What International Arbitration Users Really Want: A Case for Increased Transparency, User-Centricity, and Redefining Institutional Success

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Introduction

'The purpose of any institution is not self-preservation, but service.'

For years, many international arbitration centres such as the Hong Kong International Arbitration Centre (HKIAC), International Court of Arbitration ('the ICC Court') of the International Chamber of Commerce (ICC) and Singapore International Arbitration Centre (SIAC) have equated their institutional 'success' with the annual number of cases they administer. Press releases often highlight year-on-year growth in caseloads, new arbitrator appointments, or the expansion of geographical reach. However, this metric – once perceived as a proxy for trust and reputation – is increasingly disconnected from what users actually value. A more sophisticated and realistic standing of institutional performance is now required.

The most recent International Dispute Resolution Survey 2024 conducted by the Singapore International Dispute Resolution Academy

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(SIDRA 2024)[1] ('the 2024 SIDRA Survey') and the Queen Mary University of London and White & Case 2025 International Arbitration Survey entitled 'The Path Forward: Realities and Opportunities in Arbitration' ('the 2025 Queen Mary Report')[2] both confirm this shift. Users of arbitration services – particularly in cross-border commercial and investor-state disputes – are no longer impressed merely by numbers. This shift had already been identified in earlier survey work, including White & Case LLP's 2021 survey, which highlighted evolving user expectations and the need for arbitral institutions to adapt their practices accordingly.[3] What matters as well is how well arbitration institutions meet their evolving expectations. As the number of arbitration users grows, the 'user' is no longer the relatively uniform corporate actor of past decades. Today's users are far more diverse – ranging from highly sophisticated multinational counsel to smaller regional firms, state-owned enterprises, small and medium enterprises (SMEs), startups, and individuals with varying legal cultures, geographies, and professional backgrounds. This increased heterogeneity brings greater complexity, more varied profiles, and higher expectations regarding efficiency, transparency, technology, and procedural fairness.

Trust is no longer derived simply from the size or popularity of an institution. While experience and track record still matter, confidence today depends more on responsiveness, perceived neutrality, procedural flexibility, quality of case management, technological capability, transparency and ultimately, most importantly, user-centric design. Institutions that adapt to these new expectations earn legitimacy; those that rely solely on historical prestige risk falling behind.

In the authors' view, success should not be assessed solely through volume, but rather primarily by user satisfaction, institutional responsiveness, and procedural integrity backed up by transparency.

According to the 2024 SIDRA Survey, respondents emphasised that the primary drivers of satisfaction include clarity and predictability of procedures, cost efficiency, reasonable timeframes, arbitrator impartiality, and the ability to select or influence procedural options.[4]

1 Alexander, N et al 'SIDRA International Dispute Resolution Survey: 2024 Final Report', (Singapore Management University, 2024). Available at: https://sidra.smu.edu.sg/sites/sidra.smu.edu.sg/files/survey-2024/SIDRA_Final_Report_2024.pdf [accessed 24 April 2026].

2 Queen Mary University of London, School of International Arbitration and White & Case LLP, '2025 International Arbitration Survey: The Path Forward' (London: Queen Mary University of London, 2025). Available at: https://www.qmul.ac.uk/arbitration/media/arbitration/docs/White-Case-QMUL-2025-International-Arbitration-Survey-report.pdf [accessed 24 April 2026], p 19.

3 White & Case LLP, 'Current Choices and Future Adaptations' (White & Case LLP, 2021).

4 2024 SIDRA Survey, pp 55, 62.

The 2025 Queen Mary Report echoes this sentiment, with a notable portion of respondents ranking transparency, enforceability, and institutional accountability as essential. In fact, 59 per cent[5] of the users now expect arbitral institutions to publish anonymised data on time to final award, arbitrator performance, challenge decisions, and diversity in appointments – not just promotional statistics.[6]

Yet, despite the empirical evidence, some institutions continue to showcase rising caseloads as a sign of quality. This reliance on quantitative indicators masks critical qualitative shortcomings. The 2024 SIDRA Survey[7] highlights that procedural flexibility 'on paper' is insufficient if, in practice, users experience rigid or opaque administration. Similarly, the 2025 Queen Mary Report respondents noted frustration with institutions that offer limited recourse when arbitrators are underperforming or biased – pointing to the need for genuine accountability mechanisms beyond internal confidentiality.[8]

If arbitration is to retain its competitive edge over litigation – particularly in the eyes of corporate counsel, SMEs, and state-owned entities – then arbitral institutions must urgently reframe their understanding of success. This means shifting focus from institutional prestige and self-referential metrics toward measurable user-centred reforms.

Arbitration centres should measure success not by the volume of disputes they attract, but also by the quality of service they deliver to the parties who use them. This means ensuring that user-friendly rules are genuinely applied, procedural options are meaningful in practice, timelines and costs remain controlled, and key decisions and performance data are published transparently. Only under these conditions can institutional strategies truly align with the values and expectations of today's arbitration users.

The role of arbitral institutions

Arbitral institutions today occupy a fundamentally different position than the one they held even two decades ago. They are no longer mere administrators tasked with scheduling hearings, managing filings, and issuing logistical correspondence. Instead, they have evolved into norm-shaping actors within the global dispute resolution ecosystem. Their rules – and the way those rules are implemented – directly influence procedural fairness, shape commercial expectations, and in many cases determine the boundaries of

5 2024 SIDRA Survey, p 55.
6 2025 Queen Mary Report, pp 5, 25.
7 2024 SIDRA Survey, p 43.
8 2025 Queen Mary Report, p 15.

transnational commercial law. As Brekoulakis argues in *The Evolution and Future of International Arbitration*,[9] the system's long-term legitimacy depends on adapting its procedures, institutions, and expectations to the realities of modern users.

Institutions such as the ICC, SIAC, and the HKIAC have responded to competitive pressure by updating their arbitration rules more frequently – introducing expedited procedures, emergency arbitration, early dismissal mechanisms and digital innovations. Yet, as both the 2024 SIDRA Survey and the 2025 Queen Mary Report show, frequent rule revisions do not automatically translate into a better user experience. 'Innovation' on paper can coexist with opacity in practice. Competitive branding is not a proxy for systemic responsiveness.

Users

What do users think

The most comprehensive surveys to date – the 2024 SIDRA Survey and the 2025 Queen Mary Report – offer a clear and empirically grounded picture of what arbitration users value most. Crucially, they reveal a consistent gap between what users expect and what institutions deliver.

Efficiency emerged as the top priority in both reports: 93 per cent of respondents in the 2024 SIDRA Survey ranked efficiency as a 'very important' or 'important' factor when choosing an arbitral institution.[10] Yet, only 42 per cent reported being satisfied with the speed associated with arbitration.[11] This disparity is particularly telling: institutions may promote fast-track or expedited procedures, but unless these are routinely accessible and effectively implemented, user frustration accumulates.

Cost remains a fundamental concern: 78 per cent of respondents to the 2024 SIDRA Survey cited cost as a significant consideration when choosing an arbitral institution.[12]

However, just 30 per cent expressed satisfaction with the affordability and cost-predictability of arbitration. This confirms the perception that international arbitration is increasingly expensive and opaque, especially when compared to litigation alternatives in certain jurisdictions.

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9 Brekoulakis, S., 'Introduction: The Evolution and Future of International Arbitration', in Stavros Brekoulakis, Julian D M Lew and Loukas Mistelis (eds), *The Evolution and Future of International Arbitration* (Kluwer Law International, 2016).

10 2024 SIDRA Survey, p 20, section 5.20.

11 2024 SIDRA Survey, p 9, section 4.12.

12 2024 SIDRA Survey, p 20, section 5.20.

Diversity in arbitrator panels remains an unresolved issue

In the 2024 SIDRA Survey, respondents were asked how limited diversity in their choice of arbitrators affected their satisfaction with the outcomes of international commercial arbitration: 35 per cent reported a moderate impact, 21 per cent some extent, 20 per cent a small extent, 15 per cent no impact, and eight per cent a great extent.[13] Client users were more likely than external counsels to report a 'great extent' impact (13 per cent versus eight per cent).[14]

What users really want

Users are not a monolith, and their expectations vary depending on their role in the arbitration process. The 2024 SIDRA Survey typology offers a valuable distinction between two key user groups: client users and external counsel.

(i) Client users, such as companies, state entities, and investors, prioritise:
  - enforceability of awards (a traditional strength of arbitration);
  - speed and cost-efficiency of proceedings;
  - clear, intelligible, and enforceable rules; and, increasingly,
  - institutional transparency and ease of digital interaction.[15]

(ii) External counsel, by contrast, emphasise:
  - the ethics and impartiality of arbitrators;
  - their subject-matter expertise and case-specific experience; and
  - the predictability of procedural rulings.[16]

Yet, both groups converge on several key demands, as over 70 per cent of respondents to the 2024 SIDRA Survey want:

- more clarity in institutional rules;
- more transparency in arbitrator selection and institutional decision-making; and
- greater procedural flexibility that is real – not just theoretical.[17]

In other words, users are no longer persuaded by institutions that advertise a wide range of procedural options on paper, yet in practice routinely revert to rigid, standardised templates. Perceived choice must become actual agency. And perceived fairness must be reinforced by visible accountability.

13 2024 SIDRA Survey, p 28, section 5.36.
14 2024 SIDRA Survey, p 28, section 5.37.
15 2024 SIDRA Survey, pp 16–17.
16 2024 SIDRA Survey, pp 17–18.
17 2024 SIDRA Survey, p 18.

Transparency: still an institutional blind spot

Appointment of arbitrators: The black box problem

The arbitrator appointment process continues to function as a black box in most major institutions including the SIAC Rules (7th Edition, 2025) ('the SIAC Rules') and the Rules of Arbitration of the International Chamber of Commerce (2021) ('the ICC Rules').[18] Key procedural elements are either unpublished, difficult to access, or vaguely described, including:

- who appoints arbitrators (names of decision-makers or committee members);
- how appointment committees operate (structure, voting rules, confidentiality norms);
- what criteria are used (seniority, case experience, language ability, sector expertise); and
- how long the process takes, from filing to confirmation.

The only exception is HKIAC, which publishes:

- a Practice Note on the Appointment of Arbitrators ,[19] and
- anonymised appointment statistics disaggregated by gender, nationality, and appointment source.[20]

Other institutions, such as SIAC, ICC and Stockholm Chamber of Commerce (SCC), provide comparatively limited transparency beyond general reporting. While certain institutions publish aggregate data in annual reports or, in the case of the ICC, disclose arbitrator names following the Terms of Reference or award stage, detailed information on appointment processes, criteria and timelines remains limited, fragmented and insufficient.

Panel disclosure and post-award visibility

While some institutions offer limited visibility into their arbitrator pools, the overall level of disclosure remains inconsistent and insufficient.

SIAC and HKIAC maintain searchable arbitrator panels on their websites, including bios, practice areas, and past appointments (to varying degrees).

The SIAC and HKIAC rules share a similar architecture of centralised institutional control but differ in the degree of disclosure and policy emphasis. Under SIAC Rules 19–25, all arbitrator nominations – whether

18 At the time of writing, revised ICC Rules have been approved by the International Chamber of Commerce and are expected to enter into force on 1 June 2026.

19 Hong Kong International Arbitration Centre (HKIAC), 'Practice Note on Appointment of Arbitrators' (effective 28 September 2021) (HKIAC, 2021). Available at: https://hkiac.org/wp-content/uploads/2025/03/Practice_Note_on_Appointment_of_Arbitrators_20210928.pdf; [accessed 24 April 2026] .

20 *Ibid.*

by parties, co-arbitrators, or third bodies – remain subject to confirmation by the SIAC President (Rules 19.4, 19.5, 19.7, 19.13), who retains broad discretion to refuse, replace, or override nominations and even revoke party rights to appoint in cases of unequal treatment (Rule 19.10). The SIAC Rules are procedurally detailed yet contain no provision for publishing arbitrator identities after awards or disclosing appointment reasoning.

HKIAC adopts a comparable structure. Articles 6–9 of the Hong Kong International Arbitration Centre Administered Arbitration Rules (2024) ('the HKIAC Rules') outline a system in which party designations are permitted but every appointment must ultimately be confirmed by HKIAC under Article 9, taking into account qualifications, availability, integrity, and impartiality or independence, as outlined under Article 11.4. HKIAC also possesses the authority to appoint arbitrators directly whenever a party fails to designate on time (Arts 7.2, 8.1, 8.2) or when multiparty configurations make party nominations unworkable (Art 8.2(c)). Notably, HKIAC introduces an express diversity mandate in Article 9A, requiring the institution to 'take into account diversity' when making arbitral appointments. The provision is, however, drafted in broad and rather imprecise terms: it does not define the relevant dimensions of diversity, establish any evaluative criteria, or impose monitoring or reporting obligations. Even so, the mere presence of an explicit diversity requirement – absent from both SIAC and the ICC – constitutes a meaningful, albeit limited, institutional commitment to promoting diversity in tribunal formation. As with SIAC, however, HKIAC does not publish arbitrator identities post-award and provides no statistical reporting or information on internal appointment timelines.

By contrast, the ICC stands out as the only major institution to publish arbitrator names after awards, in line with its push toward greater openness. The ICC approach nonetheless, has certain shortcomings. According to Article 11(4) of the ICC Rules, the ICC or the Secretary General can appoint arbitrator(s), adding that: 'The decisions of the Court as to the appointment, confirmation, challenge or replacement of an arbitrator shall be final.' In doing so, it takes different aspects into account, such as those described in Article 13 of the ICC Rules:

> '... nationality, residence and other relationships with the countries of which the parties or the other arbitrators are nationals and the prospective arbitrator's availability and ability to conduct the arbitration in accordance with the Rules.'

Part of the appointment decision is a proposal at the National Committee or Group of the ICC. Besides, it is also possible to evade this regulation and to appoint the arbitrator(s) directly, if one or more of the parties is a state or may be considered to be a state entity; the Court considers that it would be appropriate to appoint an arbitrator from a country or territory where there is no National Committee or Group; or the President certifies to the Court that circumstances exist which, in the President's opinion, make a direct appointment necessary and appropriate (ICC Rules, Art 13(3), (4)). How, on the other hand, this procedure works in concrete terms and how long it takes remains unclear. Detailed statistics are not publicly available.

Overall, SIAC and HKIAC provide detailed and robust appointment mechanisms but offer minimal transparency beyond the initial confirmation stage, whereas the ICC provides post-award transparency without disclosing how appointments are actually made. None of the three meets current user expectations for fully searchable arbitrator data, published metadata on appointments, and transparent institutional reasoning.

Delays and arbitrator misconduct

Each institution claims to promote efficiency, yet none provides a coherent system of obligations, oversight, and sanctions capable of preventing or correcting unjustified delay.

The ICC often markets itself as the global leader in institutional supervision, but its rules ultimately offer little more than procedural symbolism. Article 11(4) and Article 13 of the ICC Rules describe in detail how arbitrators are appointed, including considerations of nationality, availability, and capacity to conduct the arbitration in accordance with the ICC Rules. In particular, Article 11(2) requires prospective arbitrators, prior to appointment or confirmation, to sign a statement of acceptance, availability, impartiality and independence, and to disclose any circumstances that may give rise to doubts as to their independence or impartiality. However, none of these provisions creates any enforceable duty to meet timelines or to justify delay. Article 34 on scrutiny gives the Court the power to review draft awards, yet this mechanism operates only after the award has been produced and does nothing to discipline arbitrators who simply take far longer than promised. The process by which arbitrators are evaluated, supervised, or reprimanded remains only partially transparent. However, the ICC has introduced specific time expectations and financial consequences for delay. Under the ICC Note to Parties and Arbitral Tribunals on the Conduct of Arbitration ('the ICC Note'),[21] arbitrators are expected to submit draft awards within two months (sole arbitrator) or three months (three-member tribunal) following the last substantive hearing or final written submissions (excluding costs

21 International Chamber of Commerce (ICC), Note to Parties and Arbitral Tribunals on the Conduct of Arbitration (1 January 2021).

submissions), whichever is later. Where draft awards are submitted late, the Court may reduce the arbitrators' fees, unless the delay is justified by circumstances beyond their control or other exceptional factors. A similar approach can be observed in other institutions. For example, the HKIAC Rules (Art 13(10)) allow for the removal of an arbitrator who fails to perform their functions or does not fulfil their obligations, which may include unjustified delay. However, while these mechanisms introduce a degree of accountability, their application remains largely discretionary. Even in cases where the Court appoints arbitrators directly under Article 13(3)–(4), the institution offers no transparency about how long appointments take or how arbitrators' timely performance is monitored. The result is a framework that places considerable emphasis on institutional prestige, while leaving scope for further development of accountability mechanisms. This is further underscored by Article 31(1) of the ICC Rules, which sets a six-month time limit for rendering the final award from the Terms of Reference, but which is routinely extended by the Court, confirming that time control ultimately relies more on discretion than on enforceable discipline.

SIAC, by contrast, provides more explicit textual tools yet still avoids meaningful enforcement. Rules 20.1 to 20.3 impose ongoing disclosure duties on arbitrators and require them to sign a 'statement of acceptance, independence, impartiality, and availability'. Rules 26 to 29 allow challenges and removals where an arbitrator fails to act impartially, independently, or competently, and Rule 29.1 authorises removal when an arbitrator fails to conduct the arbitration in a fair, expeditious, or economical manner. But these provisions rely almost exclusively on the extreme measure of removal, a remedy that institutions seldom use because it disrupts the process and risks further delay. Nothing in the SIAC Rules – neither Rule 19 on appointment, Rule 22 on three–member tribunals, nor Rule 32 on conduct of proceedings – creates any mandatory sanction, fee reduction, or written explanation requirement for arbitrators who miss deadlines or ignore procedural calendars. Thus, despite having the strongest textual foundation among major institutions, SIAC provides no systematic mechanism to deter delay.

HKIAC, widely praised for procedural efficiency, suffers from the same structural deficiency. Articles 6 to 9 govern the timely appointment and confirmation of arbitrators, and Article 9A encourages consideration of diversity in appointments, as discussed above. Once the tribunal is constituted, the HKIAC Rules contain no equivalent of SIAC's removal procedures tied to delay, no requirement to justify missed deadlines, and no disciplinary mechanism for persistent procedural misconduct.

The emphasis on efficiency becomes aspirational rather than enforceable, with users left without remedy when arbitrators disregard the procedural timetable.

Viewed together, these frameworks reveal a striking gap between institutional rhetoric and actual enforcement capability. Delays can persist for months with no mandatory disclosure, no fee consequences, and no compensation for the parties harmed. Arbitrators operate in an environment where missing deadlines carries almost no risk, and the rules of the leading institutions – ICC, SIAC, and HKIAC – provide little more than procedural language without enforcement teeth. The 2024 SIDRA Survey confirms that this is not a rare frustration but one of the most consistently reported grievances across jurisdictions and industry sectors. Without codified sanctions, automatic fee reductions, mandatory explanations of delay, or institutional compensation mechanisms, none of these institutions can credibly claim to meet the standards of accountability that modern arbitration users now expect.

Procedural tradition: common law versus civil law

International arbitration presents itself as a flexible and cosmopolitan system, yet its leading institutions – ICC, SIAC, and HKIAC among them – continue to ignore one of the most consequential determinants of user experience: the choice between common law and civil law procedural traditions. This omission persists despite the fact that procedural culture directly shapes core elements of the process, including document production, cross-examination, evidentiary structure, and the balance between written and oral advocacy.

This omission is particularly striking given that most national arbitration laws – often based on the UNCITRAL Model Law – expressly recognise party autonomy as a guiding principle, allowing parties to determine key procedural aspects of the arbitration. For example, Article 19 of the UNCITRAL Model Law and Section 34 of the Hong Kong Arbitration Ordinance (Cap 609) expressly recognise the parties' freedom to agree on the procedure to be followed by the arbitral tribunal.[22] In practice, however, parties rarely make use of these powers at the drafting stage, leaving procedural design to institutional frameworks and, ultimately, to the arbitral tribunal.

A fundamental issue becomes apparent upon examining the rules of the major institutions. The ICC Rules, while detailed in matters of tribunal

22 UNCITRAL, UNCITRAL Model Law on International Commercial Arbitration (1985, as amended 2006), Art 19; Hong Kong Arbitration Ordinance (Cap 609), s 34.

constitution and appointment under Articles 11 and 13, remain entirely silent on whether parties may request a common law styled or civil law styled procedure. Article 22 grants tribunals broad authority to conduct proceedings as they consider appropriate, but this broad discretion operates without any institutional framework that would encourage or require tribunals to consult parties about their procedural culture preferences. Even the Terms of Reference mechanism, one of the ICC's defining procedural tools, does not contain any provision or invitation to address procedural tradition, leaving users dependent on arbitrators' personal legal backgrounds rather than an express procedural choice.

The SIAC Rules follow the same pattern. Rule 32 on the conduct of proceedings grants tribunals wide procedural discretion and emphasises fairness, efficiency, and the opportunity to present one's case. However, no provision within Section IV on the constitution of the tribunal (Rules 19–25) or Section VI on conduct (Rules 31–32) asks parties to indicate whether they prefer civil law written proceedings or common law evidentiary dynamics. SIAC even requires arbitrators to disclose availability and independence under Rules 20.1–20.3, but it does not require them to indicate their procedural orientation or invite the parties to make a choice. As a result, procedural identity is left to implicit assumptions shaped by the nationality of counsel, the background of the tribunal, or the seat of arbitration, rather than party autonomy.

The HKIAC Rules also fall into the same institutional blind spot. Nowhere in the HKIAC Rules – neither in Article 13 on general procedural powers, nor in the provisions governing evidence or hearings – do parties receive an opportunity to select the procedural tradition they consider appropriate. Like ICC and SIAC, HKIAC relies on the generic formula of tribunal discretion, leaving the actual shape of the procedure to arbitrators' personal training rather than explicit party input.

This institutional silence produces predictable dissatisfaction. As reflected clearly in the 2024 SIDRA Survey responses and expert interviews, users feel alienated from decisions that shape the very architecture of the arbitration.[23] Common law users entering civil law style proceedings face confusion over limited document production and restricted witness confrontation. Civil law users confronted with US-style discovery find themselves forced into expensive and unfamiliar processes they never intended to adopt. These mismatches increase cost, amplify delay, and generate procedural disputes that would never arise if institutions required parties to express their procedural preferences at the outset.

23 2024 SIDRA Survey, p 16, section 5.7.

A simple structural reform would close this gap. Institutions should implement a mandatory procedural-preference form submitted immediately after case registration but before tribunal constitution. The form would allow parties to select a common law model, a civil law model, or a hybrid model as the default if no preference is expressed. This mechanism would not eliminate tribunal discretion, but it would anchor that discretion within party expectations and provide a transparent parameter for case management. It would improve procedural predictability, strengthen tribunal/party alignment, reduce preliminary disputes, and elevate procedural autonomy to the same level of importance as the choice of seat or applicable law.

The ICC, SIAC and HKIAC have built sophisticated rule frameworks around appointment (ICC Arts 11–13; SIAC Rules 19–23; HKIAC Arts 6–9), challenges (ICC Art 14; SIAC Rules 26–28; HKIAC Art 11), and disclosure (SIAC Rule 20; the ICC Note; HKIAC Art 11.4), yet none provides guidance on the most fundamental procedural question users face. Until institutions recognise procedural tradition as a matter of party autonomy rather than arbitrator habit, this gap will continue to undermine satisfaction across jurisdictions and sectors. In a globalised system of dispute resolution, leaving procedural culture to accident is no longer defensible.

Technology and virtual hearings: from contingency to standard

The Covid-19 pandemic transformed virtual hearings from an emergency workaround into a structural feature of modern arbitration. As explored in *Online Dispute Resolution: Theory and Practice*,[24] the use of digital platforms is not merely a question of technological convenience, but of procedural design, access to justice, and user-centric dispute resolution. The 2024 SIDRA Survey shows overwhelming user endorsement: 96 per cent of respondents consider digital communication platforms such as Zoom, Microsoft Teams and Webex as the most useful for hearings, procedural conferences and case management, while 77 per cent strongly support the use of cloud-based document repositories, digital bundles and e-discovery tools for reducing administrative friction and cost.[25]

24 M Ethan Katsh, Daniel Rainey and Mohamed S Abdel Wahab (eds), *Online Dispute Resolution: Theory and Practice: A Treatise on Technology and Dispute Resolution* (Eleven International, 2021).

25 2024 SIDRA Survey, p 48, section 6.41, p 30, section 5.40.

In the case of ISDS procedure, an impressive number of respondents indicated that cloud-based storage systems were useful technology in supporting ISDS procedures, concretely 89 per cent of respondents.[26]

Yet the institutional rules of leading arbitral centres lag behind this user consensus.

The ICC Rules explicitly empower tribunals to decide whether hearings should be held in person or remotely (ICC Rules, Art 26). However, the ICC does not set concrete operational standards for cybersecurity, digital document bundling, or authentication of online evidence. As with arbitrator appointment procedures – where transparency exists only in limited form (eg, post-award publication of arbitrator names) – the ICC's approach to technology remains principles-based but operationally thin.

HKIAC provides a highly developed digital hearing infrastructure, including virtual hearing rooms and a secure electronic exchange platform. Nevertheless, the HKIAC Rules contain no explicit provision on 'virtual hearings'. The matter is instead governed by the tribunal's general procedural powers under Articles 13 and 14, which permit the conduct of hearings by electronic means but do not establish any presumption in favour of virtual proceedings, nor impose compulsory cybersecurity, encryption or digital-evidence management protocols.

The new 2025 SIAC Rules integrate SIAC Gateway as the digital backbone for filing, document management and communications. SIAC also expressly encourages environmentally sustainable procedures (Rule 32.4). It specifically says:

> 'As soon as practicable after the constitution of the Tribunal, the Tribunal shall convene a first case management conference with the parties to discuss the procedures that will be most appropriate and efficient for the case. At the first case management conference, the Tribunal may additionally consult with the parties on:
>
> (a) the potential for the settlement of all or part of the dispute, including through the adoption of amicable dispute resolution methods such as mediation under the SIAC-SIMC AMA Protocol; and
>
> (b) whether it would be appropriate to adopt environmentally sustainable procedures for the arbitration.'

However, as with HKIAC, SIAC leaves virtual-hearing decisions to tribunal discretion, with no default rule and no minimum standards for virtual-hearing reliability, digital bundle authentication or compulsory cybersecurity measures.

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26 2024 SIDRA Survey, p 79, section 9.42.

Across the three major institutions, the pattern is consistent: technology is permitted, not guaranteed. This institutional 'technology-on-request' model increasingly conflicts with what users actually want. The 2024 SIDRA Survey respondents emphasise that virtual hearings reduce time, cost and carbon impact; minimise travel disruptions; and improve global accessibility – especially in disputes involving parties from multiple jurisdictions.[27]

Institutional lag and missed opportunities

Although users overwhelmingly endorse digital hearings and digital case-management tools, the institutional rules of the ICC, SIAC and HKIAC still reveal notable gaps and inconsistencies. The ICC Rules expressly empower tribunals to conduct hearings remotely under Article 26. While the ICC has issued detailed guidance, including the ICC Note, which addresses matters such as virtual hearing protocols, cybersecurity and electronic document management, these instruments remain non-binding and are not incorporated into the ICC Rules themselves. As a result, they do not establish uniform, mandatory standards applicable across cases. In this context, the ICCA–NYC Bar–CPR Protocol on Cybersecurity in International Arbitration (2022 Edition)[28] demonstrates that concrete, practicable baseline standards for data protection and cyber-risk management are both feasible and widely accepted. The absence of any comparable mandatory framework within institutional rules leaves implementation almost entirely to tribunal discretion, producing uneven user experiences.

HKIAC grants tribunals wide procedural discretion, enabling virtual hearings but without creating default digital protocols or requiring specific technical safeguards. Even though HKIAC maintains dedicated virtual hearing facilities, the HKIAC Rules themselves treat technology as optional rather than as core procedural architecture.

As said above, the 2025 SIAC Rules integrate SIAC Gateway for filing and communication and expressly encourage environmentally sustainable procedures in Rule 32.4 of the SIAC Rules, yet they also decline to establish a presumption in favour of virtual hearings or to define minimum digital standards. SIAC's framework, like that of the HKIAC and the ICC, continues to rely on tribunal-by-tribunal discretion without harmonised institutional requirements.

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27 2024 SIDRA Survey, p 22.

28 International Council for Commercial Arbitration (ICCA), New York City Bar Association and International Institute for Conflict Prevention and Resolution (CPR), ICCA–NYC Bar–CPR Protocol on Cybersecurity in International Arbitration (2022 Edition), available at: www.arbitration-icca.org/media/14/ICCA-NYC-Bar-CPR-Cybersecurity-Protocol-2022.pdf [accessed 24 April 2026].

This institutional lag persists despite users' clear views. The 2024 SIDRA Survey shows that digital tools reduce cost, travel, delay and carbon impact, yet none of the major institutions has created clear cost incentives for virtual or hybrid formats. Fees often remain identical to in-person hearings, even though virtual proceedings consume fewer physical resources and require less administrative infrastructure. The mismatch between institutional cost structures and actual service delivery limits the potential efficiency gains that technology could unlock.

Policy proposal: digital-first arbitration incentives

To align with user expectations and modernise dispute resolution, arbitral institutions should adopt a digital-first policy framework anchored in explicit rule-based incentives rather than discretionary practice. This could include reduced institutional and hearing fees for fully virtual or hybrid proceedings, complementing the flexibility already recognised in the ICC Rules, HKIAC Rules and SIAC Rules. Technical support for virtual hearings should be incorporated into standard case-management services rather than provided ad hoc, particularly in institutions that already operate digital infrastructures such as SIAC Gateway or HKIAC's virtual hearing rooms.

Institutions could also develop eco-conscious certification systems or publish carbon-impact calculations per arbitration, building on the sustainability language found in the SIAC Rules and the increasing ESG-driven expectations of parties. Such reporting would not only enhance institutional transparency but would also allow users to compare the environmental footprint of virtual versus physical hearings.

By recognising the financial, procedural and environmental benefits of digital arbitration, institutions could expand access to justice, demonstrate measurable ESG alignment and improve user satisfaction metrics without compromising procedural integrity or enforceability. The 2024 SIDRA Survey confirms that technology is now the baseline expectation rather than a secondary contingency. Institutions that internalise this shift will not merely remain competitive; they will define the next phase of arbitration's evolution.

Diversity: still a work in progress

Despite public commitments, meaningful diversity in international arbitration remains limited.[29] The latest 2024 SIDRA Survey and 2025 Queen Mary Report findings show that users view diversity as a central component of legitimacy rather than a symbolic aspiration. As analysed in *Diversity in International Arbitration: Why it Matters and How to Sustain It*,[30] decades of emphasis on harmonisation have often resulted in a largely homogeneous arbitration community, reinforcing perceptions of Western legal dominance and limiting the system's representativeness. According to the 2024 SIDRA Survey 73 per cent of respondents emphasise the importance of nationality diversity, and 72 per cent highlight the need for ethnic diversity.[31] Progress on gender representation has not been matched by comparable advances in regional, linguistic, ethnic, or professional diversity, revealing a structural gap between rhetoric and practice.

The institutional rules of the ICC, SIAC and HKIAC illustrate different levels of engagement with these concerns. The ICC adopts the most structured approach to nationality: Article 13(5) requires that the sole arbitrator or tribunal president be of a nationality different from the parties unless they agree otherwise; Article 12(6) prohibits appointing arbitrators sharing a party's nationality in treaty cases; and Article 13(1) instructs the ICC Court to consider nationality, residence and relevant relationships when confirming or appointing arbitrators. Although the ICC Rules contain no explicit diversity clause, the ICC remains the only major institution to publish post-award arbitrator names and to disclose detailed annual appointment statistics, thereby setting the highest transparency standard.

The SIAC also integrates nationality considerations into its normative framework. Rule 10.2 requires the SIAC to appoint a sole or presiding arbitrator of a different nationality from the parties unless inappropriate, while Rule 11.1 obliges the SIAC to consider nationality, residence and party connections in every appointment. However, the SIAC includes no express provision on diversity, leaving the issue largely to institutional policy and practice.

The HKIAC, by contrast, adopts the most explicit diversity stance among the major institutions. Article 9A of the HKIAC Rules encourages

29 Kluwer Arbitration Blog 'Open Letter on Diversity' (2022). Available at: https://legalblogs.wolterskluwer.com/arbitration-blog/open-letter-to-international-arbitration-institutions-and-counsel-a-real-world-concrete-solution-to-increase-diversity-in-international-arbitration-tribunals [accessed 24 April 2026].

30 Ali, S F, Balcerzak, F, Colombo, G F and Karton, J (eds), *Diversity in International Arbitration: Why it Matters and How to Sustain It* (Edward Elgar Publishing, 2022).

31 2024 SIDRA Survey, p 28, section 5.38.

parties and co-arbitrators to take diversity into account when designating arbitrators and obliges the HKIAC itself to do the same in all institutional appointments. Although the HKIAC does not impose nationality restrictions comparable to those of the the ICC or the SIAC, it is the only institution with a direct normative mandate on diversity. Both the HKIAC and the SIAC maintain publicly searchable arbitrator panels, while the ICC leads in transparency through post-award disclosures. Yet none of the three publishes comprehensive demographic data on appointments, making it difficult to track progress or identify structural disparities.

Third-party funding and enforcement: underutilised and poorly understood

Third-party funding has become an increasingly visible feature of the international arbitration landscape, offering parties an additional mechanism to manage risk and improve access to justice. Yet its practical use remains far more limited than its theoretical appeal. The 2024 SIDRA Survey indicates that more than 72 per cent of respondents understand third-party funding, its implications and how it works but have not used it; of the respondents who have used third-party funding, 22 per cent have used it for the enforcement of an arbitral award.[32] These figures suggest that the key barrier is not abstract legitimacy, but the translation of familiarity into actual deployment, including clear disclosure expectations and predictable treatment of funding arrangements in costs and conflicts analysis.

A major reason for this disconnect is the absence of a harmonised regulatory framework. While certain jurisdictions, such as Singapore and Hong Kong, have introduced statutory regimes permitting third-party funding in arbitration subject to disclosure requirements, many leading arbitration jurisdictions still lack comprehensive legislative frameworks governing its use.

In particular, Hong Kong regulates third-party funding through the Arbitration and Mediation Legislation (Third Party Funding) (Amendment) Ordinance 2017 (Cap 609), while Singapore does so under the Civil Law (Amendment) Act 2017, read together with the Civil Law (Third-Party Funding) Regulations 2017. Both frameworks expressly permit third-party funding in arbitration and impose disclosure obligations regarding the existence of the funding arrangement and the identity of the funder.

However, arbitral institutions differ significantly in their treatment of third-party funding: the SIAC and the HKIAC have taken modest steps by introducing disclosure obligations for funding relationships, whereas the

32 2024 SIDRA Survey, p 33.

ICC merely encourages disclosure. This fragmented approach leaves users uncertain about whether they must disclose the existence or identity of funders, how undisclosed funding may create conflicts of interest, or how funding arrangements might affect cost allocation. As arbitration becomes more commercialised and capital intensive, institutional ambiguity on such issues has become increasingly difficult to justify.

Equally under-discussed is the question of enforcement. Although enforceability is one of arbitration's greatest advantages, few institutions provide meaningful data on how awards fare once they leave the hearing room. The 2024 SIDRA Survey records repeated calls from in-house counsel and practitioners for greater transparency concerning enforcement outcomes, including information about delays, challenges, and refusals under the New York Convention. In the absence of reliable statistics, users must continue to rely on anecdote and reputation when assessing institutions, an approach that undermines predictability and impedes informed decision-making.

Conclusion: institutions must listen

If there is one overarching lesson emerging from the evidence surveyed in this article, it is that arbitral institutions are no longer competing on brand; they are competing on governance. For decades, institutional legitimacy was implicitly equated with scale: more cases meant more trust, more appointments meant more relevance. That equation is now breaking down. Users have become too sophisticated, too data literate, and too diverse for institutional self-promotion to substitute for measurable performance.

What the 2024 SIDRA Survey and the 2025 Queen Mary Report reveal is not a vague call for 'modernisation', but a concrete and verifiable expectation: predictable, accountable, and digitally competent service delivered in a manner that users can assess. Users increasingly expect arbitral institutions to operate less like closed professional clubs and more like public-interest administrators of a privatised adjudicatory function. This reflects a central tension of contemporary arbitration: while private by design, it increasingly performs functions comparable to public adjudication. The more arbitration displaces state courts, the less defensible institutional opacity becomes.

This article has mapped that legitimacy gap across multiple dimensions – transparency, delay and misconduct, procedural tradition, technology, diversity, funding, and enforcement – and a consistent pattern emerges: institutions may have sophisticated rules, but users experience a system. Formal reforms on paper are insufficient if day-to-day practice remains rigid, opaque, or difficult to influence. This explains why 'flexibility' has become a paradox in modern arbitration: procedural choice is widely advertised, yet many users experience that choice as limited, uneven, or dependent on tribunal habit rather than institutional design.

Transparency

Transparency is not a virtue; it is institutional infrastructure. The appointment of arbitrators remains the clearest example. Most institutions continue to operate as black boxes: users can observe outcomes, but not processes. In 2025, this governance model appears increasingly difficult to justify. A credible arbitral institution should be able to articulate, in an intelligible and structured manner, the criteria applied in appointments (such as availability, expertise, conflicts, language skills, and case-management record), the identity and mandate of the decision-making bodies involved, and the timelines within which appointments are made and monitored. This does not require disclosure of confidential deliberations, but rather publication of institutional architecture. In an environment where trust is contested, reliance on institutional discretion without explanation is no longer sufficient.

Delay

Delay and underperformance are governance failures, not unfortunate accidents.

A persistent weakness across major institutions is the absence of effective enforcement mechanisms against arbitrator delay. Existing rules tend to rely on extreme remedies, such as removal, while lacking graduated accountability tools capable of incentivising timely performance. The predictable result is that arbitrators often face limited consequences for missed timelines, while users absorb the associated costs. If arbitration is promoted as an efficient alternative to litigation, institutional tolerance of unexplained delay directly undermines that promise. Treating time as a managed variable – through mandatory explanations for delay, default fee consequences, and visible monitoring – has therefore become a legitimacy requirement rather than an optional reform.

Procedural tradition

Procedural tradition must be treated as a matter of party autonomy. One of the most consequential yet under-addressed sources of dissatisfaction in international arbitration is procedural culture. Parties enter arbitration with fundamentally different expectations regarding evidence, disclosure, witness examination, and the balance between written and oral advocacy. Leaving these issues to tribunal habit or implicit assumptions increases cost, friction, and procedural dispute. A modest but high-impact reform would be to require an early, explicit choice between common law, civil law, or hybrid procedural models, anchored in a short form at registration and supported by default procedural templates. Tribunal discretion would remain, but would operate within a framework aligned with party expectations rather than individual preference.

Technology

Technology must move from being 'permitted' to being institutionally embedded. Virtual hearings and digital case management tools are no longer exceptional; they represent baseline user expectations. Yet many institutional rules continue to treat technology as optional, leaving core issues such as cybersecurity, digital document management, and evidentiary authentication to ad hoc decision-making. This institutional reluctance represents a missed opportunity. Digital-first design is not merely about convenience; it directly affects cost predictability, accessibility, ESG alignment, and procedural equality. Embedding default digital protocols and introducing financial incentives for virtual or hybrid proceedings would align institutional pricing with actual service delivery and unlock efficiency gains already recognised by users.

Diversity

Diversity will remain rhetorical unless it becomes measurable. Diversity has evolved from a reputational aspiration into a component of perceived legitimacy. The central issue is no longer whether institutions express commitment to diversity, but whether they publish sufficient data to allow users to assess whether appointment patterns are changing in practice. Without consistent, disaggregated reporting, institutional commitments cannot be evaluated, and inertia is easily presumed. A diversity policy without measurement lacks structural credibility; a diversity programme without transparent reporting remains reputationally fragile.

Funding and enforcement

Funding and enforcement constitute the hidden economy of arbitration. Third-party funding and enforcement outcomes are areas where user demand for clarity is high and institutional guidance remains limited. The resulting uncertainty generates conservative behaviour, restricts access to justice, and undermines arbitration's claim to commercial rationality.

Two institutional responses are essential: the adoption of clear, accessible frameworks governing funding disclosure and conflicts, and the publication of anonymised, aggregated data on enforcement outcomes, delays, and refusal patterns. Across both areas, the underlying principle is identical: informed choice requires data.

From prestige-based legitimacy to performance-based legitimacy

Arbitration is a trust-based system, and trust now requires proof. International arbitration persists because parties consent to it. That consent is transactional rather than ideological. Parties choose arbitration on the expectation that it will deliver neutrality, enforceability, and efficiency more effectively than domestic courts. When that expectation weakens – due to opacity, delay, inconsistency, or technological lag – consent erodes silently. Users rarely protest; they reallocate disputes to alternative forums. The institutional evolution described in this article is therefore not innovation for its own sake, but a shift from prestige-based legitimacy to performance-based legitimacy.

Arbitration as a counterweight to decoupling and protectionism

Finally, this institutional debate must be situated within a broader geopolitical context. At a time when globalisation is retreating and being replaced by re-localisation strategies and protectionist dynamics, international arbitration has the potential to function as a form of legal connectivity. By providing neutral, enforceable, and predictable dispute-resolution mechanisms, arbitration can help sustain cross-border economic relations even as political trust deteriorates. That role, however, is conditional. Arbitration cannot credibly act as a stabilising force in a fragmented global economy if the legitimacy of its institutions is itself contested. To resist the instrumentalisation of dispute resolution as a sovereignty tool, arbitration must remain visibly neutral and professionally governed. The more the international system fragments, the more valuable arbitration becomes – but only if institutions offer not prestige, but accountability.