

## New ICC Rules as of 1 March 2017

The International Chamber of Commerce (ICC) has adopted new rules for arbitration, which became effective as of 1 March 2017. The amendment aims to make the arbitration more efficient, transparent and less expensive.

The most significant change is the introduction of an expedited procedure, which shall automatically apply to claims with a value not exceeding USD 2 million arising out from arbitration agreements concluded on or after 1 March 2017, unless the parties decide to opt out (for opting-out, the clause must contain: “The Expedited Procedure Provisions shall not apply”).

There is also a possibility to opt in for the expedited procedure if the parties wish to do so even for disputes up to certain amount (in case clause contains: “*The parties agree, pursuant to Article 30(2)(b) of the Rules of Arbitration of the International Chamber of Commerce, that the Expedited Procedure Rules shall apply, provided the amount in dispute does not exceed US\$ [specify amount] at the time of the communication referred to in Article 1(3) of the Expedited Procedure Rules.*”) or even irrespective of the amount of the dispute (in case the clause contains: “*The parties agree, pursuant to Article 30(2)(b) of the Rules of Arbitration of the International Chamber of Commerce, that the Expedited Procedure Rules shall apply irrespective of the amount in dispute.*”)

The expedited procedure has following important features:

- The possibility for ICC Court to appoint a sole arbitrator, even if the arbitration agreement provides otherwise;
- No Terms of Reference are required;
- Restriction to make a new claim after the constitution of the tribunal, unless expressly authorised by the tribunal;
- Simplification of the procedure by the possibility for the tribunal to hold the hearings via telephone or video conference, to exclude the production of documents and to decide the dispute solely on the basis of documents;
- The acceleration of the proceeding as the award shall be rendered within 6 months of the case management conference, which shall be held within 15 days after the transmission of the file to the tribunal; and
- The fee of arbitrators shall be reduced.

Besides the newly applicable expedited procedure, the amendment also reduces the time limit for establishing Terms of Reference to 30 days. In order to make the arbitration more transparent, the ICC Court shall from now on provide the reasons for several important decisions (such as the appointment, confirmation, replacement or challenge of arbitrators), if requested by one of the parties.

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Finally, the non-refundable filing fee connected with filing of the request for arbitration has been raised from USD 3,000 to USD 5,000.

In consequence of the above-mentioned changes, the ICC has also amended the wording of the arbitration clause which is recommended to be used if the parties wish to solve their potential disputes via the ICC arbitration. The recommended standard and optional ICC arbitration clauses are available on the web pages of ICC (<https://iccwbo.org/dispute-resolution-services/arbitration/arbitration-clause/>).

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