

ARBITRATION PROCEEDINGS NATIONAL COMMERCIAL ARBITRATION CENTRE (NCAC)

Alternative Dispute Resolution (ADR)

Presented By

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Arbitration

Arbitration is a
dispute submit to
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ALTERNATIVE DISPUTE RESOLUTION (ADR)

What is ADR?

- ✓ ADR refers to a group of mechanism to resolve disputes outside the traditional court system. (Gary Born)

What are the core elements?

- ✓ ADR prioritized Flexibility, Neutrality, Confidentiality, Cost-Effectiveness, Party Autonomy, and Cross-Boarder Disputes(Margaret L. Moses)

ALTERNATIVE DISPUTE RESOLUTION (ADR)

ADR Type?

- ✓ Negotiation – Parties Only, No Binding, and Informal.
- ✓ Mediation – Third Party Involved and act as Facilitator.
- ✓ Conciliation – Third Party involved and More Active.
- ✓ Arbitration – Third Party involved and Decide Outcome

Dispute solve under ADR?

- ✓ Commercial, Labour, Family, Consumer, and Investment, Etc.

ALTERNATIVE DISPUTE RESOLUTION (ADR)

Characteristics ?

- ✓ Party Autonomy
- ✓ Flexible
- ✓ Confidential. Etc.

Key Principles and Doctrines?

- ✓ Party Autonomy – Parties Rights.
- ✓ Separability – Independent of arbitration clause.
- ✓ Competence-Competence – Arbitrator Authority. Etc.

What is Arbitration?

- ✓ ADR Mechanism which Two or More Parties Agreed to resolve the disputes arising out or related to their contract in Arbitration and Third Party called “Arbitrator” will listen and decide the outcome of the dispute.

How it generally works?

- ✓ Claimants, Respondents, and Arbitrators
- ✓ Constitution, Hearing, and Award.
- ✓ Confidential.

ARBITRATION

Similarity to Court?

- ✓ Plaintiff = Claimant
- ✓ Defendent = Respondent
- ✓ Judge = Arbitrator
- ✓ Decision = Award



Famous Arbitration Institutions?

- ✓ Singapore International Arbitration Centre (SIAC)
- ✓ Hong Kong International Arbitration Centre (HKIAC)
- ✓ International Chamber of Commerce (ICC)
- ✓ London Court of International Arbitration (LCIA)



NATIONAL COMMERCIAL ARBITRATION CENTRE

NCAC?

✓ National Commercial Arbitration Centre (NCAC) is Cambodia Arbitration Institution Resolving Commercial Dispute.

Address?

✓ 37 Floor of GIA Tower, Koh Pich, Phnom Penh, Cambodia



Background?

- ✓ 1954 – Royal Kram on Form and Effect of Arbitration
- ✓ 1960 – Ratified New York Convention
- ✓ 2001 – Reconfirm on New York Convention
- ✓ 2006 – Law on Commercial Arbitration
- ✓ 2009 – Sub-Decree 124 on Organization and Functioning of NCAC
- ✓ 2010 – Sub-Decree 182 on Establishment of Arbitrator Selection Committee
- ✓ 2013 – Official Launching

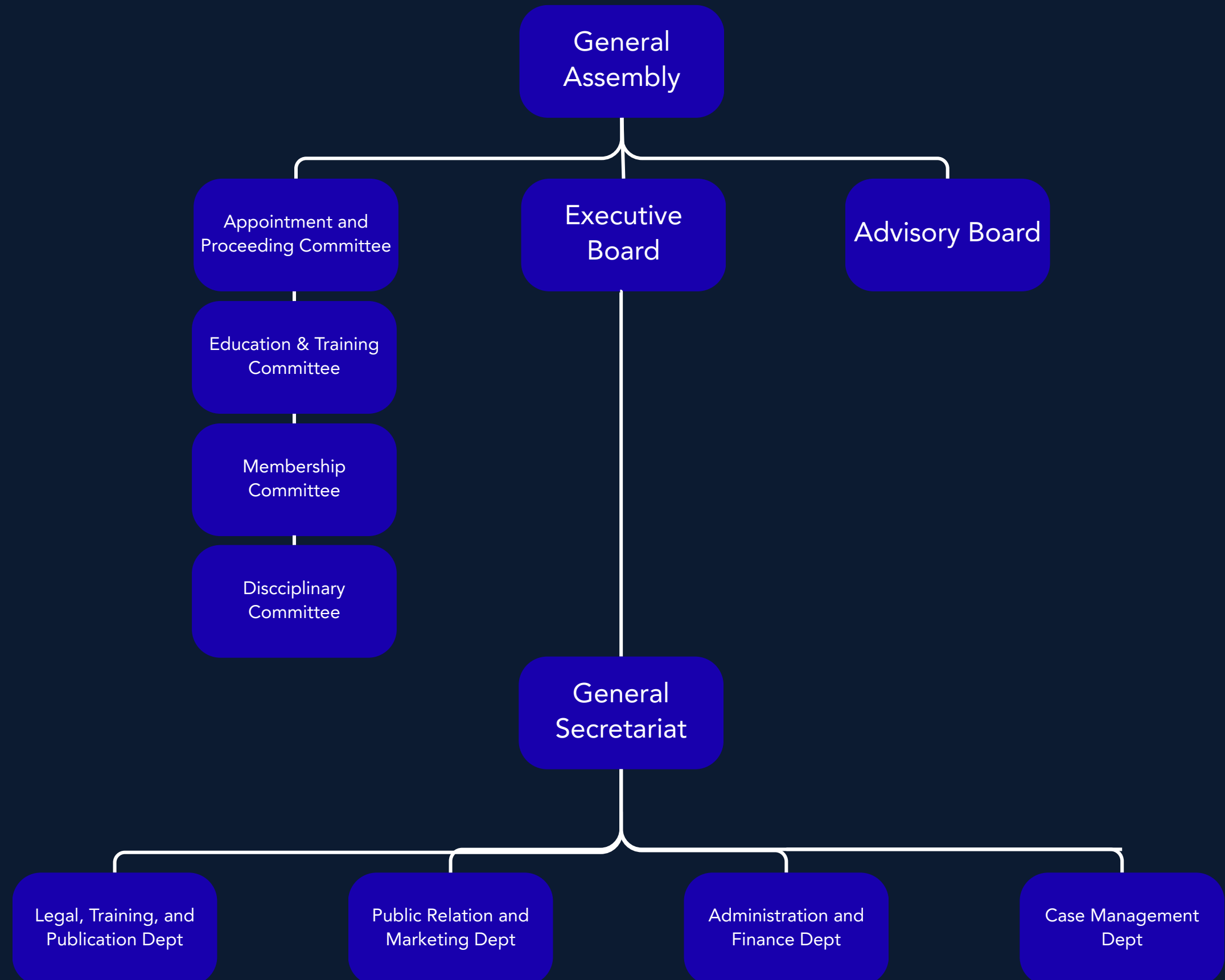
Mission?

- ✓ Promote Settlement of Commercial Dispute
- ✓ Not Against Court but Complement Court

Institution?

- ✓ Independent
- ✓ Non-Profit Organization

NCAC Structure



NCAC Rules



Case



Operation



Arbitrator

ARBITRATION PROCEDURE

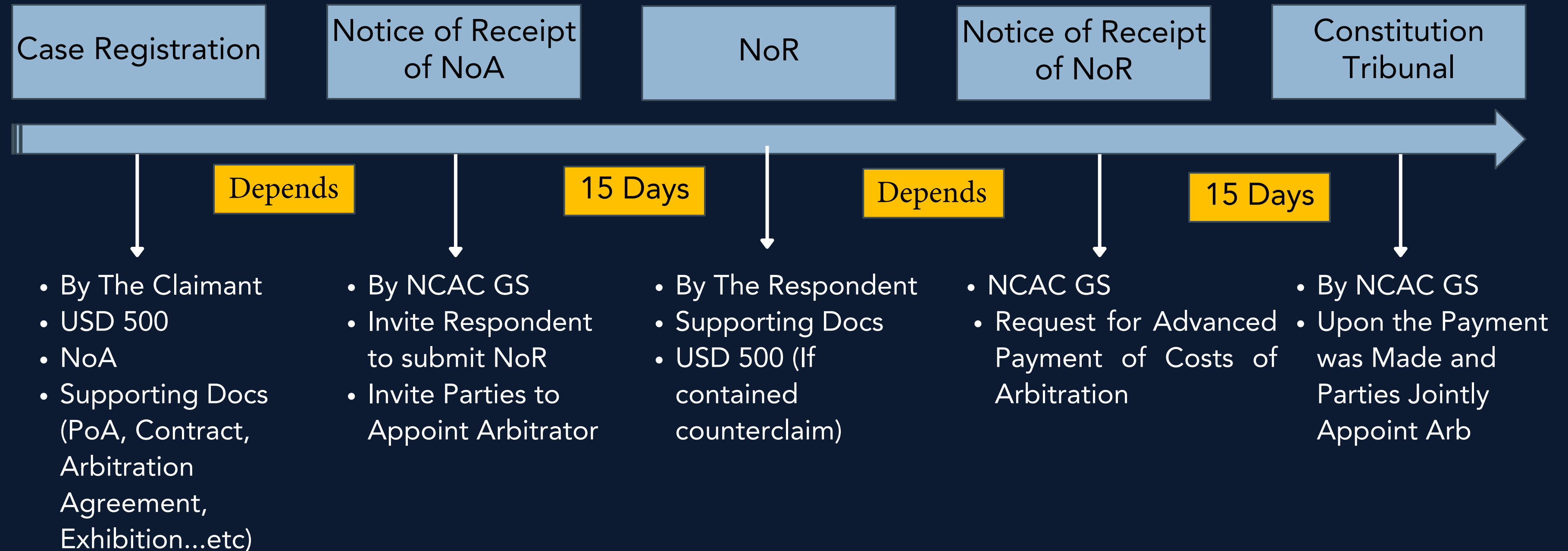
Summary of Procedure?

- ✓ Before Constitution
- ✓ During Constitution
- ✓ Post Constitution



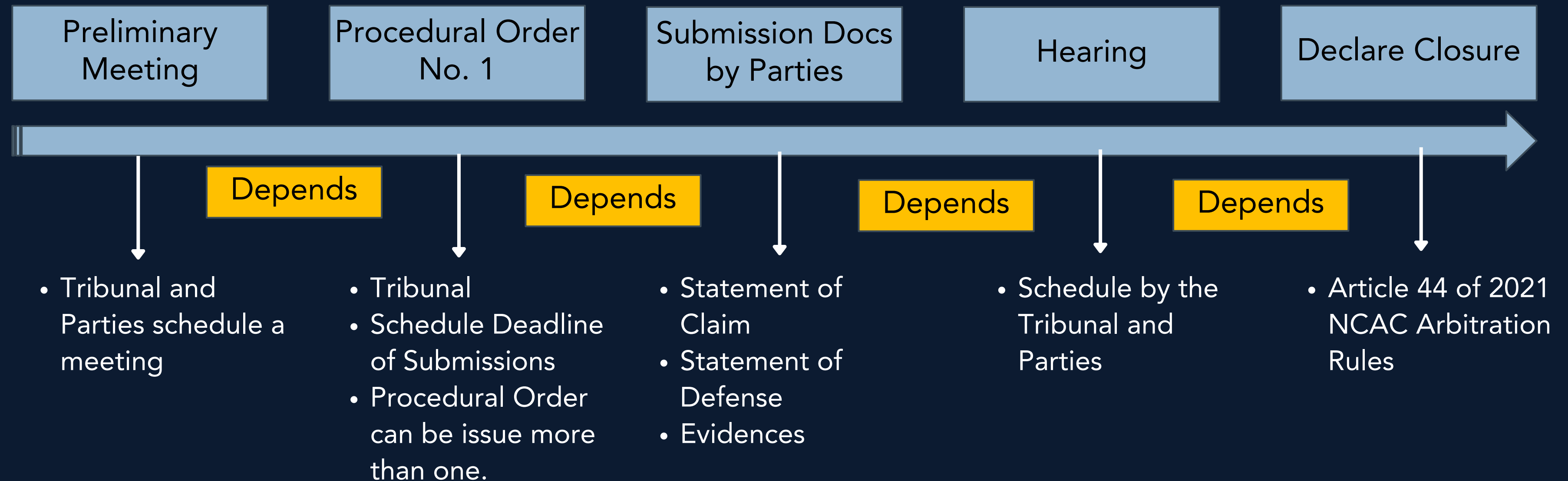
ARBITRATION PROCEDURE

Procedure



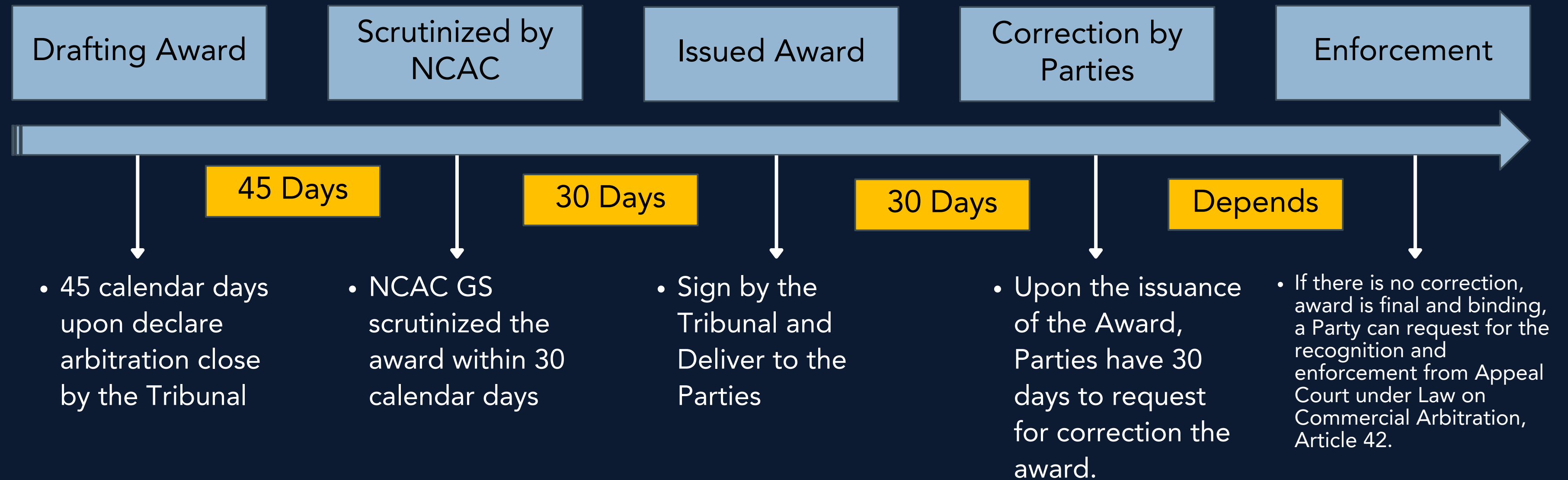
ARBITRATION PROCEDURE

Procedure



ARBITRATION PROCEDURE

Procedure



Appointment of Arbitrator

- ✓ Article 24, the number of the Tribunal can be 1 (one) or 3 (three). It shall be an odd number.
- ✓ In case of a three-member Tribunal (Article 25.2), the Claimant shall appoint one arbitrator and the Respondent shall appoint 1. The appointed arb will be invited to jointly appoint the presiding arbitrator.

Appointment of Arbitrator

- ✓ In case of a one-member Tribunal (Article 25.3), the Parties shall jointly appoint a sole arbitrator.
- ✓ The Parties can nominate in NoA or NoR. Any failure of the Appointment and Proceedings Committee shall appoint on behalf of the Parties.

ADVANTAGES AND DISADVANTAGES

Advantages

- ✓ Flexibility
- ✓ Cost and Time
- ✓ Confidential
- ✓ Final and Binding
- ✓ Cross-Boarder
- ✓ Neutral
- ✓ Expertise

Disadvantages

- ✓ Flexibility
- ✓ Cost and Time
- ✓ Enforcement

CONCLUSION

Arbitration is:

- ✓ Mechanism to Resolve Dispute Similar to Court
- ✓ Friendly, Flexibility, but Professional
- ✓ Very Beneficial for Foreign Investor and Attract them
- ✓ Convenient based on Language, Procedure, and Neutral.
- ✓ “In cross-border commerce, arbitration is not an alternative—it is a necessity.”



ANNA & ASSOCIATES
— Law Office —

THANK YOU FOR YOUR ATTENTION