

Fast Track Arbitration under ICC Arbitration Rules 2017

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On March 2017, International Chamber of Commerce (ICC) has come out with rules incorporating Expedited procedure (Fast track arbitration) in ICC Arbitration Rules. By adopting fast track arbitration procedure into its Rules, ICC has joined the other institutions like Singapore International Arbitration Centre (SIAC), Swiss Chambers Arbitration Institution (SCAI), Hong Kong International Arbitration Centre (HKIAC) etc., already having expedited procedure in their arbitration rules. The key points relating to Fast track arbitration are incorporated in Article 30 and Annexure VI of the ICC Arbitration Rules.

Key features of Rules relating to ICC Fast Track Arbitration are as follows:

- If the sum in dispute is USD 2 Million or less and if the arbitration agreement specifying ICC as Administering Arbitral Institution, then the matter will automatically go to fast track arbitration.
- In such matters ICC Court assumes the power to appoint a Sole arbitrator as per Article.1 Para 2 of the rules, even if the arbitration agreement provides for a three-member Arbitration tribunal.
- But Parties have the liberty to have a three members' arbitration tribunal even for a fast track arbitration, by providing so in the arbitration clause itself or by entering such an arbitration agreement later.
- The said time limit of 6 months starts running from the date of case management conference. Normally case management conference happens within 15 days from the date of transmittal of records to the arbitral tribunal.
- As per Article 4 Para.1 & Annex VI of ICC Rules, the above said time limit of 6 months includes the scrutiny of award by the ICC Court. (ICC alone

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has an unique procedure of ICC court scrutinizing the draft arbitration award before the arbitration tribunal signs it)

- ICC Court has the power to extend the said time limit in deserving cases beyond the said 6 months. In case either parties or the Arbitral tribunal delays the fast track arbitration beyond six months, as per Article 2, Para 2 Annex IV of ICC rules, ICC Court can impose financial penalties, on those who delayed the proceedings.
- In Fast Track Arbitrations, the arbitral tribunal has all the powers to finalize the procedural rules of the arbitration. The tribunal can decide about oral examination of expert witnesses, number of written submissions and necessity of document production procedure etc., But since ICC Rules give priority to party autonomy, if parties jointly agree on a different procedure, the tribunal will follow the same.
- In addition to the above said criteria mentioned in the above said Rules, parties may agree to decide any other disputes by way of expedited procedure. But parties may consider the risks in going for a fast track system, when the issues involved in the arbitration are complex and require a regular arbitration with more time. But ICC Court also has reserved the power to refer the matter for regular arbitration under Article 30 Para 3b of ICC Rules if in its opinion is not a matter which can be decided by way of a Fast track arbitration.
- In case parties are of the opinion, that the disputes which may arise out of the contract will be complex and will require many facts and technical issues established by way of an elaborate proceedings, they may specifically exclude the applicability of Fast Track Rules, while incorporating the ICC Rules for arbitration in the arbitration clause.
- Parties also have the liberty to make certain modifications to the fast track related rules of ICC rules and adopt them. For example, they may choose to modify the threshold limit, time lines or number of arbitrators. But such a change by the party should be specifically stated in the Arbitration clause.



In the opinion of the author, ICC has taken a right decision to come out with rules relating to fast track arbitration, since parties having small disputes need not go through the entire procedure applicable to normal arbitration. Even though the size of the dispute and complexity of the case are not proportionate always, most of the cases with less amount of dispute can be resolved by fast track arbitration. It is important to note that about 40% of the disputes involved in ICC cases are less than 2 million USD and hence many will be benefited by this new Rules.

