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The 2026 ICC Arbitration Rules: The New Architecture

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1. On 1 June 2026, the revised ICC Rules of Arbitration entered into force. They are accompanied by a fresh version of the ICC Note to parties and arbitral tribunals on the conduct of the arbitration. Meant as a practical guidance to the conduct of ICC arbitration, the new Note applies irrespective of the version of the rules under which the arbitration is conducted. Five translations of the original English rules are expected to be unveiled shortly. They include Arabic, French, Mandarin, Spanish and Portuguese. Other translations are expected later this year.

2. At first sight, the revision may appear less dramatic than the 2012 reform, which introduced emergency arbitration and modernised the ICC framework for multi-party and multi-contract disputes. It may also appear less visibly transformative than the 2017 reform, which introduced the Expedited Procedure Provisions, or the 2021 reform, which responded to contemporary practice by addressing virtual hearings, third-party funding disclosure and disclosure requirements.[1] That first impression should be resisted. The significance of the 2026 Rules is structural rather than revolutionary. They complete a process by which ICC arbitration has moved away from a procedural model centred on formal instruments, above all the Terms of Reference, towards a model centred on active procedural management.

3. This new issue of *Insight* argues that the 2026 Rules are best understood not as an accumulation of technical amendments, but as a reconfiguration of the architecture of ICC arbitration. The true innovation is not any single mechanism, whether Highly Expedited Arbitration, early determination, electronic communications or preliminary orders in emergency arbitration. It is the collective movement of the Rules towards time and cost-efficiency, procedural discipline, managerial tribunals and institutional supervision.

4. The ICC itself has described the new Rules as enhancing "*efficiency, clarity and usability*". That formulation, used by Claudia Salomon, President of the ICC International Court of Arbitration,[2] captures the institutional ambition but understates the conceptual change. The 2026 Rules do not merely make existing procedures more efficient. They alter where procedural authority is located and when procedural discipline bites. Under earlier versions of the Rules, the Terms of Reference were the defining procedural moment. Under the 2026 Rules, the Case Management Conference becomes the procedural centre of gravity.

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5. A quick glance of the four principal waves of recent ICC reform yields the following depiction: the 2012 Rules expanded the ICC's procedural toolkit and enhanced the Court's supervisory role; the 2017 Rules introduced acceleration through expedited arbitration; the 2021 Rules adapted ICC proceedings to modern arbitral practice, particularly in relation to virtual hearings and funding disclosure; the 2026 Rules complete the transition by placing active case management at the heart of ICC procedure. The result is a different ICC model. It is less ceremonial, more managerial, and more demanding of parties and tribunals alike.

Reforms considered but rejected

6. A reading of the 2026 Rules must begin with what the ICC decided *not* to do. Two rejected reforms are particularly instructive. The first concerns party confidentiality. Many users assume that arbitration is confidential by nature. That assumption is often inaccurate. Confidentiality depends on the applicable law, the institutional rules, and party agreement. The ICC considered, but ultimately did not adopt, a general confidentiality obligation binding upon the parties. The compromise appears in Article 12(8), which imposes an express confidentiality obligation on arbitrators, and in Appendix I, Article 2, which preserves the confidentiality of the work of the Court and Secretariat. The parties themselves remain outside any default confidentiality regime, although Article 23(3) permits the tribunal, at the request of a party, to make orders concerning confidentiality and to protect trade secrets and confidential information.

7. That solution is prudent rather than timid. A mandatory party confidentiality obligation would have raised difficult questions concerning the parties bound, the scope of protected material, exceptions for regulatory reporting, disclosure to auditors or insurers, parallel proceedings, publicly-listed companies, States and state-owned entities. The decision not to impose a universal rule preserves party autonomy and avoids the false simplicity of a confidentiality provision that would inevitably have been qualified by multiple exceptions. The practical consequence is clear: parties who want confidentiality in ICC arbitration must still draft for it or seek an order from the tribunal under Article 23(3).

8. The second rejected reform concerns arbitrator disclosure. The consultation process generated heated debate concerning the need to change the arbitrator disclosure standard to a more objective formulation, closer to the language familiar from Article 12 of the UNCITRAL Model Law and Article 11 of the UNCITRAL Arbitration Rules, which refer to circumstances likely to give rise to justifiable doubts as to impartiality or independence. The ICC chose not to replace its traditional subjective standard requiring the disclosure of what might call into question the arbitrator's independence in the eyes of the parties (Article 12(2)). This standard is usefully followed by the now codified well-known paragraph of the Note (¶ 25) that "any doubts the prospective arbitrator may have about whether to make a

disclosure shall be resolved in favour of disclosure".

9. This is not merely cautious drafting. It reflects a deliberate balance. A purely objective test may appear attractive, but in practice disclosure disputes often turn less on abstract standards than on the quality of information available at the appointment stage. The ICC's solution is to preserve its disclosure standard while improving the process by which information reaches prospective arbitrators. Article 12(5) now requires parties to submit a list of persons and entities that they believe prospective arbitrators should consider, together with the reasons for doing so. This reform addresses the real difficulty encountered in modern disputes: complex corporate structures, sovereign entities, funds, affiliates, joint ventures and beneficial ownership chains may make conflict checks impossible unless the parties assist.

Digitalisation and procedural modernisation

10. Article 3 of the 2026 Rules completes the digitalisation of ICC arbitration. Article 3(1) provides that communications with the Secretariat shall be made by email or other electronic means creating a record of transmission. Article 3(2) confines hard-copy filings of the Request, Answer and Request for Joinder to situations where a party requests physical transmission or where electronic transmission is impracticable. This formalises what has already become standard practice.

11. In the same vein, Article 24(5) provides that Case Management Conferences may be conducted in person, in hybrid form, by videoconference, by teleconference or through other electronic means. Article 27(1) adopts the same functional approach to hearings. These provisions no longer treat remote participation as an exception to be justified. Rather, the tribunal must determine the appropriate format after consulting the parties and considering the circumstances of the case. The position is now mature: virtual and hybrid procedural formats are not emergency improvisations born of the pandemic. They are ordinary procedural options.

12. All in all, the 2026 Rules treat technology not as a topic separate from due process, but as part of the apparatus through which due process may be delivered efficiently. The relevant question is whether the chosen hearing format allows the parties a reasonable opportunity to present their case, which remains protected by Article 23(4). This reflects a sensible evolution from the intra and post-pandemic debate.

Independence, impartiality and the new disclosure ecology

13. The amendments to Article 12 are more than a mere codification of the ICC Note. In echo to Article 12(2) which encourages disclosure where doubt exists, Article 12(4) reassures arbitrators that disclosure is not an admission of conflict. Article 12(5) requires party assistance in identifying persons and entities relevant to conflict checks. Together, these provisions create a more structured disclosure ecology.

14. The most important of these provisions may be Article 12(5). Modern international arbitration is no longer populated only by simple bilateral contracts between two corporate parties. It often involves investment vehicles, state-owned entities, funds, lenders, insurers, affiliates, subsidiaries, parent companies, beneficial owners and public agencies. A conscientious arbitrator may be unable to conduct meaningful conflict checks without knowing which entities the parties consider relevant. The new rule imposes an active duty of disclosure upon the parties themselves. A party cannot reasonably withhold relevant information at the appointment stage and later complain that the arbitrator failed to identify a relationship that the party could have flagged.

15. The reform is also tactically significant. It will influence how parties prepare the Request and Answer, because Articles 5(3) and 6(1) require information connected with Articles 12(5) and 12(6) to be submitted at the outset. Counsel will need to conduct conflicts-related mapping earlier than before and more seriously. In complex corporate or sovereign disputes, this may require input from the client well before the first procedural conference. The practical discipline imposed by Article 12 is therefore consistent with the broader theme of the 2026 Rules: the arbitration is to be organised earlier, more deliberately and with less tolerance for procedural ambush.

The end of the mandatory Terms of Reference

16. No amendment introduced by the 2026 Rules is more symbolically significant than the abolition of mandatory Terms of Reference (ToR). For generations of practitioners, the ToR were one of the defining characteristics of ICC arbitration. They distinguished ICC proceedings from those administered by virtually every other major arbitral institution. Their origins lay in an earlier era, when certain legal systems required a post-dispute submission agreement and institutions sought mechanisms capable of confirming both consent and the tribunal's mandate. Over time, however, their function changed. What began as a jurisdictional safeguard became a formalistic procedural document recording the parties, their claims, the relief sought and the principal issues in dispute.

17. The difficulty is that, in many modern cases, the ToR had become duplicative. By the time they were prepared, the Request, Answer, counterclaims, jurisdictional objections and correspondence with the Secretariat had often already defined the dispute with sufficient clarity. Negotiation of the ToR could consume time and cost without producing equivalent procedural benefit. This was not invariably so. In complex cases, a well-drafted ToR could discipline the parties and sharpen the issues. But as a mandatory requirement in every case, the instrument increasingly sat uneasily with the demand for efficiency.

18. The experience of expedited arbitration proved decisive. Under the Expedited Procedure Provisions introduced in 2017, ToR were not mandatory. The ICC has administered more than 1,000 expedited cases, and according to ICC statistics, fewer than 25 tribunals elected voluntarily to prepare ToR in such cases. That statistic

speaks volumes about how dispensable the ToR may turn to be.

19. The 2026 Rules accordingly remove the ToR as a necessary step. This does not mean that tribunals are prohibited from using them. A tribunal may still prepare an equivalent procedural instrument, one that may still be referred to as ToR, where appropriate as a case management tool. The difference is that the Rules no longer presume that every ICC arbitration needs one. That change is more than administrative. The ToR were the procedural centre of gravity of ICC arbitration. Once removed, the entire architecture had to be rebalanced.

The Case Management Conference as the new centre of gravity

20. The rebalancing occurs through Article 24. The initial Case Management Conference (CMC) is now the central procedural event in ordinary ICC arbitration. Article 24(1) requires the tribunal to hold the initial CMC within 30 days of receiving the file from the Secretariat, unless extended by the Secretary General. Article 24(2) requires the tribunal, during the conference or as soon as possible thereafter, to establish the procedural timetable for the efficient conduct of the arbitration. The timetable, and any modification to it, must be communicated to the Secretariat and the parties.

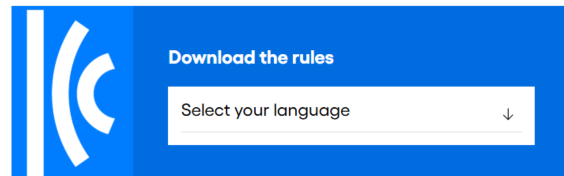
21. This is a change of legal culture as much as of procedure. Under the 2021 Rules, the CMC already existed, but it operated in the shadow of the Terms of Reference. Under the 2026 Rules, it becomes the moment at which the arbitration is organised. The tribunal is expected to engage with the dispute early, to consider appropriate case management measures under Article 23(2), to determine how evidence and submissions will be managed, and to establish a timetable capable of carrying the case to award.

ICC Arbitration Rules 2021 and 2026 compared version

The compared version, which is made available for convenience, highlights the amendments to the 2021 Arbitration Rules.

ICC has introduced targeted updates in the 2026 Arbitration Rules to improve efficiency, clarity and case management while preserving the flexibility, neutrality and procedural integrity that underpin ICC Arbitration.

Read the compared version



22. Article 24(4) expressly permits further CMCs. This indicates that case management is an ongoing function. In litigation, judges do not manage complex proceedings by issuing one timetable and disappearing until trial. The 2026 Rules move ICC arbitration closer to that model, without abandoning party autonomy or arbitral flexibility. The tribunal remains bound by Article 23(4) to act fairly and impartially and to ensure that each party has a reasonable opportunity to present its case. Yet within that framework, passivity is no longer an attractive posture.

New claims and the front-loading of disputes

23. The abolition of mandatory Terms of Reference required a new rule on the introduction of late claims. Under the 2021 Rules, the signing or approval of the Terms of Reference operated as the relevant cut-off. Under the 2026 Rules, Article 25 provides that, after the initial CMC, no party may make new claims unless authorised by the tribunal. In deciding whether to allow such claims, the tribunal must consider the nature of the new claims, the stage of the

arbitration, cost implications and any other relevant circumstances.

24. This is one of the most consequential changes brought in the new Rules. It forces parties to take the Request and Answer seriously. They can no longer rely upon the ToR as the moment at which the dispute will later be properly framed. The centre of procedural gravity has moved earlier. Claimants must formulate their case with greater care at commencement. Respondents must do the same in the Answer and in any counterclaims. Counsel will need to invest earlier in factual investigation, document collection, valuation of relief and analysis of the arbitration agreement.

25. The rule is not rigid. Article 25 preserves tribunal discretion. This matters, because many complex disputes evolve as evidence emerges. A tribunal should not refuse a genuinely necessary amendment merely because it comes after the initial Case Management Conference. Yet the burden has shifted. The party seeking to introduce a new claim must justify the procedural disruption. Cost is expressly relevant. That express reference is revealing. Rather than an aspiration, efficiency is a rule-based factor in the exercise of procedural discretion.

Early determination

26. Article 30 introduces an express early determination procedure. It allows a party to seek a determination that one or more claims or defences are manifestly without merit or manifestly outside the tribunal's jurisdiction. The language is deliberately demanding. The standard is not that a claim appears weak, unattractive or unlikely to succeed. It must be manifestly deficient. This confines the mechanism to cases where the absence of merit or jurisdictional foundation is apparent without a full taking of the evidence, instruction of the case or evidentiary inquiry.

27. The ICC is not a pioneer in this respect. SIAC introduced an early dismissal mechanism in its 2016 Rules and has developed further preliminary determination tools in the 2025 Rules. HKIAC's 2024 Administered Arbitration Rules contain an early determination procedure in Article 43. The LCIA Rules 2020 contain a comparable power in Article 22.1(viii), allowing the tribunal to determine that a claim, defence or counterclaim is manifestly outside jurisdiction, inadmissible or manifestly without merit. ICSID also has a well-known mechanism for manifestly unmeritorious claims. The ICC's move therefore represents convergence with a broader institutional trend.

28. What is distinctive about the ICC reform is its position within the broader architecture of the 2026 Rules. Article 30 does not stand alone. It complements Article 23(2), which empowers the tribunal to adopt appropriate case management measures; Article 24, which requires early procedural organisation; and Article 25, which imposes discipline on new claims. Early determination is thus not merely a defensive tool against abusive claims. It is part of an integrated system designed to prevent the arbitration from being captured by procedural excess.

29. Whether Article 30 will be used boldly remains uncertain. Arbitrators have often been cautious in entertaining applications for summary dismissals, fearing that an award rendered after abbreviated treatment may invite challenge on due process grounds. That caution is understandable but should not be

exaggerated. The Rule itself supplies the authority grounded in the parties' consent. The threshold protects due process. Where a claim is plainly hopeless or plainly beyond jurisdiction, allowing it to consume the full resources of an arbitration is not a vindication of due process. It is a failure of procedural economy. In any event, the tribunal retains discretion over the procedure to be followed.

Emergency arbitration and preliminary orders

30. The emergency arbitrator provisions introduced in 2012 have become an established feature of ICC arbitration. The 2026 Rules refine and strengthen them. Appendix IV, Article 1(7) clarifies the persons against whom emergency measures may be sought. The Application may be directed not only against signatories to the arbitration agreement and their successors, but also against a party in respect of which the President of the Court is satisfied, on the basis of the information in the Application, that an arbitration agreement binding such party may exist. This is an important response to complex corporate structures and non-signatory questions.

31. The more striking innovation is Appendix IV, Article 7, which introduces preliminary orders. A party may request a preliminary order directing another party not to frustrate the purpose of the emergency application, and such a request may be made and decided without notice to all other parties. This brings ICC emergency arbitration closer to the remedial functionality of national courts in urgent cases where notice may defeat the purpose of relief, for example in situations involving threatened asset dissipation or destruction of evidence.

32. The provision is carefully hedged. If a preliminary order is granted, the emergency arbitrator must "immediately afford all other parties a reasonable opportunity to present their case" and may modify the preliminary order (Article 7.4). This is essential. *Ex parte* relief is exceptional precisely because it departs temporarily from the adversarial principle. Rather than hinging on whether notice is given before the first order, the due process question should be articulated around whether the respondent is promptly heard thereafter and whether the order remains subject to reconsideration.

33. Here again, the ICC is moving in step with wider institutional developments. The SIAC Rules 2025 introduced protective preliminary orders in emergency arbitration, with a compressed framework. HKIAC's 2024 Rules have strengthened emergency relief, including by clarifying emergency arbitrators' interim powers. The LCIA Rules 2020 provide for emergency arbitration under Article 9B, with a decision normally due no later than 14 days after appointment. The ICC's reform therefore reflects institutional convergence around the proposition that arbitration must be capable of granting urgent relief that is not merely theoretically available but practically effective.

Expedited procedure

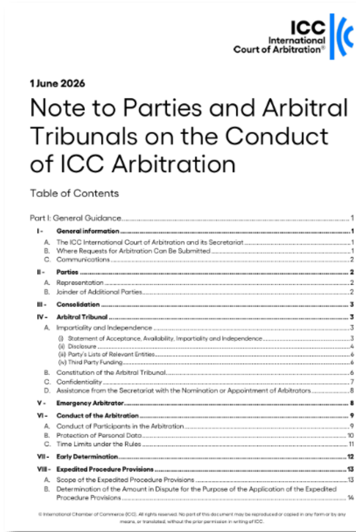
34. The Expedited Procedure Provisions remain one of the most successful ICC innovations of the past decade. The 2026 Rules increase the threshold for their automatic application to US$ 4 million for arbitration agreements concluded on or after 1 June 2026, subject to the exceptions in Appendix V, Article 1. The previous thresholds continue to matter for earlier arbitration agreements. Parties

remain free to opt out, and the Court may decide that expedited procedure is inappropriate in the circumstances.

35. The principal features of expedited procedure remain familiar. Under Appendix V, Article 2, the Court may appoint a sole arbitrator notwithstanding a contrary provision in the arbitration agreement. Under Appendix V, Article 3, the tribunal may limit document production, written submissions and witness evidence, and may decide the dispute solely on the documents after consulting the parties. Under Appendix V, Article 4, the tribunal must render the final award within six months from the initial Case Management Conference unless the President extends the time limit.

36. The increase to US$ 4 million is significant not because of the amount itself but because of what it signals. When expedited arbitration was introduced, some practitioners doubted whether disputes of several million dollars could properly be resolved through streamlined procedure. Experience has altered that view. The ICC's willingness to raise the threshold reflects confidence that expedited arbitration has become part of the ordinary arbitral toolkit. It also reflects a broader change in user expectations. Efficiency is a legitimate expectation even in all disputes, regardless of how substantial the value may appear to be.

37. Comparatively, the ICC remains distinctive in combining expedited procedure with close institutional supervision and award scrutiny. SIAC, HKIAC and other institutions offer expedited procedures, each with its own thresholds and criteria, including urgency, amount in dispute and party agreement. The ICC model is more institutionally managed. Stopping short deciding the dispute, the Court supervises the arbitral process and scrutinises awards. The 2026 Rules preserve that identity while reducing procedural weight where the case justifies it.


ICC International Court of Arbitration®

1 June 2026

Note to Parties and Arbitral Tribunals on the Conduct of ICC Arbitration

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Highly Expedited Arbitration Provisions (HEAP)

38. The most ambitious innovation in the 2026 Rules is the introduction of Highly Expedited Arbitration in Appendix VI. Unlike the Expedited Procedure Provisions, HEAP is opt-in only. It does not apply merely because parties have chosen ICC arbitration. Parties must expressly agree to it, either in the arbitration agreement or after the dispute has arisen. That feature is critical. HEAP is too compressed and too procedurally distinctive to be imposed by default.

39. Appendix VI provides for a sole arbitrator. If the parties do not jointly nominate the sole arbitrator within 20 days from the respondent's receipt of the Request and Statement of Claim, or within a longer agreed period, the Court directly appoints a suitable arbitrator. Under Appendix VI, Article 6, the tribunal must hold an initial CMC within 7 days of receiving the file. It may restrict document production, limit written submissions and witness evidence,

and decide the dispute solely on the documents. Under Appendix VI, Article 7(1), the tribunal must render its final award within 3 months from the initial Case Management Conference unless the President extends the time limit.

40. HEAP is not merely a faster arbitration. It is a different procedural species. The Request must contain a Statement of Claim, and the Answer must contain a Statement of Defence. Evidence and legal authorities must therefore be front-loaded. The procedure is suitable for disputes where the factual matrix is relatively contained, the documentary record is available, the legal issues are discrete and the parties value speed over procedural elaboration. In contrast, it may be ill-suited to factually dense construction disputes, complex fraud allegations, multi-party corporate disputes or cases requiring extensive expert evidence.

41. The most controversial feature appears in Appendix VI, Article 7(2): unless the parties agree that no reasons are to be given, the award shall state the reasons upon which it is based. This permits an unreasoned award by party agreement. The provision is defensible as an expression of autonomy, but it should be used cautiously. Reasoned awards are not a decorative feature of international arbitration. They assure the losing party that its case was considered, assist enforcement courts where necessary, and form part of the legitimacy of the adjudicative exercise. Parties considering an unreasoned award should also consider the law of the seat and potential enforcement jurisdictions. Knowing the ICC's cautious approach to potential requirements of the *lex arbitri*, it is reasonable to expect the Secretariat to leave it to the tribunal to decide whether it complies with the parties' agreement to have an unreasoned award or to provide in any event reasons to ensure that the award is enforceable.

42. HEAP is best understood as a response to a market segment not fully served by conventional arbitration. Some disputes require a binding, enforceable award but cannot economically sustain a long process. In that sense, HEAP occupies a space between expert determination, adjudication and traditional arbitration. Its success will depend less on the elegance of the text than on disciplined use. If parties opt into HEAP for unsuitable disputes, the result will be procedural frustration. If used for narrow commercial disputes, it may prove valuable.

Tribunal secretaries, truncated tribunals and awards

43. The 2026 Rules also codify aspects of practice previously governed principally by the ICC Note. Tribunal secretaries are a good example. The reform does not alter the basic principle that tribunal secretaries assist the tribunal but do not decide. Its value lies in transparency. The more that arbitral practice relies upon tribunal secretaries, the more important it becomes that their appointment, role, confidentiality and remuneration be governed by clear rules rather than informal understandings. The prohibition on direct arrangements between tribunals and parties concerning secretarial remuneration is particularly important. It preserves predictability and avoids any impression that the tribunal has created a parallel administrative structure outside institutional oversight.

44. Article 16(5) expands the Court's power to proceed with a truncated tribunal. Under the 2021 Rules, this possibility arose after the closing of proceedings, a step known to happen very late in the process,

frequently after a draft award is turned over to the Court for scrutiny. Under the 2026 Rules, the Court may decide not to replace an arbitrator who has died or been removed after the last hearing or the filing of the last substantive submissions, whichever is later. The rationale is practical. Once the evidentiary record is complete and the tribunal is at or near deliberation, replacement may generate considerable delay and cost while contributing little to fairness. The provision remains discretionary, which is essential. A truncated tribunal may be appropriate in some cases and inappropriate in others, particularly where deliberations have barely begun or the missing arbitrator's expertise was central.

45. The new regime for awards reflects the disappearance of the ToR. The previous default time limit of six months from the ToR has been replaced. Article 28 requires the tribunal, as soon as possible after the last hearing concerning matters to be decided in an award or the filing of the last authorised submissions, to declare the proceedings closed and inform the Secretariat and the parties of the date by which it expects to submit its draft award to the Court for approval. Article 34 then places the fixing or extension of the time limit for rendering the final award with the President of the Court, taking into account the procedural timetable or a reasoned request from the tribunal.

46. This is a sensible move from formal deadlines to realistic accountability. The old 6-month period showed a drive towards efficiency on paper but was frequently artificial in practice. Cases were routinely extended by the Court, often without a request from the Tribunal, because what mattered most was to ensure the award was not out of time. The new approach links the award timetable to the actual procedural life of the case. It also gives the parties better visibility. It is expected that the process will be collaborative, with tribunals and potentially the parties being asked for estimation before the President of the Court determines the duration.

Costs and the economics of procedure

47. The revised Schedule of Fees and Appendix III should be read alongside the procedural reforms. Cost in arbitration is generated less by institutional fees than by the procedure itself: pleadings, document production, expert evidence, hearings, post-hearing briefs and procedural skirmishes. The 2026 Rules therefore address cost principally by procedural architecture. Eliminating mandatory Terms of Reference, front-loading claims under Article 25, permitting early determination under Article 30, expanding expedited procedure under Appendix V, and introducing HEAP under Appendix VI, are all cost reforms, even where they do not appear under the banner of fees.

48. The fee reforms nevertheless matter. For the first time since 2010, the ICC reduced its administrative costs for disputes below USD 10 million while introducing targeted increases for larger disputes. Appendix III, Article 6(12) also provides that where arbitration follows proceedings under the ICC Mediation Rules, half of the ICC administrative expenses paid in the mediation will be credited towards the ICC administrative expenses of the arbitration. That is a modest but intelligent incentive. It encourages parties to view arbitration as part of a broader dispute-resolution continuum rather than as the first and only step.

49. The fee structure also reflects institutional realism. Major international arbitrations today can involve billions of dollars, multiple parties, extensive document production and complex expert evidence. It is not unreasonable for institutional costs in very large cases to reflect the scale of the dispute. At the same time, preserving accessibility for smaller and medium-value cases is essential if arbitration is not to become the preserve only of large corporates and States. The 2026 Rules seek to address both ends of the spectrum.

Multiparty refinements

50. The 2026 Rules do not radically alter the ICC framework for multi-party and multi-contract disputes. Articles 7 to 11 preserve the basic structure governing jurisdictional objections, joinder, claims between multiple parties, multiple contracts and consolidation. The principal refinement concerns joinder after constitution of the tribunal. Article 8 allows an additional party to be joined with its consent, subject to the relevant conditions. This may appear modest, but it reflects procedural common sense. Where the additional party itself accepts participation, procedural obstacles should not be multiplied unnecessarily.

51. Joinder and consolidation engage the core principle of consent. Meddling with it through more radical reforms area would risk undermining the legitimacy of awards, particularly at the enforcement stage. The ICC has therefore proceeded with caution. The result is consistent with the overall character of the 2026 revision: practical refinement rather than doctrinal upheaval.

States and state entities

52. The 2026 Rules expressly matter for States and state entities. The ICC is not solely a commercial body serving private corporations. State-owned enterprises, public agencies, sovereign wealth funds and States themselves increasingly appear in ICC proceedings. Several reforms are particularly relevant to them.

53. First, Article 12(5) should improve conflict checks in disputes involving public-sector structures. Ministries, state-owned companies, sovereign funds and affiliated public entities may present complex relationship networks. Requiring parties to identify relevant persons and entities at the outset should reduce the risk of later disclosure disputes. Secondly, Article 30 may be valuable in disputes involving manifestly defective jurisdictional theories or plainly untenable defences. Sovereign and state-entity disputes often involve objections concerning authority, capacity, consent and the scope of the arbitration agreement. Where such objections are manifestly sound or manifestly unsound, early determination may reduce unnecessary cost.

54. Thirdly, expedited procedure and HEAP may be useful for state-owned enterprises engaged in ordinary commercial transactions. Not every dispute involving a public entity raises questions of public law or sovereign policy. Many concern supply contracts, infrastructure subcontracts, services agreements or commercial payment disputes. Where the factual record is narrow, procedural acceleration may be attractive. Conversely, States and public entities should be cautious about agreeing to HEAP in disputes likely to involve regulatory conduct, corruption allegations, complex valuation or politically sensitive facts. Speed is not a substitute for legitimacy.

55. The 2026 Rules therefore offer States and state entities a broader set of

options. They do not impose one model. They require more careful drafting and earlier procedural choices. Public-sector parties should consider, at the contract stage, whether to opt out of expedited procedure, opt into HEAP for discrete categories of disputes, require reasoned awards, provide for confidentiality and address the identity of relevant public entities for disclosure purposes.

Comparative perspective: ICC, SIAC, LCIA and HKIAC

56. The 2026 Rules place the ICC firmly within a broader institutional movement. SIAC, HKIAC and LCIA have all moved towards stronger procedural powers, early disposal mechanisms, emergency relief and procedural acceleration. SIAC has often been more experimental in fast-track procedure and emergency relief. Its 2025 Rules include protective preliminary orders in emergency arbitration and modern preliminary determination mechanisms. HKIAC maintains a lighter administrative style, but its 2024 Rules include expedited procedure, early determination and modern provisions on information security and third-party funding. The LCIA Rules 2020 adopt a broad procedural empowerment model, including early determination under Article 22.1(viii), expedited formation and emergency arbitration. Against that comparative background, the ICC's 2026 Rules are not isolated. They are part of the convergence of major institutions around a more proactive conception of arbitral procedure. This proves the Zhuangzi tradition true: Many streams may feed the river, yet all ultimately flow towards the sea.

57. Yet the ICC remains distinctive. Its defining features remain institutional supervision, scrutiny of awards and the continuing presence of the Court as guardian of the process. The abolition of mandatory Terms of Reference should not be mistaken for a retreat from institutional control. The Court remains central. Awards remain scrutinised. The Secretariat remains closely involved. What changes is the form of control. The ICC is reducing procedural ceremony while preserving institutional oversight.

Critical assessment

58. The 2026 Rules are a substantial improvement, but they are not free from risk. The abolition of mandatory Terms of Reference will reduce cost and delay in many cases, but it may also remove a useful discipline in complex arbitrations. Much will depend on whether tribunals use the initial CMC to perform the focusing function previously served by well-drafted ToR.

59. Early determination under Article 30 is dependent on arbitral courage. If tribunals apply the standard timidly, the provision will become ornamental. If they apply it recklessly, they risk due process challenges. The correct approach lies between those extremes: early determination should be available for plainly unsustainable claims or defences, but not for issues requiring substantial factual or legal evaluation.

60. HEAP is both promising and delicate. Its 3-month award deadline may be transformative for narrow commercial disputes. Yet it should not be oversold. Not every dispute can be compressed without loss. The possibility of unreasoned awards is useful in theory but potentially problematic in practice. Reasoned awards perform a legitimacy function, particularly in cross-border enforcement. Parties choosing an unreasoned award should do so consciously,

not as an incidental consequence of enthusiasm for speed.

61. The confidentiality compromise is also imperfect. It is doctrinally defensible, but users may continue to misunderstand the position. Counsel drafting ICC clauses should not assume confidentiality. If confidentiality matters, it must be addressed expressly. The same is true of expedited and highly expedited procedures. The 2026 Rules reward careful drafting and penalise complacency.

A final word …

62. The 2026 ICC Rules should not be judged by asking whether any one amendment rivals the introduction of emergency arbitration in 2012 or expedited arbitration in 2017. That is the wrong test. Their significance lies in the cumulative reorientation of ICC arbitration. Viewed individually, many amendments appear modest. Viewed together, they complete a transformation.

63. The defining movement is from procedural documents to procedural management. The ToR, once the emblem of ICC arbitration, are no longer mandatory. The CMC becomes the organising event. New claims are controlled by reference to that conference. Early determination is expressly available. Emergency arbitration is strengthened. Expedited procedure expands. HEAP creates an opt-in model of arbitration at unprecedented speed. Award deadlines are linked more realistically to the procedural timetable. Costs are addressed through procedural economy as much as through the fee schedule.

64. This does not mean that ICC arbitration has become less rigorous. On the contrary, the 2026 Rules demand more from parties at the outset, more from tribunals during the case, and more from counsel in drafting arbitration clauses and preparing Requests and Answers. They also place efficiency within the grammar of procedural legitimacy. A fair arbitration that takes too long and costs too much may fail the expectations that led users to choose arbitration in the first place.

65. The most important innovation of the 2026 Rules is therefore not HEAP, early determination, *ex parte* preliminary orders or electronic communications. It is the emergence of a new procedural architecture. ICC arbitration is no longer organised around the documentary definition of the dispute. It is organised around the managed progression of the dispute to an enforceable award. That is the quiet importance of the 2026 revision. It marks the completion of a fourteen-year transformation and the clearest expression to date of the ICC's contemporary vision of international arbitration.

Georges Affaki served two terms as a member of the ICC International Court of Arbitration and was a member of the Council of the ICC Institute of World Business Law for two decades. He is a member of the ICC Commission on Arbitration and ADR. Together with Claudia Salomon, he co-chaired the task force that produced the ICC Report on Financial Institutions and International Arbitration, published in two volumes and available on the ICC website. He has also contributed to each of the last four revisions of the ICC Rules of Arbitration.

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[1] See AFFAKI Insight 10, *The 2021 ICC Arbitration Rules: Continued Evolution and Smart Adaptations for a New Era*, 2021.

[2] Claudia Salomon, *New ICC Rules of Arbitration enhance efficiency, clarity and usability*, 22 May 2026 (ICC website, last accessed 29 May 2026).

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