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# NEWSLETTER

International Arbitration Practice Group

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## KCAB Unveils Its Revised International Arbitration Rules

Recently, the International Arbitration Center of the Korean Commercial Arbitration Board (**KCAB International**) completed a comprehensive revision of its International Arbitration Rules, which will take effect on and from 1 January 2026. Unless otherwise agreed by the parties, the revised Rules shall apply to all arbitrations that commence on or after 1 January 2026 where the parties have agreed in writing to refer their dispute to arbitration before KCAB International or to conduct the proceedings under the KCAB International Arbitration Rules (Article 1.9).

This amendment, the first in ten years since the 2016 Rules, aims to enhance transparency and efficiency. It carries particular significance because the rules revision committee, established in 2022, undertook a structural overhaul of the procedures by drawing on input from global practitioners, arbitrators, and users. This newsletter provides an overview of the major amendments newly reflected or modified under the revised Rules.

### 1. Introduction of the International Arbitration Court

The most notable change in this revision is the establishment of the International Arbitration Court (**KCAB Court**), an independent body that performs key case-administrative functions (Article 1.3). Unlike the Secretariat, which conducts day-to-day case management under the direction and supervision of the Secretary-General, the KCAB Court has been introduced to ensure transparency and to clarify the decision-making in major procedural decisions, including arbitrator appointment, challenges and replacements of arbitrators, joinder of additional parties or consolidation of arbitrations prior to the constitution of an arbitral tribunal, and decisions on arbitration costs.



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The establishment of the KCAB Court, composed of international arbitration practitioners familiar to parties and their representatives, enhances user confidence in the institution's decision-making process and strengthens the KCAB's international competitiveness.

## 2. The Fast-Track Procedure and the Reorganization of the Expedited Procedure



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To enhance procedural speed and cost-efficiency, the existing Expedited Procedure has been reorganized, and a separate Fast-Track Procedure has been established. The Fast-Track Procedure (Article 50) applies to cases where the amount in dispute does not exceed KRW 500million or where the parties agree to be subject to the Fast-Track Procedure. Under the Fast-Track Procedure, an award must be rendered within three months from the constitution of an arbitral Tribunal (Article 53.1). In case of the existing Expedited Procedure, its applicable scope has also been expanded to cases where the amount in dispute exceeds KRW 500million but does not exceed KRW 4billion (Article 45.1). The increase aligns the KCAB International Rules with other major institutions and ensures that the Expedited Rules will apply in more cases.

## 3. Shortened Timelines for Tribunal Formation and Enhanced Diversity

To prevent early-stage procedural delay, time limits for nomination and constitution of an arbitral tribunal have been shortened. If the KCAB Court decides to refer the dispute to a sole arbitrator, and the parties fail to nominate an arbitrator within 15 days, the KCAB Court shall appoint the sole arbitrator (Article 12.2). Where the KCAB Court decides to refer the dispute to three arbitrators, the Claimant shall nominate an arbitrator within 15 days of receiving notice of such decision and the Respondent shall nominate an arbitrator within 15 days of receiving notice of the nomination made by the Claimant (Article 12.4). If the presiding arbitrator is not nominated within 15 days of receipt by the Secretariat of a procedure for the nomination of the presiding arbitrator agreed between the parties, the KCAB Court shall appoint the presiding arbitrator (Article 12.5).

The revised Rules also introduce diverse procedural improvements on the appointment of arbitrators. The Rules encourage parties, co-arbitrators, and any third parties or bodies nominating arbitrators to give due regard to considerations of diversity (Article 12.7). When appointing arbitrators, the KCAB Court must consider not only experience, nationality, residence, availability, ability to conduct the

arbitration, but also diversity (Article 12.8).

In addition, beyond the existing grounds relating to impartiality and independence, de jure or de facto inability to perform functions and undue delay now constitute grounds for challenging arbitrators (Article 14.1). Prospective arbitrators must also submit, in addition to the existing Statement of Acceptance and Statement of Impartiality and Independence, a Statement of Availability confirming that they have sufficient time to conduct the arbitration (Article 10.2).

#### **4. Award Scrutiny**

A scrutiny "light" process for draft awards has been introduced to improve the quality of awards (Article 39.2). Under the revised Rules, an arbitral tribunal must submit a draft award to the Secretary-General for scrutiny within 60 days from the later of the last hearing or the filing of the last written submission. The arbitral tribunal shall sign the award within 15 days following scrutiny by the Secretary-General or the KCAB Court (Article 39.2).

Once the arbitral tribunal submits the draft award to the Secretary-General within the abovementioned time limit, the Secretary-General may suggest modifications as to form of the award and, in certain cases, draw the tribunal's attention to points of substance. If necessary, the Secretary-General may refer the draft award to the KCAB Court for scrutiny, taking into account of circumstances such as the complexity of the case or presence of a dissenting opinion.

#### **5. Codification of Mediation Procedures**

The revised Rules formally introduce a mediation mechanism that allows parties to resolve all or part of their dispute through mediation even during the arbitration proceedings (Article 16.6). Mediation may proceed concurrently with the arbitration unless the parties agree otherwise. To preserve the independence of the two processes, the Rules make clear that an arbitrator may not serve as mediator unless otherwise agreed by the parties.

#### **6. Introduction of Early Determination**

Under the revised Rules, where a claim or defense is manifestly unsustainable or without legal merit, an arbitral tribunal may, upon a party's application, commence an early determination procedure (Article 36). After giving the parties a reasonable opportunity to be heard, the tribunal may grant the application and issue an order or

award, possibly in summary form, stating its reasons. This mechanism strengthens the system for the early disposal of unmeritorious disputes.

## **7. Technological Innovation**

The revised Rules expressly reflect digital-transformation practices by codifying electronic procedures. Written submissions by parties and communications from the Secretariat or an arbitral tribunal may be made by electronic means, including email (Article 4.1(a)), and hard copies are not required unless requested by a party.

The revised Rules further encourage the use of technology such as electronic communications, e-filings, and electronic presentation of evidence to enhance efficiency and reduce environmental impact (Article 16.4). New provisions also address information security (Article 60) and encourage discussion of the use of information technology tools, including those powered by or embodying artificial intelligence (Article 16.5).

## **8. Refinement of Procedures for Complex Disputes**

To reduce procedural uncertainty in cases involving multiple parties or contracts, the revised Rules clarify and reorganize provisions on Joinder of Additional Parties (Article 21), Single Arbitration under Multiple Contracts (Article 22), Consolidation of Arbitrations (Article 23), and Concurrent Proceedings (Article 24). These refinements are expected to enhance procedural consistency and efficiency in complex disputes.

## **9. Updated Cost Structure**

The revised Rules redesign the overall system of arbitration costs. Authority to determine advances on costs and the total amount of arbitration costs has been transferred from the Secretariat to the Secretary-General and the KCAB Court. The revised Rules also allow separate advances on costs for claims and counterclaims, facilitating more efficient management of large multi-claim disputes (Article 54.6).

The revised Rules also expressly require tribunals to consider “the parties’ respective conduct during the arbitration proceedings” when allocating costs (Article 55.2). In high-value cases, arbitrators’ fees may now be calculated on an hourly basis (Appendix 2).

Additionally, a disclosure obligation regarding third-party funding has been added: parties now must notify the Secretariat, the arbitral

tribunal, and the other parties of the existence and identity of any third-party funder promptly after a funding arrangement is concluded (Article 10.5).

Lee & Ko's International Arbitration Team provides top-tier legal services in a wide range of international disputes including international arbitration, drawing on its extensive experience and specialized expertise. We formulate optimal strategies and respond seamlessly at every stage of the proceedings, starting from the commencement of a dispute to the enforcement phase. If you require advice on any international dispute, please feel free to contact the International Arbitration Team at Lee & Ko. Our team stands ready to assist with the most suitable legal services and strategic advice tailored to your dispute.

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