

EMERGENCY ARBITRATION & INTERIM RELIEFS: STRATEGIC APPROACHES AND DRAFTING SIMULATIONS

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ABSTRACT

In order to close the crucial period before the establishment of a complete arbitral tribunal, emergency arbitration has become a crucial tool in the settlement of international business disputes. In situations where a delay would result in irreversible harm, parties are increasingly depending on emergency arbitrators to secure urgent interim measures like asset-freezing orders, injunctions, or protective preliminary orders. The conceptual underpinnings and institutional frameworks of emergency arbitration are examined in this article across the main arbitral rules, such as the SIAC, ICC, and LCIA. It assesses how national court assistance and arbitral interim measures interact, highlighting jurisdictional differences and enforcement difficulties. Beyond theory, the article takes a strategic approach, examining when and how attorneys should use emergency applications while weighing the potential for enforceability, security requirements, and ex parte relief risks. Last but not least, it offers useful drafting simulations, including sample applications, emergency orders, and protective measures, giving practitioners a ready reference for disputes that move quickly. The study comes to the conclusion that careful planning, strategic foresight, and a hybrid approach that combines judicial and arbitral support are necessary for effective emergency arbitration.

Keywords: Emergency Arbitration, Interim Measures, Enforcement Challenges, Institutional Arbitral Rules, Judicial–Arbitral Interaction.

1. INTRODUCTION

Cross-border disputes have increased in tandem with the globalization of commerce, and arbitration is frequently selected due to its impartiality and effectiveness. However, when disputes call for immediate action, arbitration's procedural strength—its methodical pace—may also be a weakness. This gap is filled by emergency arbitration ("EA"), which enables parties to request immediate relief from an emergency arbitrator before the tribunal is established. Such relief guarantees asset preservation, maintenance of the status quo, or defence against irreversible damage. Following the ICC's implementation of EA in 2012, organizations such as SIAC, LCIA, and HKIAC have done the same, modifying regulations to meet urgent requests.

2. INSTITUTIONAL FRAMEWORKS FOR EMERGENCY ARBITRATION

2.1 ICC Rules

By including EA in its 2012 Arbitration Rules, the International Chamber of Commerce (ICC) gave emergency arbitrators the authority to issue binding interim orders that bind parties until the arbitral tribunal takes over. Applications must be so urgent that they cannot wait for the formation of a tribunal (ICC, Art. 29).

2.2 LCIA Rules

EA relief is granted by the London Court of International Arbitration (LCIA) in accordance with its 2014 and 2020 Rules. According to LCIA, Art. 9B, an emergency arbitrator may be chosen "as soon as possible" and is expected to render a decision in 14 days. Those who are in danger find this expedited timeline appealing.

2.3 SIAC Rules

Perhaps the most sophisticated EA system is that of the Singapore International Arbitration Centre (SIAC). Emergency interim measures were first made possible by its 2016 Rules, and protective preliminary orders (PPOs), even ex parte, were added in the 2025 Rules to handle circumstances in which notice would negate relief (SIAC, Sch. 1).

3. Emergency Arbitration vs. National Courts

Despite arbitration's independence, national courts continue to play a crucial role in defending or upholding temporary solutions. Some jurisdictions, such as Singapore and Hong Kong, explicitly acknowledge emergency arbitrator orders as enforceable, while others, such as India, continue to favour parties seeking temporary relief directly from domestic courts in accordance with domestic statutes (Banerjee 67). Counsel must therefore carefully consider both arbitral and judicial options.

4. Strategic Approaches to Emergency Relief

4.1 Timing and Choice of Forum

Counsel should assess:

- Ex parte relief is available: ICC and LCIA normally require notice, but SIAC's PPOs permit prompt intervention.
- Speed: ICC provides flexibility without a set maximum, whereas LCIA guarantees a 14-day decision window.
- Enforceability: The value of relief depends on how willing the enforcing court is to comply.

4.2 Evidentiary Standards

Applicants must show:

1. Urgency;
2. Risk of irreparable harm;
3. Prima facie jurisdiction of the arbitral tribunal;
4. Balance of convenience (Born 2501).

4.3 Security and Undertakings

Emergency arbitrators frequently require the provision of security in order to prevent abuse. In the event that relief is found to be unwarranted, this guarantees reimbursement. In order to increase credibility, strategic counsel offers initiatives in advance.

4.4 Interaction with Courts

Judicial support cannot be replaced by emergency arbitration. In situations where enforcement relies on state coercive power, parallel applications might be required (Moses 145).

5. Drafting Simulations

5.1 Model Emergency Application (Extract)

Request for Emergency Relief

- Remedy sought: an injunction prohibiting Respondent from moving assets worth more than \$10 million USD.
- Urgency: According to bank records (Exhibit A), the respondent started transfers on [date].
- Security: The applicant agrees to furnish a bond of USD 2 million.
- Legal Foundation: SIAC Rules (2025); arbitration agreement under Contract Clause 15.

5.2 Model Emergency Arbitrator Order (Freezing Order)

Order:

1. For 21 days or until the tribunal is established, the respondent is prohibited from transferring, encumbering, or disposing of assets worth up to USD 10 million.
2. The claimant has 48 hours to furnish USD 2 million in security.
3. Until the tribunal replaces or modifies it, this order is final.

5.3 Model Protective Preliminary Order (Ex Parte)

Order:

1. The respondent must immediately stop selling the contested goods for a period of 14 days.
2. The claimant has 24 hours to notify the respondent.
3. Security: A bond worth \$1 million USD.

6. Enforcement Challenges

Enforcement is still uneven despite institutional enthusiasm. While some courts, like those in the United States, view EA orders as contractual commitments that must be transformed into judicial orders, Singaporean and Hong Kong courts are quick to enforce them (Redfern and Hunter 392). Reliance on EA is limited in India since courts maintain supervisory jurisdiction under Section 9 of the Arbitration and Conciliation Act (Banerjee 73).

7. Conclusion

An essential remedy for parties facing impending harm is emergency arbitration. However, judicial cooperation, counsel's strategic planning, and institutional design all affect how effective it is. Practitioners need to consider their options for forums, foresee obstacles to enforcement, and create clear, enforceable orders backed by security commitments. Drafting simulations show how customized orders and requests can protect parties' rights at crucial

times. In the end, EA should be viewed as a component of a hybrid approach that blends judicial authority and arbitral agility rather than as a stand-alone mechanism.

