

"Efficiency, Speed and Cost-Effectiveness: Expedited Procedures in International Arbitration"

While international arbitration has become the favoured method for resolving disputes across borders, concerns about delays and costs are common. In response, several arbitral institutions have introduced expedited procedures. Below, we delve into those procedures, explore their key elements, and consider if they could be right for you.

- **What is an expedited procedure?**

An expedited arbitration procedure is a mechanism intended to reduce both time and cost for low-value disputes and is marked by stringent time limits within which the tribunal must hear and conclude the case. Major arbitral institutions, including the International Chamber of Commerce (ICC) and the Singapore International Arbitration Centre (SIAC), have integrated expedited procedures into their rules. Trinity, for example, has just handled an expedited procedure arbitration for one of its clients under the ICC Rules and an award was rendered within 6 months of the case management conference (which follows the appointment of the arbitrator).

While certain institutions, such as the London Court of International Arbitration (LCIA), do not offer a specific expedited procedure, provisions with the aim of accelerating procedures may still apply.

- **What are the benefits?**

Primarily, expedited procedures address concerns regarding speed and efficiency. Delay is often seen as a drawback in arbitration, discouraging parties seeking rapid resolution of their dispute. Common factors contributing to delays in standard arbitration include arbitrator unavailability, undue extensions for procedural steps, excessive document production practices, tribunal delays in finalizing awards, and protracted submissions processes, all of which inevitably escalate costs. Expedited procedures significantly alleviate these factors, resulting in both time and cost savings. Certain rules, such as those set by the ICC, also establish reduced arbitrator fees for expedited cases.

- **When and how do expedited procedure rules apply?**

Most rules stipulate that expedited procedures apply either when parties mutually agree or when the disputed amount falls below a specified threshold, the level of which varies across institutions. Under the ICC Rules 2021, for instance, the threshold is USD \$3 million, while under the SIAC Rules the expedited procedure provisions will not usually apply to disputes worth more than USD \$6 million.

- **Do expedited procedure rules change how the arbitral tribunal constituted?**

In most instances, a sole arbitrator is the default appointment under expedited procedures. If a conflict arises with the underlying arbitration agreement, rules such as those of the ICC or SIAC prioritise expedited provisions over contrary terms in the agreement. Consequently, even if the agreement suggests a different approach, the ICC and SIAC courts would appoint a sole arbitrator. Certain expedited procedures also set time limits for the tribunal's appointment. Again, this is all aimed at reducing the length and cost of arbitral proceedings.

- **What makes an arbitral procedure 'expedited'?**

Expedited procedure rules often give an arbitrator wide powers to limit the size and scope of submissions. For instance, some rules stipulate that the Request for Arbitration and Answer should encompass all essential submissions, effectively serving as the Statement of Claim and Statement of

Defence, respectively. Submissions may also be subject to strict timelines and page constraints. Notably, some institutional rules limit document production or give the sole arbitrator express powers to do so.

Most rules also give the tribunal the power to determine whether a hearing is necessary. For example, the ICC Rules 2021 stipulate that, following consultation with the parties, the tribunal may decide the case based on documents alone. Finally, expedited procedures often require the tribunal to produce an award within a strict timeframe.

- **Is an expedited procedure the right mechanism for you?**

The expedited procedure can prove ideal when seeking swift and efficient resolution, but it is unlikely to suit complex disputes. Expedited procedures are therefore most suitable for low-value disputes with limited impact on ongoing business operations, and straightforward cases that do not require extremely detailed submissions and awards.

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