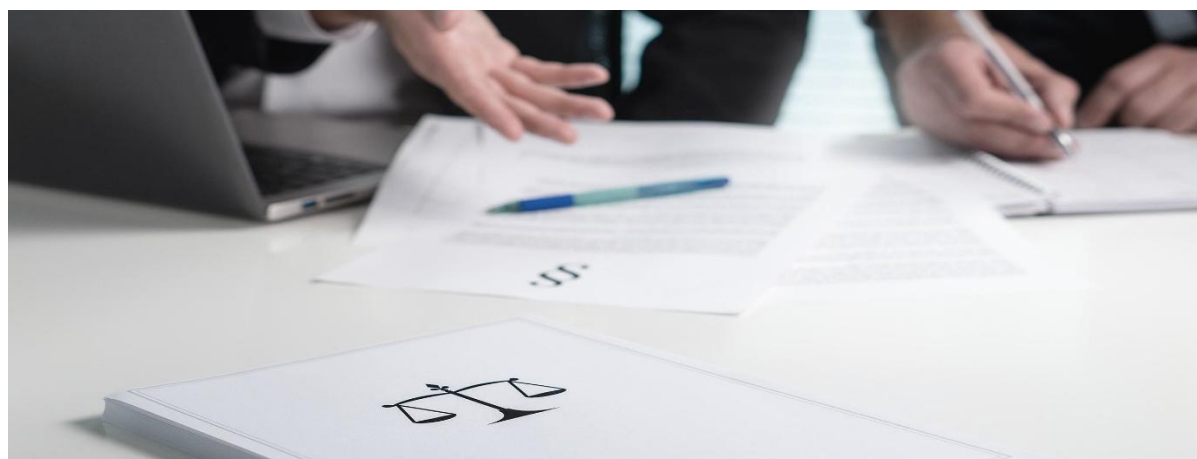
This article sets out the key amendments introduced by the ICC Rules 2026. While some of the amendments introduce new procedural mechanisms, others formalize existing ICC practice or remove procedural requirements that had become less useful in practice.

1. DISCLOSURE: A NEW OBLIGATION FOR PARTIES

Under Article 12(5) of the ICC Rules 2026, parties are now required to submit, together with their Request for Arbitration (“**RfA**”), Answer, Request for Joinder or Answer to a Request for Joinder, a list of persons and entities which they believe prospective arbitrators and arbitrators should consider for the purposes of their conflict checks, together with the reasons for their inclusion.

Up until the promulgation of the ICC Rules 2026, the ICC Secretariat prepared a list of relevant entities on the basis of the RfA and the Answer, which was then provided to prospective arbitrators for the purposes of conducting their conflict checks.

Under the ICC Rules 2026, this responsibility now shifts to the parties: a fitting delegation given it is the parties that have the relevant information to hand. This should both standardize and streamline the arbitrator disclosure exercise and allow potential conflicts of interest to be identified at a relatively early stage of the proceedings, thereby reducing the risk of challenges arising later in the arbitration. Notwithstanding this new obligation on the parties, arbitrators remain responsible for making the necessary disclosures.





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2. CONFIDENTIALITY: A NEW OBLIGATION FOR THE ARBITRATORS

Under the ICC Rules 2021, confidentiality of the arbitration proceedings was addressed in relatively general terms. Article 22(3) provided that upon the request of a party, the arbitral tribunal could make orders concerning the confidentiality of the arbitration proceedings or any other matters in connection with the arbitration.

The ICC Rules 2026 introduce an express confidentiality obligation on arbitrators (Article 12(8)) and tribunal secretaries (Article 44(2)). They are now required to keep confidential all matters relating to arbitration unless 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.

Interestingly, the ICC Rules 2026 still do not impose an equivalent express confidentiality obligation on the parties. Confidentiality between the parties has therefore been left to party agreement or, where appropriate, determination by the arbitral tribunal under Article 23(3). This may reflect the view that parties are better served by confidentiality arrangements tailored to the circumstances of a particular dispute, rather than by a general confidentiality obligation that may not adequately reflect the requirements of each case. To ensure confidentiality is maintained, parties should consider expressly incorporating a confidentiality requirement within the first procedural order.



3. BEYOND THE TERMS OF REFERENCE: A GREATER ROLE FOR THE CASE MANAGEMENT CONFERENCE

The ICC Rules 2021 were distinctive among the major international commercial arbitration rules in making the issuance of the Terms of Reference ("ToR") a mandatory step. In an interesting development, the ICC Rules 2026 removed this requirement. This removal reflects the practices of most other institutional arbitral rules and is also consistent with the Expedited Procedure Provisions introduced to the ICC Arbitration Rules in 2017 (where no ToR was required). While arbitral tribunals are no longer required to issue ToR, they retain the discretion to establish them where appropriate as a useful case management tool.



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The removal of this requirement is welcome, given that the preparation and issuance of the ToR have, over the years, proven to be burdensome and time-consuming. In many cases, deployment of the ToR unnecessarily lengthened proceedings and increased costs of the arbitration, while providing little practical assistance in resolving the matters in dispute. RfAs and Answers, together with the first Case Management Conference (“CMC”), have become increasingly detailed and effectively rendered the ToR process redundant. In this respect, ICC Expedited Procedure arbitrations, which have operated without mandatory ToR since 2017, have demonstrated that proceedings can function without them and without material impairment to their integrity.

Interestingly, the CMC remains mandatory and must be held within 30 days of the transmission of the file to the arbitral tribunal. In practice, the CMC has become the central procedural step for structuring the proceedings and pursuant to Article 25 of the ICC Rules 2026, has now become the cut-off point for the introduction of new claims. Parties must now ensure their respective positions are sufficiently particularized within either the RfA and/or Answer, to ensure no adverse cost consequences are levied against the party seeking to introduce new claims.

4. EARLY DETERMINATION: FROM ICC PRACTICE TO AN EXPRESS PROCEDURAL TOOL

While Early Determination was already provided for in the Note to Parties and Arbitral Tribunals on the Conduct of the Arbitration dated 2017, the ICC Rules 2026 have now expressly incorporated this mechanism within Article 30, thereby removing any doubt as to the arbitral tribunal’s power to use this tool in ICC arbitrations.

Such measure allows parties to apply to arbitral tribunals for the early determination of one or more claims or defenses manifestly without merit or manifestly outside the tribunal’s jurisdiction. For the mechanism to serve its intended purpose, parties are expected to submit their applications as soon as possible after becoming aware of the relevant claims or defenses, and arbitral tribunals are expected to decide on such applications as promptly as possible¹.

By expressly incorporating the concept of Early Determination, the ICC Rules 2026 take a further step towards enhancing the procedural efficiency of arbitrations conducted under the ICC’s auspices.



¹ ICC, Unveiling the 2026 ICC Arbitration Rules, part 5: Early determination, 27 May 2026 (available [here](#)).



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5. ENHANCING SPEED AND EFFICIENCY

a. Emergency Arbitration (Article 31 of the ICC Rules 2026 and Appendix IV)

The ICC Rules 2026 introduce new developments regarding the application of emergency arbitrator (“EA”) provisions. In particular, EA proceedings may now be initiated not only against parties that are signatories to the arbitration agreement or their successors, as provided under the ICC Rules 2021, but also against any party in respect of which the President of the ICC is satisfied, based on the information contained in the Application, that an arbitration agreement binding such party may exist (Article 1(2)(c) of Appendix IV). The ICC Rules 2026 therefore broaden access to the EA mechanism.

Further, the ICC Rules 2026 now recognize preliminary orders (Article 7 of Appendix IV). At any stage of the EA proceedings, a party may request a preliminary order directing another party not to frustrate the purpose of the application. Importantly, such a request may be made and decided without prior notice to the other party. By introducing this mechanism, the ICC Rules 2026 seek to enhance the effectiveness of urgent interim relief.



b. Expedited Procedure Provisions (Article 32 of the ICC Rules 2026 and Appendix V)

Over the years, and as confirmed by the ICC², the Expedited Procedure Provisions (“EPP”) have proven to increase efficiency in ICC arbitrations. Against this background, the ICC Rules 2026 have increased the monetary threshold for the automatic application of the EPP from USD 3 million to USD 4 million for arbitration agreements concluded on or after 1 June 2026. The higher threshold acknowledges both the rising value of international commercial disputes and the success of the expedited procedure in ICC arbitrations. Regardless of the value of the dispute, parties remain free to opt into the EPP or, where the EPP would otherwise apply automatically, to opt out of their applicability. All other established procedural features of the EPP remain unchanged.

² ICC, New ICC Rules of Arbitration enhance efficiency, clarity and usability, 22 May 2026 (available [here](#)).



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c. Highly Expedited Arbitration Procedure (Article 33 of the ICC Rules 2026 and Appendix VI)

As part of the ICC's continued efforts to promote procedural flexibility and speed, the ICC Rules 2026 introduce a new form of expedited proceedings: the Highly Expedited Arbitration Procedure ("HEAP") under Article 33 and Appendix VI. By opting into HEAP, parties can obtain an award within three months of the initial CMC.

Unlike the EPP, however, HEAP does not apply automatically and is strictly consensual. Its application does not depend on the monetary value of the claims, meaning that parties may agree to use HEAP irrespective of the amount in dispute.

Parties considering HEAP should be mindful of the specific procedural parameters set out in Appendix VI. In particular, the Statement of Claim must accompany the RfA, while the Answer to the RfA must be accompanied by the Statement of Defence. The time limits set out in Article 2 of Appendix VI may not be extended unless agreed by both parties. Joinder and consolidation are not permitted, and the dispute must be decided by a sole arbitrator. The procedure is also subject to considerably shorter procedural timelines. Additionally, the parties may agree to dispense with the reasoning of the final award, and the arbitral tribunal may decide the dispute solely on the basis of the documents submitted by the parties, without holding a hearing, or examining witnesses or experts.

HEAP therefore offers parties a significantly streamlined procedure, but one that requires them to present their case in full of the outset and accept considerably less procedural flexibility in exchange for obtaining an award within a substantially shorter timeframe.



6. TIME LIMITS FOR FINAL AWARDS: MOVING AWAY FROM THE SIX-MONTH DEADLINE

Following the removal of the ToR, the ICC Rules 2026 have also abandoned the default six-month time limit for rendering the final award, which previously ran from the signature or approval of the ToR.



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According to the ICC³, this default time limit was rarely applied in practice, whereby the ICC Court generally set deadlines aligned with the procedural timetable and the particular circumstances of a case.

Under the ICC Rules 2026, the authority to fix and extend time limits is vested in the President of the ICC Court. Article 34 provides that the President of the ICC Court shall fix, or subsequently extend, the time limit for rendering the final award, taking into account: (a) the procedural timetable; or (b) a reasoned request from the arbitral tribunal.

This move away from a fixed time limit, which was rarely reflective of the actual duration of proceedings, towards a more flexible approach, while maintaining oversight of procedural timelines, is both a welcome and practical change.



7. TRUNCATED TRIBUNAL

Under Article 16(5) of the ICC Rules 2026, it is now possible for the ICC Court to decide to proceed with a truncated tribunal, instead of replacing an arbitrator who has died or been removed by the ICC Court, after the last hearing or the filing of the last substantive submissions (whichever is later). Under the previous Rules, this possibility was only available after the closing of the proceedings. The amendment seeks to avoid unnecessary delay or disruption where an arbitrator dies or is removed at a late stage of the proceedings, particularly where the parties have already had the opportunity to fully present their respective cases and positions.

³ ICC, New ICC Rules of Arbitration enhance efficiency, clarity and usability, 22 May 2026 (available [here](#)).



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8. FORMAL RECOGNITION OF TRIBUNAL SECRETARIES

The ICC Rules 2026 expressly recognize tribunal secretaries, who were not previously provided for under the ICC Rules 2021. As noted by the ICC⁴, this “*provision incorporates current practice*” by formally recognizing their role within the Rules. Article 44 of the ICC Rules 2026 provides that, after consultation with the parties, the arbitral tribunal may appoint a tribunal secretary to work under the arbitral tribunal’s direction and control, who will also need to satisfy the same independence, impartiality and confidentiality requirements as arbitrators under the Rules. Such appointment may not result in a delegation of the arbitral tribunal’s decision-making authority, and the tribunal secretary must also sign a statement of acceptance, availability, impartiality and independence before their appointment.

Additionally, Article 7 of Appendix III provides that the arbitral tribunal may claim reimbursement of a tribunal secretary’s reasonable and justified expenses, but that in any event, appointing a tribunal secretary shall not create any additional financial burden on the parties.

9. REVISED FEES AND COSTS

Details of the fees and costs of ICC arbitrations are included in the Schedule of Fees. The Secretary General is now the responsible body to fix the advances on costs and handles other financial aspects, while the ICC Court continues to fix the arbitrators’ fees and the ICC administrative expenses. Notably, the scales for ICC administrative expenses have also been adjusted. Administrative expenses for disputes below USD 10 million have been reduced, in line with the ICC’s stated objective of ensuring affordable access to justice, while targeted upward adjustments have been introduced for higher-value disputes.



⁴ ICC, New ICC Rules of Arbitration enhance efficiency, clarity and usability, 22 May 2026 (available [here](#)).



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CONCLUSION

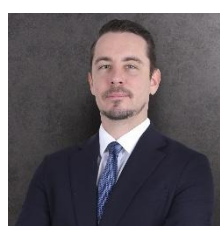
Taken together, these amendments reflect the ICC's efforts to increase the efficiency, clarity and usability of its arbitration framework and to respond to the evolving needs and expectations of parties. Parties and counsel should therefore consider the ICC Rules 2026 when drafting arbitration clauses and when conducting arbitrations commenced under the new Rules.

We now await the updated version of the ICC's Guidance Note to Parties and Arbitral Tribunals on the Conduct of ICC Arbitration, which is expected to be issued shortly and should provide further guidance on the application of the new Rules.

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