

# Newsletter

March 2017

## NEWS ON ICC ARBITRATION NEW ARBITRATION RULES; NEW COST SCALES

### THE NEW ARBITRATION RULES IN FORCE AS OF 1 MARCH 2017

The International Chamber of Commerce has released the new ICC Arbitration Rules. The aim is, in the words of the ICC Court of Arbitration, to further enhance efficiency, cost-effectiveness and transparency of ICC arbitrations.

The revised rules will apply as of 1 March 2017.

The main amendment to the ICC Arbitration Rules provides for the inclusion under the new Article 30 and THE NEW Appendix VI of the rules of the **Expedited Procedure** to automatically apply, with “*precedence over any contrary terms of the arbitration agreement*”, to all arbitrations whose amount in dispute is below US\$2 million, and to cases of a higher value, on an opt-in basis.

The Expedited Procedure rules shall not apply to arbitration agreements entered into before 1 March 2017, or in cases where the parties have expressly opted-out, or in case the ICC Court, upon a party’s request or on its own motion, determines that it is inappropriate to apply the Expedited Procedure, having considered the circumstances of the case.

The main features of the Expedite Procedure are the following:

- (i) the ICC Court may appoint a sole arbitrator notwithstanding the parties agreed differently in the arbitration agreement;
- (ii) no Terms of Reference are foreseen;
- (iii) no new claims can be filed after the arbitral tribunal is constituted, except with the arbitral tribunal’s authorization;
- (iv) the case management conference shall take place within 15 days from the date in which the file is transmitted to the arbitral tribunal;
- (v) the arbitral tribunal will have ample discretion on the procedural management of the arbitration and, upon consultation of the parties, can opt to decide the dispute on documentary evidence only, with no hearing, no examination of witnesses and experts and no document production requests being allowed;
- (vi) a scale providing for reduced fees will apply.

**Further amendments were introduced to further ensure transparency and efficiency of ICC arbitrations.**

The deadline for parties and arbitral tribunals to establish the Terms of Reference has been reduced from 60 to 30 days.

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As a further measure to increase transparency and accountability of the ICC Court, under the new Rules the ICC Court is now empowered to publish the reasoning for its decisions on appointment, confirmation, challenge and replacement of arbitrators without the need to seek prior consent of all parties, as under the previous Rules.

## **NEW COST SCALES (EFFECTIVE AS OF 1 JANUARY 2017)**

On 15 December 2016 the ICC released the new Scales of Administrative Expenses and Arbitrators' Fees applicable to all arbitrations commencing on or after 1 January 2017.

Changes have been made to the scale of administrative expenses, in particular to the percentages applicable to the lower and the top tranches of the amount in dispute, and to the maximum allowable amount of administrative expenses, increased from US\$ 113,215 to USD 150,000 for cases where the amount in dispute exceeds USD 500 million. Furthermore, the filing fee has been increased from USD 3,000 to USD 5,000.

No changes have been made to the arbitrators' fees scale.

In addition, a new scale was issued to apply to the newly introduced Expedited Procedures (see Appendix III of the revised Arbitration Rules). This scale provides for a range of arbitrators' fees, which are on average lower than the one under the general scales.

We remind you that on the ICC website an online cost calculator is made available to forecast the likely costs of ICC arbitrations.

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The Dispute Resolution Group of Legance is available to provide any clarifications you may need.

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For further information please contact:

**CECILIA CARRARA**

*ccarrara@legance.it*

**DANIELE GERONZI**

*dgeronzi@legance.it*

**FRANCESCA SALERNO**

*fsalerno@legance.it*

**STEFANO PARLATORE**

*sparlatore@legance.it*

**PAOLO POTOTSCHNIG**

*ppototschnig@legance.it*

or Your direct contact at Legance.

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**MILANO** - 20123  
Via Dante, 7  
T +39 02 89 63 071

**ROMA** - 00187  
Via di San Nicola da Tolentino, 67  
T +39 06 93 18 271

**LONDRA** - EC4N 1TX  
10 - 15 Queen Street  
Aldermary House  
T +44 (0)20 7074 2211

[info@legance.it](mailto:info@legance.it)  
[www.legance.it](http://www.legance.it)

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