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AN OVERVIEW OF ARBITRAL PROCESS IN NIGERIA: A PRACTICAL GUIDE FROM COMMENCEMENT TO AWARD

Introduction

When parties choose arbitration, they are not merely opting for an alternative to litigation but for a dispute resolution mechanism founded on party autonomy, procedural flexibility and neutrality. Unlike court proceedings where procedure is largely prescribed by law, arbitration allows parties considerable control over the manner in which their dispute is determined, including the choice of arbitrator, seat, applicable rules and, where appropriate, the presentation of evidence and submissions. This flexibility, however, operates within an established procedural framework. From the commencement of proceedings and constitution of the tribunal to pleadings, procedural hearings, evidence, submissions, and the final award, each stage serves a distinct purpose and is governed by the parties' agreement, applicable arbitral rules and the law of the seat. The effective management of these stages is therefore central to the fair and efficient resolution of the dispute.

This article provides an overview of the principal stages of the arbitral process, from the commencement of arbitration to the issuance of the final award. It also considers the respective roles of the parties, counsel, and the arbitral tribunal, while highlighting the fundamental principles underpinning the process, including party autonomy, due process, equal treatment, procedural efficiency, and the independence and impartiality of the arbitral tribunal.

Arbitral Proceedings

Arbitral proceedings constitute the formal process through which disputes submitted to arbitration are heard and determined by an arbitral tribunal. Rooted in party autonomy, these proceedings are governed primarily by the arbitration agreement, applicable arbitration rules, and, where necessary, the procedural law of the seat of arbitration. Unlike traditional court litigation, arbitral proceedings are typically more flexible, confidential, and tailored to the parties' needs, allowing them to determine key aspects such as the composition of the tribunal, procedural timelines, and applicable law¹. The process generally involves the commencement of arbitration, exchange of pleadings, presentation of evidence, hearings (where necessary), and ultimately the issuance of a final and binding arbitral award.

An essential feature of arbitration is its procedural flexibility. While arbitration rules provide a general framework, they often do not prescribe detailed procedures on issues such as document production, exchange of briefs, or witness conduct². This allows the parties and the tribunal to tailor the process to suit the specific circumstances of the dispute, making arbitration more adaptable than traditional litigation. Having said that, it may be necessary at this juncture to first consider some preliminary issues that are pivotal to understanding arbitral proceedings.

¹ IGI Global Scientific Publishing, 'What is Arbitral Proceeding?' (IGI Global Dictionary) <https://www.igi-global.com/dictionary/international-arbitral-procedures/121356> accessed 7th April 2026

² International Chamber of Commerce (ICC) Report on Techniques for Controlling Time and Costs in Arbitration (2007), p.9 (Peter MWolrich, Chairman)

Preliminary Issues

Composition of the Arbitral Tribunal or Arbitrators

The composition of an arbitral tribunal is crucial to the fairness, efficiency, and credibility of arbitration³. It involves the number, appointment, and qualifications of the arbitrator(s). While parties may agree on a sole arbitrator or a panel of arbitrators, applicable laws or institutional rules provide for the appointment process where no agreement exists. Arbitrators must be independent, impartial, and competent, failing which their appointment may be challenged or terminated⁴. In Nigeria, parties are free to determine the number and method of appointing arbitrators⁵. They may opt for a sole arbitrator, typically for greater speed and lower costs, or a three-member tribunal for more complex disputes. Parties may also designate an office or position, such as the Director-General of the Nigerian Law School, with the occupant serving as arbitrator at the relevant time⁶. Where no number is specified, the law provides for a sole arbitrator⁷. Where three arbitrators are agreed upon, each party appoints one, and the two appointed arbitrators select the third⁸. If an appointment is not made within the prescribed time, the designated appointing authority or court may intervene⁹.

An arbitrator, whether appointed by the parties, an institution or the court, must be independent and impartial and must disclose any circumstances that may raise doubts as to their neutrality. This duty continues throughout the proceedings¹⁰. A disclosed conflict does not automatically disqualify the arbitrator, as a fully informed party may waive the objection. However, a party unaware of the circumstances may challenge the arbitrator where appropriate¹¹. An arbitrator may be challenged for bias, lack of independence or impartiality, failure to meet agreed qualifications, or inability to properly perform the mandate.

Seat of Arbitration

The seat of arbitration is a fundamental aspect of the arbitral process, as it shapes several important elements of the arbitral proceedings. It influences issues such as what disputes can be arbitrated, the applicable substantive and procedural laws, and the legal framework for setting aside, recognizing, and enforcing the arbitral award¹². The "seat" of arbitration refers to the legal jurisdiction where the arbitration is considered to take place. It determines the law that governs the arbitral process (often called the *lex arbitri*). In simple terms, the seat is the legal home of the arbitration, linking the proceedings to a specific legal system¹³.

The seat of arbitration need not be the same as the physical venue where hearings or procedural activities are conducted¹⁴. Under the Arbitration and Mediation Act, the parties, an authorised institution or the tribunal may determine the seat; where none is designated, the tribunal may do so having regard to the relevant circumstances. The tribunal may nevertheless hold hearings at any convenient location¹⁵. The distinction is important because, while the venue concerns the physical location of proceedings, the seat determines the legal framework governing the arbitration and the courts with supervisory jurisdiction, thereby influencing the validity and enforceability of the award.

³ The Legal School, 'Composition of Arbitral Tribunal: Understanding the Framework and Provisions,' <https://thelegalschool.in/blog/composition-of-arbitral-tribunal> accessed 7 April 2026.

⁴ Arbitration and Mediation Act 2023, Arbitration Rules (Arbitration Rules 2023), Art.12

⁵ Arbitration and Mediation Act, 2023, s. 6(1)

⁶ Greg C Nwakoby, 'The Law and Practice of Commercial Arbitration in Nigeria,' (3rd edn. 2025) 117

⁷ Arbitration and Mediation Act, 2023, s. 6(2)

⁸ Arbitration and Mediation Act, 2023, s. 7(3)

⁹ Ibid

¹⁰ Arbitration and Mediation Act, 2023, s. 8; Arbitration Rules 2023, Art. 11

¹¹ Greg C Nwakoby, 'The Law and Practice of Commercial Arbitration in Nigeria,' p. 118

¹² A J Belohlavek, 'Seat of Arbitration and Supporting and Supervising Function of Courts' https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2593428 accessed 7 April 2026.

¹³ Loukas Mistelis, 'Seat of Arbitration and Indian Arbitration Law' (2016) 4 Indian Journal of Arbitration Law

¹⁴ N.N.P.C v Lutin Investment Ltd & Anor (2001) 50 WRN 81 at 93.

¹⁵ Arbitration and Mediation Act, 2023, s. 32

Jurisdiction or Competence of the Arbitral Tribunal

The jurisdiction of an arbitral tribunal determines its authority to hear and decide a dispute, deriving principally from the parties' arbitration agreement and limited by its terms. Under the principle of competence-competence, the tribunal may determine its own jurisdiction, including objections to the existence, validity or scope of the arbitration agreement¹⁶. This is reinforced by the doctrine of separability, which treats the arbitration agreement as independent of the underlying contract, allowing it to remain valid even where the main contract is challenged¹⁷. Accordingly, jurisdictional objections are generally addressed at an early stage, given their implications for the validity of the proceedings and enforceability of the award.



Language of Arbitration

The language of arbitration determines the language in which pleadings, evidence, hearings, correspondence and the final award are conducted. Unlike court proceedings, parties are generally free to agree on the language of the arbitration. Where no agreement exists, the tribunal may determine the appropriate language, having regard to the circumstances of the case, including the language of the parties, arbitration agreement, witnesses and arbitrators. Under the Arbitration and Mediation Act, parties may agree on the language of the proceedings; in the absence of such agreement, the tribunal determines the appropriate language(s), having regard to the circumstances of the case and the need for a fair and efficient process¹⁸. Relevant circumstances include the languages spoken by the parties, the arbitration agreement itself, the potential witnesses, and the arbitrators¹⁹.

Commencement Of Arbitral Proceedings

The commencement of arbitral proceedings marks the formal initiation of arbitration, typically by the claimant serving a notice or request for arbitration in accordance with the parties' agreement. This triggers the constitution of the tribunal and sets the procedural framework for determining the dispute.

¹⁶ Draft Digest of Case Law on the UNCITRAL Model Law on International Commercial Arbitration (RIZ/DIS Conference, 2005); Arbitration and Mediation Act 2023, s.14

¹⁷ M S Jacobs, 'The Separability of the Arbitration Clause: Has the Principle Been Finally Accepted in Australia?' (1994) 68 Australian Law Journal 629 at 629

¹⁸ Arbitration and Mediation Act 2023, s. 35 (1 & 2)

¹⁹ Nwakoby, 'The Law and Practice of Commercial Arbitration in Nigeria,' p.131



Notice of Arbitration

The party seeking arbitration, known as the claimant, must serve a notice of arbitration on the other party, the respondent²⁰. Arbitration is considered to commence on the date the respondent receives this notice²¹. The notice should include the essentials listed in Article 3(3) of the First Schedule, such as a demand to refer the dispute to arbitration, the names and addresses of the parties, a reference to the arbitration clause or agreement, the nature of the dispute, and the relief sought. While these particulars are required, the notice need not follow any rigid formal language, provided it sufficiently informs the respondent of the nature and commencement of the arbitration.

Additionally, a notice of arbitration is deemed received when physically delivered to the respondent, at their habitual residence, place of business, or mailing address. If these fail, delivery to the last known address is sufficient. Receipt is considered effective on the day of delivery. To avoid disputes over inadequate notice, it is recommended to send the notice by registered mail or express post²³. Furthermore, the respondent has thirty (30) days to respond to the notice²⁴. The time for response begins the day after receipt, and if the last day falls on a holiday or non-business day, it extends to the next business day. Arbitral tribunals should ensure proper service of notices. Typically, two notices are involved: the claimant's initial notice of intent to arbitrate, and a subsequent notice specifying the date, time, and place of arbitration. If the respondent fails to appear, the tribunal usually requires another notice before proceeding *ex parte*²⁵.

Preliminary Meeting

A preliminary meeting is an important early stage of arbitral proceedings at which the tribunal and the parties establish the procedural framework for the arbitration. It is more like a case management conference in civil litigation. It is typically used to clarify the issues in dispute, agree or determine the timetable for pleadings and evidence, hearing arrangements, procedural directions, disclosure or production of documents, witness and expert evidence, and other case-management matters. The tribunal may also address preliminary objections, the language of the proceedings, and the manner in which the hearing will be conducted. The primary objective is to ensure that the arbitration proceeds efficiently, fairly, and without unnecessary delay or expense. Following the meeting, the tribunal will ordinarily issue procedural directions, or an order recording the matters agreed or determined.

²⁰ Arbitration Rules 2023, Art. 3

²¹ Arbitration and Mediation Act 2023, s.33; Arbitration Rules 2023, Art. 3(2)

²² Nwakoby, 'The Law and Practice of Commercial Arbitration in Nigeria,' p. 114-115

²³ Arbitration Rules 2023, Art. 2 (2)(3)(4)(5) & (6)

²⁴ Arbitration Rules 2023, Art. 4

²⁵ Nwakoby, 'The Law and Practice of Commercial Arbitration in Nigeria,' p. 116

Pleadings

Pleadings serve as the foundation for presenting each party's case to the arbitral tribunal²⁶. They typically consist of written statements where the claimant outlines the facts, basis, and remedies sought, while the respondent provides its defence and any counterclaims. The claimant sets out its case in the points of claim, stating the facts, issues, and remedies sought, while the respondent responds in the points of defence. The content and timing of these statements are determined either by party agreement or by the arbitral tribunal. Parties may submit additional statements if agreed or directed by the tribunal and may attach or reference relevant documents or evidence. Amendments or supplements to claims or defences are allowed during proceedings, subject to the tribunal's discretion, especially where delays are involved²⁷. It is important to state that where a party files its statement outside the time stipulated by the parties or the tribunal, the tribunal reserves the right to extend the time in deserving circumstances²⁸. Notably, where the claimant refuses to file its pleading, the tribunal may terminate the case unless the respondent has a counterclaim. On the other hand, where the respondent fails to file its pleadings, the tribunal may proceed ex parte and deliver an award²⁹.

Trial and Hearing

The hearing stage is where the tribunal considers the parties' evidence and arguments, which may include oral testimony, cross-examination, expert evidence and documentary evidence.

The parties must be afforded a fair and equal opportunity to present their respective cases, in accordance with SECTION 36 OF THE CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA 1999 (AS AMENDED).

Subject to the parties' agreement, the tribunal may conduct oral hearings, determine the dispute solely on written submissions, or adopt a combination of both. However, where the parties have not agreed to dispense with hearings, the tribunal is obliged to hold an oral hearing at an appropriate stage if requested by any party³⁰.

Where an oral hearing is held, the tribunal must give adequate notice of its date, time, and place³¹. Where witnesses are to be called, each party must provide the tribunal and the opposing party with relevant details of the witnesses and the substance and language of their testimony. At the hearing, witnesses may give evidence-in-chief, be cross-examined and re-examined, and may tender relevant documents and exhibits.

The tribunal may also plan for interpretation and recording of the proceedings where necessary³². Hearings are generally conducted in camera, unless the parties agree otherwise. Evidence may be presented through written witness statements, subject to cross-examination, and the tribunal may permit remote testimony (visually) and require witnesses to testify on oath or affirmation. The tribunal may also appoint independent experts, subject to the parties' right to challenge the appointment, examine the expert's report and present their own expert evidence³³.

²⁶ O Odeyinka-Apantaku, 'Pleadings in Arbitration,' Nigerian Institute of Chartered Arbitrators, <https://blog.nicarb.org/index.php/2021/08/03/topic-pleadings-in-arbitration/>, accessed 7 April 2026

²⁷ Arbitration and Mediation Act 2023, s. 36; Arbitration Rules 2023, Arts. 20 to 22

²⁸ Arbitration and Mediation Act 2023, s. 66

²⁹ Nwakoby, 'The Law and Practice of Commercial Arbitration in Nigeria,' p. 138- 139

³⁰ Arbitration and Mediation Act 2023, s. 38(1)

³¹ Arbitration and Mediation Act 2023, s. 38(2); Arbitration Rules 2023, Art. 29

³² Nwakoby, 'The Law and Practice of Commercial Arbitration in Nigeria,' p. 141-142

³³ Ibid

Admissibility of Evidence

In arbitral proceedings, parties generally bear the burden of proving the facts supporting their claims or defences, with evidence admitted according to the applicable arbitral rules³⁴. The tribunal may consider documentary, testimonial, and expert evidence, particularly where specialised issues such as foreign law, complex contracts or oil and gas transactions arise. Given the international nature of arbitration and the absence of uniform evidentiary rules, tribunals generally prioritise relevant and reliable evidence over strict technical rules, making clear and material presentation of evidence essential³⁵.

Where an arbitral tribunal comprises arbitrators from different jurisdictions, it should adopt a flexible and fair approach to the presentation of evidence, whether the tribunal is constituted by one or several arbitrators. Parties should not be unduly restricted from presenting relevant evidence necessary for the just determination of the dispute³⁶. Internationally, the IBA Rules on the Taking of Evidence provide useful standards, permitting tribunals to exclude evidence that is irrelevant or immaterial, privileged, excessively burdensome, unavailable, commercially or technically confidential, politically sensitive, or whose admission would undermine fairness and equality between the parties³⁷. Under the 2023 Arbitration Rules, parties may submit summaries of the documents and evidence on which they intend to rely and present oral evidence in accordance with the prescribed procedure³⁸. Although parties may agree to relax strict evidentiary rules, the tribunal must still satisfy itself as to the authenticity, relevance and reliability of documentary and other evidence, including its origin, authorship and contents. Thus, while arbitral proceedings allow greater evidentiary flexibility, the tribunal must ensure that the evidence relied upon is credible and sufficiently probative³⁹.

Methods of Presenting Evidence

The presentation of evidence in arbitration is guided by party agreement, tribunal discretion and, where applicable, judicial oversight at the enforcement stage. Evidence is generally presented through four principal means: (a) production of documentary evidence; (b) written or oral testimony of factual witnesses; (c) written or oral expert evidence; and (d) inspection of the subject matter of the dispute⁴⁰.

Presentation of Documents

Documentary evidence is central to arbitral proceedings, particularly contemporary documents generated in the course of the underlying transaction. Although strict rules of evidence may not apply, the tribunal has discretion to determine the relevance, admissibility, authenticity, and weight of evidence⁴¹. However, the arbitral tribunal or arbitrators must still act within the law, as improper admission of evidence may affect the validity of an award and, by implication, affect its enforcement⁴². Where relevant documents are in the possession of third parties, the tribunal may require court assistance to compel their production, as it generally lacks jurisdiction over non-parties to the arbitration⁴³. It is, however, necessary to state that in some jurisdictions, such as the United States of America, the arbitration law expressly empowers the arbitral tribunal to summon persons to attend before it to produce any material document⁴⁴.

³⁴ Arbitration Rules 2023, Art. 28

³⁵ Fabian Ajogwu, 'Commercial Arbitration in Nigeria: Law & Practice' (2nd edn, Centre for Commercial Law Development 2013) 97

³⁶ Redfren & Hunter, 'Law & Practice of International Commercial Arbitration,' 4th edn, London 2004, 81

³⁷ The International Bar Association Rules on the Taking of Evidence, 2020 (IBA Rules 2020), Art. 9.2

³⁸ Arbitration Rules 2023, Art. 28 (3)

³⁹ Ajogwu, 'Commercial Arbitration in Nigeria: Law & Practice' p. 99

⁴⁰ Ibid

⁴¹ Arbitration Rules 2023, Art. 28 (5)

⁴² Ajogwu, 'Commercial Arbitration in Nigeria: Law & Practice' p. 100-101

⁴³ Nwakoby, 'The Law and Practice of Commercial Arbitration in Nigeria,' p. 131

⁴⁴ United States Federal Arbitration Act 1925, s.7

Presentation of Testimony of Witnesses

Witness testimony provides factual evidence where the dispute cannot be adequately resolved through documents alone. To promote efficiency, parties may submit written witness statements in advance, with witnesses subsequently examined-in-chief and cross-examined where necessary. Examination-in-chief allows a witness to present their account of relevant facts, while cross-examination tests the accuracy and credibility of that evidence and may elicit facts favourable to the opposing party⁴⁵. Re-examination may follow cross-examination to clarify matters arising from the witness's testimony, but it is generally confined to issues raised during cross-examination and should not introduce new matters. The tribunal retains discretion to determine how evidence is presented, including the admission of written witness statements in place of oral testimony. Although arbitration is not strictly bound by courtroom evidentiary rules, the process remains guided by fairness, relevance and efficiency⁴⁶.

The arbitral tribunal may, on its own initiative, direct parties to file written witness statements on oath, which form part of the evidence, while permitting additional witnesses to testify orally where necessary⁴⁷. In exceptional circumstances, the tribunal may require a witness to appear even without a party's request. The tribunal determines the weight to accord to witness evidence, generally preferring corroborated, contemporaneous evidence to uncorroborated or untested testimony, particularly from an interested witness⁴⁸.

Presentation of Expert Evidence

The role of an expert witness in arbitration is broadly similar to that in civil litigation. Whether appointed by a party or the tribunal, an expert is expected to provide an independent, objective opinion based on the relevant facts and their expertise. The parties and tribunal may scrutinise or challenge the expert's conclusions, while the tribunal retains the discretion to determine the weight, if any, to be given to the expert evidence⁴⁹.

Under the 2023 Arbitration Rules, the tribunal may, after consulting the parties, appoint an independent expert to provide a written opinion on specific issues. The expert must disclose their qualifications and confirm their independence and impartiality, while parties may raise objections for the tribunal's determination. Parties must also cooperate by providing relevant information and documents requested by the expert, subject to the tribunal's resolution of any disputes⁵⁰. Once the expert submits a report, it is provided to the parties, who may comment on its findings and examine the materials relied upon. Where necessary, the expert may be called to testify and be questioned by the parties and the tribunal, while each party may also present its own expert evidence on the issues in dispute⁵¹.

Inspections and Visits

Inspection is another means by which an arbitral tribunal may obtain evidence, particularly in construction, land and other disputes involving physical subject matter. The tribunal may conduct a site visit or require relevant items to be produced for examination, subject to the

⁴⁵ O E Okeke & U C Kalu, 'The recording of Cross-Examination Questions in Nigeria: A Legal Appraisal,' Awka Capital Bar Journal (ACBJ) Vol. 3, Issue 2 (2024) < <https://nigerianjournalonline.org/index.php/ACBJ/article/view/1865> > accessed 7 April 2026.

⁴⁶ Roderick Munday, 'Cross & Tapper on Evidence,' (13th edn, OUP 2018) 66

⁴⁷ Ajogwu, 'Commercial Arbitration in Nigeria: Law & Practice' p. 104-105

⁴⁸ Ibid

⁴⁹ LexisNexis Arbitration Expert, 'Expert Witnesses in Arbitration,' <https://www.lexisnexis.co.uk/legal/guidance/expert-witnesses-in-arbitration> accessed 7 April 2026.

⁵⁰ Arbitration and Mediation Act 2023, s. 42

⁵¹ Arbitration Rules 2023, Art. 30

parties' agreement and applicable rules. Any inspection must be conducted fairly and with equal opportunity for both parties to participate, as an inspection conducted in the absence of one party may undermine the validity of the award. The tribunal should therefore issue clear directions governing the inspection process⁵².

Close of Trial or Hearing

At the close of the hearing, the tribunal will confirm whether further evidence or submissions are required before declaring the proceedings closed. It may reopen the hearing in exceptional circumstances before issuing its final award. Ultimately, the tribunal evaluates all evidence and submissions and delivers a final award based on the merits of the case⁵³.

Award

Arbitral proceedings ordinarily conclude with the issuance of an arbitral award, representing the tribunal's final determination based on the parties' evidence and submissions. Where there are multiple arbitrators, the decision is generally made by majority, pursuant to SECTION 44(1) OF THE ARBITRATION AND MEDIATION ACT, 2023, unless the parties agree otherwise. Where the parties settle the proceedings, they may request the tribunal to record the agreed terms as a consent award, thereby terminating the proceedings subject to compliance with the formal requirements for a final award.

Once a final award is issued, the tribunal becomes *functus officio* and may only revisit the matter in the limited circumstances permitted by law. The award must generally be in writing, dated and signed, identify the parties and the seat of arbitration⁵⁴, and state the reasons for the decision unless the parties agree otherwise. A signed copy is delivered to the parties. Depending on its purpose and stage, an award may be interim, partial, interlocutory, *ex parte*, additional, consent or final, each serving a distinct function within the arbitral process⁵⁵.

Conclusion

Arbitration in Nigeria provides a flexible and efficient framework for resolving disputes outside the traditional court system, while remaining subject to fundamental principles of party autonomy, fairness, equal treatment, due process, and tribunal independence. From the constitution of the tribunal and the determination of its jurisdiction and seat to the presentation of evidence, the hearing of witnesses, and the issuance of the final award, each stage plays an important role in ensuring a fair and effective resolution of disputes. Ultimately, the effectiveness of arbitral proceedings depends not only on the flexibility of the process but also on the parties' cooperation and the tribunal's ability to manage the proceedings fairly, efficiently, and in accordance with the Arbitration and Mediation Act 2023 and applicable arbitral rules.

⁵² Ajogwu, 'Commercial Arbitration in Nigeria: Law & Practice' p. 106

⁵³ Nwakoby, 'The Law and Practice of Commercial Arbitration in Nigeria,' p.142

⁵⁴ Arbitration and Mediation Act 2023, s. 47

⁵⁵ Mustill & Boyd, 'Commercial Arbitration (London 1989) 134.

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