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Recent Developments in ICC Arbitration and Their Relevance to Indian Arbitration

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Introduction

The International Chamber of Commerce (ICC) has revised its Arbitration Rules in 2026, with new Rules coming in force from 1 June 2026. Though it has not replace the basic structure of ICC arbitration, but have introduce some focused changes in order to make proceedings more efficient, flexible, and easier to manage. The most significant developments is about arbitrator disclosure, case management, expedited proceedings, emergency arbitration, early determination, and electronic procedure. These changes are relevant to India because the Indian arbitration framework has also been developed around similar goals of reducing delay, improving neutrality, encouraging institutional arbitration, and limiting unnecessary court intervention.

Greater Focus on Arbitrator Disclosure

ICC Rules 2026 strengthen the existing system for ensuring the independence and impartiality of the arbitrators. Under Article 12, a prospective arbitrator must disclose circumstances that may raise doubts about independence or impartiality. These new rules expressly provide that where an arbitrator is uncertain about whether a matter should be disclosed, the doubt should be resolved in favour of disclosure. The Rules also require parties to provide the ICC Secretariat with information about persons and entities that an arbitrator should consider when assessing possible conflicts.

A similar provision exists under Indian law, section 12 of the Arbitration and Conciliation Act, 1996 requires a prospective arbitrator to disclose circumstances that may give rise to justifiable doubts about the independence or impartiality. The Fifth and Seventh Schedules further address circumstances relevant to possible conflicts and ineligibility.[3] (indian arbitration act) This approach of the ICC adds procedural clarity to a principle already recognised in India. For Indian parties participating in international arbitration, the development is particularly relevant because early and complete disclosure can reduce disputes over appointments at a later stage of the proceedings.

Moving Away from Mandatory Terms of Reference

One of the most visible changes in the 2026 Rules is the removal of mandatory Terms of Reference in ordinary ICC arbitration, which was a procedural feature of ICC arbitration Under the 2021 Rules. Earlier this approach of, the Terms of Reference helped to identify the parties, claims, issues, and procedural framework at an early stage. Under the new Rules, a tribunal may still prepare Terms of Reference when useful, but they are no longer need to be a compulsory step. The initial Case Management Conference (CMC) now assumes greater importance in organising the arbitration and establishing the procedural timetable.

This is relevant to Indian arbitration because the Indian legislative framework has also placed increasing emphasis on reducing procedural delay. The Department of Justice has stated that amendments to the Arbitration and Conciliation Act have sought to promote timely completion of arbitration, reduce court intervention and encourage institutional arbitration. This ICC development creates a useful example of how an arbitral institution can reduce formal procedural steps without removing the tribunal's power to define the dispute. It also places greater responsibility on parties and tribunals to identify the issues early and establish a workable timetable.

Expedited and Highly Expedited Arbitration

The 2026 Rules expand the ICC's existing Expedited Procedure Provisions (EPP). For arbitration agreements concluded on or after 1 June 2026, the EPP applies automatically where the amount in dispute does not exceed US$4 million, subject to the exceptions in the Rules. The procedure generally uses a sole arbitrator and requires the final award within six months from the initial CMC.

The more significant development is the new Highly Expedited Arbitration Provisions. These provisions apply only when all parties expressly agree to use them and may be used regardless of the amount in dispute. The procedure is designed regarding a final award within three months from the initial CMC. It also permits front-loaded pleadings, requires a sole arbitrator, and allows the tribunal, after giving parties an opportunity to be heard, to limit submissions, dispense with document production or decide the dispute on documents alone.

The Indian Arbitration and Conciliation Act already contains a fast-track mechanism under Section 29B where parties may agree in writing to resolve their dispute under the fast-track procedure, and the award is generally to be made within six months from the date the tribunal enters upon the reference. Section 29A separately provides time-related rules for arbitral awards. India already recognises expedited arbitration through legislation, while the ICC Rules provide several procedural levels depending on the nature and urgency of the dispute. The ICC's model shows how institutional rules can provide an additional, highly accelerated procedure where the parties consider speed to be especially important.

Emergency Arbitration and Interim Relief

Emergency arbitration is one of the important parts of institutional arbitration because a party may need urgent protection before the main arbitral tribunal has been constituted. Under the ICC Rules 2026, an emergency arbitrator is normally appointed within two days of receipt of the application, and the emergency arbitrator is required to make an order within 15 days after receiving the file, subject to extension. Even the new Rules also expressly recognise

preliminary orders, which may in appropriate circumstances be granted before the other party is notified, and followed by an opportunity for that party to present its case.

This development is relevant to India because the Supreme Court has already considered emergency arbitration in the case of *Amazon.com NV Investment Holdings LLC v. Future Retail Ltd.* the Court held that an emergency arbitrator's order made under the agreed SIAC Rules could fall within Section 17(1) of the Arbitration and Conciliation Act and could therefore be enforced through the mechanism provided by Section 17(2). It reflects that the institutional emergency arbitration can operate within the Indian arbitration framework where the statutory requirements and the parties' arbitration agreement permit it.

Early Determination of Clearly Unmeritorious Claims

The ICC 2026 Rules introduce early determination under Article 30. A party may ask the tribunal to determine a claim or defence at an early stage where it is manifestly without merit or manifestly outside the tribunal's jurisdiction. The tribunal retains discretion over whether the application that should proceed and must allow the parties to address the issue.

Although the ICC states that early determination had already formed part of its practice and guidance since 2017. This development also fits within a wider international movement towards early disposal mechanisms. UNCITRAL's 2023 on early dismissal and preliminary determination recognises the use of such procedures as part of the organisation of arbitral proceedings.

Indian arbitration legislation does not contain a direct provision of "early determination." The ICC model may therefore be of comparative interest to Indian arbitration, particularly where a claim or defence can be resolved at an early stage without requiring a full evidentiary hearing. Any such procedure, however, would still need to preserve each party's opportunity to present its case.

Digital Procedure and Confidentiality

The 2026 Rules have reflected in the increasing use of technology in arbitration. Article 3 makes electronic communication as the default method for important filings with the ICC Secretariat, whereas Article 19 expressly allows hearings and deliberations to take place through videoconference, teleconference, or other electronic means. The Rules also impose an express confidentiality obligation on arbitrators and expect the participants to consider appropriate security measures for sensitive and confidential information.

This is relevant in Indian arbitration because virtual hearings, electronic evidence and online case management have become important parts of modern arbitral practice. The ICC's approach reflects how institutional rules can incorporate technology directly into the procedural framework rather than treating it as an exceptional arrangement.

Conclusion

The 2026 ICC Arbitration Rules reflect a clear emphasis on speed, simpler procedure, transparency and flexibility. The removal of mandatory Terms of Reference, stronger disclosure requirements, expanded expedited procedures, new highly expedited arbitration,

formal early determination and strengthened emergency arbitration provide parties with more procedural options.

For India, these developments are relevant because several of the underlying objectives already exist within the Arbitration and Conciliation Act, 1996, particularly through Sections 12, 17, 29A and 29B. The comparison suggests that future development of Indian arbitration may benefit from closer attention to institutional mechanisms that allow procedure to be adapted to the complexity and urgency of individual disputes. At the same time, institutional rules must operate within the limits of mandatory national law and basic procedural fairness.

References

1. Int'l Chamber of Commerce, *ICC Arbitration Rules 2026* (2026), https://iccwbo.org/dispute-resolution/dispute-resolution-services/arbitration/rules-procedure/2026-arbitration-rules/; Department of Justice, Government of India, *Annual Report*, discussing arbitration reforms and their objectives (2025). (ICC - International Chamber of Commerce)
2. Int'l Chamber of Commerce, *ICC Arbitration Rules 2026*, art. 12 (2026). (ICC - International Chamber of Commerce)
3. Arbitration and Conciliation Act, No. 26 of 1996, §§ 29A–29B, INDIA CODE (as amended). (IndiaCode by eCourtsIndia)
5. Department of Justice, Government of India, *Annual Report*, supra note 1. (Department of Justice)
6. Int'l Chamber of Commerce, *ICC Arbitration Rules 2026*, app. V, art. 1; Int'l Chamber of Commerce, *Expedited Procedure Provisions* (2026). (ICC - International Chamber of Commerce)
7. Int'l Chamber of Commerce, *Highly Expedited Arbitration Provisions* (2026). (ICC - International Chamber of Commerce)
9. Int'l Chamber of Commerce, *ICC Arbitration Rules 2026*, app. IV, arts. 2, 6–7 (2026). (ICC - International Chamber of Commerce)
10. *Amazon.com NV Investment Holdings LLC v. Future Retail Ltd.*, (2022) 1 S.C.C. 209 (India).
11. Int'l Chamber of Commerce, *ICC Arbitration Rules 2026*, art. 30 (2026). (ICC - International Chamber of Commerce)
13. U.N. Comm'n on Int'l Trade Law, *Notes on Organizing Arbitral Proceedings* (2016, with additional note on early dismissal and preliminary determination adopted in 2023). (UNCITRAL)
14. Int'l Chamber of Commerce, *ICC Arbitration Rules 2026*, arts. 3, 19; Int'l Chamber of Commerce, *Unveiling the 2026 ICC Arbitration Rules, Part 6: Written Communications, Time Limits for Awards and Confidentiality* (May 29, 2026). (ICC - International Chamber of Commerce)
15. Clifford Chance, *Updated 2026 ICC Arbitration Rules Promote Early Determination of Claims, Procedural Efficiency and Dispense with Mandatory Terms of Reference* (Sept. 2, 2026). (Clifford Chance)
16. Cyril Amarchand Mangaldas, *ICC Arbitration Rules 2026: What Has Changed and What It Means in Practice* (June 2, 2026); Arbitration and Conciliation Act, No. 26 of 1996, §§ 12, 17, 29A–29B, INDIA CODE (as amended). (Cyril Amarchand Mangaldas)