

ICC Arbitration Rules 2026

The Future of International Commercial Arbitration

Regulatory Update

Introduction

The International Chamber of Commerce (ICC) has carried out a major revision to its Rules of Arbitration, with the 2026 International Chamber of Commerce Rules (2026 ICC Rules) which entered into force on June 1, 2026. This revision focuses on streamlining the procedure, codifying good practice and sharpening tools for early case management in international commercial arbitration, while maintaining the ICC's signature features of award scrutiny and institutional oversight.

This piece highlights the amendments to the ICC Rules, sets them in context, and offers practical recommendations for parties, counsel and arbitrators.

In Force

Jun 2026

Revisions

10 Areas

EPP Threshold

US\$ 4M

HEAP Award

3 Months

Highlights of the revisions in the 2026 ICC Rules

01 Removal of Mandatory Terms of Reference

For the first time since the 1950s, Terms of Reference (ToR) are no longer a mandatory step in Arbitral proceedings. Although the 2026 ICC Rules still give the arbitral tribunal the discretion to draw up a ToR where useful,¹ the focus has shifted to an initial Case Management Conference (CMC). The CMC must be held within 30 days of the arbitral tribunal's receipt of the file and should be given prominence.²

In practice, matters previously captured in the ToR (party identification, jurisdictional confirmations, governing law, and issue framing) can be reflected in Procedural Order No. 1 and a robust procedural timetable. This change would possibly reduce front-loading of costs and delays, particularly in smaller or time-sensitive disputes.

In Nigeria, this development mirrors the preliminary meeting or hearing already familiar in Nigerian arbitral practice, which enables the Tribunal to establish the procedural timetable and procedural orders to guide the proceedings.

CMC Window

30 days

from the arbitral tribunal's receipt of the file.

02 Early determination for manifestly unmeritorious or ultra vires matters

The 2026 ICC Rules introduce a mechanism for early determination of claims or defences that are without merit or outside the jurisdiction of the tribunal.³ Although ICC tribunals previously addressed such issues through their general case management powers, the 2026 ICC Rules now expressly codify the procedure. This provides tribunals and parties with a clear and standardised framework for, where appropriate, narrowing the issues in dispute or disposing of unmeritorious claims or defences at an early stage.

This development is particularly significant when viewed against the arbitration framework in Nigeria. The Arbitration and Mediation Act 2023 does not contain an express early determination mechanism. Juxtaposing this to traditional litigation, the Nigerian courts have inherent powers to strike out frivolous claims or discountenance frivolous defences and proceed to summary judgment.

The absence of a dedicated procedural tool within the arbitral framework means that parties to domestic arbitrations lack a structured and formal route to early disposal now available under the 2026 ICC Rules. An early determination mechanism would be particularly valuable in Nigerian commercial arbitrations, where delay and the cost of full proceedings can be disproportionate to the merits of certain claims or defences.

03 Conflicts and Disclosure

The 2026 Rules refine the framework governing an arbitrator's neutrality.⁴ One of the most notable developments includes: (a) the provision that any doubt regarding disclosure *"shall be resolved in favour of disclosure"*;⁵ and (b) Article 12(4), which clarifies that disclosure does not automatically imply a lack of independence or impartiality.

The addition of Article 12(5), which requires parties to assist in identifying potential conflicts, introduces a more collaborative model of conflict management, shifting part of the burden of conflict search onto the parties.⁶ Generally, after parties nominate an arbitrator, the ICC must confirm that person before the tribunal is officially informed. The 2026 ICC Rules now provide that, even if neither party objects to the nominee, the ICC Secretary General may still send the confirmation decision to the ICC Court for a final decision.

04 Confidentiality Obligations for arbitrators

Generally, confidentiality has been seen more as an obligation on parties and their counsel; the 2026 ICC Rules now impose a clear duty on arbitrators to keep matters relating to the arbitral proceedings confidential, subject to limited carve-outs (the public domain, party agreement, legal requirement, and the protection of legal rights). Essentially, the 2026 ICC Rules prioritise the tribunal's obligation to keep the proceedings and all matters related to it confidential.

05 Time limit for Award delivery

With the removal of the mandatory Terms of Reference (ToR), the traditional six-month timeframe tied to ToR signature has also been eliminated.⁷ The 2026 ICC Rules now provide that the ICC Court President *"shall fix the time limit, or subsequently extend the time limit, for rendering the final award, considering: (a) the procedural timetable established pursuant to Article 24(2); or (b) a reasoned request from the arbitral tribunal."*⁸

This has created room for greater case-specific flexibility, allowing the ICC Court to manage timelines more realistically. In Nigeria, the AMA 2023 retains a fixed statutory timeline for the delivery of awards. While statutory deadlines serve the legitimate purpose of promoting efficiency, the ICC's more flexible approach recognises that not all disputes can or should be resolved within a single uniform timeframe, especially considering that some cases could be more complex and onerous than others. Future reform of the AMA 2023 might consider introducing a mechanism that allows for adjustment of award deadlines in appropriate circumstances, balancing efficiency with the practical realities of complex commercial disputes.

06 Adaptation to Technology

The 2026 ICC Rules provide that tribunals may sign awards electronically or in counterparts. It further provides that tribunals may request that the secretariat notify the award in paper or electronic form, after consultation with the parties and consideration of relevant circumstances.⁹

Furthermore, Article 3(1) of the 2026 Rules provides that all written communications with the Secretariat shall be made by email or other electronic means, unless a party requests confirmation of receipt or delivery of hard copies to effectuate service of the request for arbitration, request for joinder and answer to the request or Joinder.¹⁰

The Arbitration and Mediation Act 2023 remains neutral on technology. Technology is here to stay, and with each passing day arbitrators increasingly deploy a range of technological tools in arbitration. Beyond recognising and accommodating the use of technology, there is a need for well-thought-out legislation or a framework that guides the ethical use of technology in arbitration, addressing risks, confidentiality and accountability.

07 Expedited Procedure

Under the 2026 ICC Rules, the monetary threshold for the automatic application of the Expedited Procedure Provisions has been increased to \$4,000,000 (Four Million United States Dollars) for arbitration agreements concluded on or after June 1, 2026.¹¹ The higher threshold acknowledges both the rising value of international commercial disputes and the confidence the global business community, as well as states and state entities, users have developed in ICC proceedings. Corresponding case management features have been refined to promote early discipline (including tighter CMC timelines and controls on new claims after the initial CMC unless leave is granted). All other established procedural features of the EPP remain unchanged.

08 Highly Expedited Arbitration Provisions (HEAP)

The 2026 ICC Rules introduce the Highly Expedited Arbitration, which provides for a final award to be issued within three months of the initial Case Management Conference.¹² It should be noted that during the course of the Highly Expedited Arbitration proceedings, if the parties agree that the Highly Expedited Arbitration Provisions shall no longer apply, they will no longer be applicable.¹³ Also, the ICC Court can, *suo motu* or on the request of a party or the tribunal, decide that the Highly Expedited Arbitration proceedings should no longer apply.¹⁴

It is worth observing that Nigerian arbitral institutions have not yet introduced a comparable ultra-expedited procedure. Given the well-documented delays associated with commercial dispute resolution in Nigeria, the adoption of a HEAP-style mechanism by Nigerian arbitral bodies could be a significant step toward enhancing the attractiveness of Nigeria as a seat of arbitration.

09 Emergency Arbitration

The 2026 ICC Rules clarify the scope of parties against whom emergency relief may be sought.¹⁵ The Emergency Arbitrator provisions apply only to: (a) parties that are signatories to the arbitration agreement upon which the application is based, (b) their successors and (c) any party which the ICC President is satisfied that an arbitration agreement binding such party may exist.¹⁶ The 2026 Rules also makes provision for circumstances or parties the Emergency Arbitrator provisions would not apply to, which includes: (a) where the arbitration agreement under the Rules was concluded before January 1, 2012, (b) where parties have agreed to opt out of the Emergency Arbitration provisions, or (c) where the arbitration agreement on which the application is based arises from a treaty or an investment protection law.¹⁷

10 Replacement of Arbitrators

Article 16(5) addresses the procedural consequences of replacing an arbitrator. It confirms the tribunal's authority to determine whether, and to what extent, prior proceedings should stand or be repeated following a replacement. The ICC Court can now also authorise a truncated tribunal to proceed following the death or removal of an arbitrator after the last hearing or last substantive submissions, whichever is later. Previously, this was confined to the post-closure phase. The change protects sunk cost and momentum, where replacing an arbitrator would add disproportionate delay.

11 Tribunal Secretary

The 2026 Rules formally regulate the role of the tribunal secretary, which is an increasingly important feature of modern arbitration.¹⁸ It provides that the tribunal secretaries must satisfy the same independence, impartiality, and confidentiality requirements as arbitrators under the Rules and sign a statement of acceptance, availability, impartiality, and independence before their appointment.¹⁹ This is very important as Tribunal Secretaries have come to stay in arbitral proceedings, it is only right that there is a formalised framework guiding the appointment of Tribunal secretaries, enumerating their roles, responsibilities and obligations and ultimately ensure that Tribunal Secretaries are held accountable and to the same standards as the arbitrators themselves.

Implications for Nigerian Arbitration Practice and Reform

The 2026 ICC Rules offer a valuable benchmark for the continued development of arbitration practice in Nigeria. While the Arbitration and Mediation Act 2023 represent a significant modernisation of the Nigerian arbitral framework, the revisions to the ICC Rules highlight several areas where further reform could enhance the efficiency, transparency and attractiveness of Nigerian arbitration.

First, the adoption of an early determination mechanism, whether through legislative amendment or institutional practice directions, would provide Nigerian arbitral tribunals with a tool to address frivolous or jurisdictionally defective claims at an early stage, reducing cost and delay for all parties.

Second, the collaborative conflict disclosure model introduced by the 2026 ICC Rules could be adapted for the Nigerian context, strengthening the integrity of the arbitral process. Third, the express regulation of the tribunal secretary's role addresses a gap in the AMA and could be addressed through institutional guidance pending any legislative revision.

More broadly, the innovations in the 2026 ICC Rules, particularly the HEAP and the enhanced technology provisions, should prompt Nigerian arbitral institutions and the legislature to consider whether corresponding reforms are needed to ensure that Nigerian arbitration remains competitive with the procedural offerings of leading international institutions.

More Broadly

HEAP & Technology

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Conclusion

The 2026 ICC Rules represent a significant adjustment to the framework that largely guides international commercial arbitration. By revision, the ICC has aligned its procedure more closely with how parties actually arbitrate today.

The recommendation for parties now is to redraft their arbitration clauses to anticipate ToR-less proceedings; decide their default position on EPP opt-out and HEAP opt-in; operationalise conflict disclosures; and update emergency-relief playbooks to leverage the broader reach of ICC emergency measures.

For the Nigerian arbitration community, the 2026 ICC Rules provide a roadmap for further development. Arbitral institutions and lawmakers in Nigeria are invited to draw on these innovations to continue strengthening the Nigerian arbitral framework, ensuring that it remains fit for purpose in an increasingly competitive global landscape for dispute resolution.

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1. ICC Arbitration Rules 2021, Article 23(2)
2. ICC Arbitration Rules 2026, Article 24
3. ICC Arbitration Rules 2026, Article 30
4. ICC Arbitration Rules 2026, Article 12
5. ICC Arbitration Rules 2026, Article 12(2)
6. ICC Arbitration Rules 2026, Article 12(5)
7. ICC Arbitration Rules 2021 Article 31(1)
8. ICC Arbitration Rules 2026, Article 34
9. ICC Arbitration Rules 2026, Article 38
10. ICC Arbitration Rules 2026, Article 3(2)
11. ICC Arbitration Rules 2026, Article 32
12. ICC Arbitration Rules 2026, Article 33
13. ICC Arbitration Rules 2026, Article 1 (2) of Appendix VI
14. Ibid
15. ICC Arbitration Rules 2026, Article 31
16. ICC Arbitration Rules 2026, Article 1 (2) of Appendix IV
17. ICC Arbitration Rules 2026, Article 1 (3) of Appendix IV
18. ICC Arbitration Rules 2026, Article 44
19. ICC Arbitration Rules 2026, Article 44 (2)

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