



ALTERNATIVE DISPUTE RESOLUTION AND THE MARITIME INDUSTRY

The global maritime industry, often encounters disputes related to for example contracts, cargo, shipping delays, and insurance claims. Given the complex, multinational nature of this sector, resolving conflicts through traditional court litigation can be expensive, time-consuming, and challenging, especially when different legal jurisdictions are involved.

ARBITRATION

Arbitration provides a private, flexible, and expert-driven process for resolving disputes. Maritime arbitration typically involves an independent panel of arbitrators, usually selected for their specific industry knowledge, who adjudicate the dispute and render a binding decision, the arbitral award.

In arbitration disputes are handled by industry experts who understand the complexities of maritime law and practices. This specialised knowledge allows arbitrators to focus on the technical and commercial nuances of cases, leading to thoughtful and relevant decisions.

Generally, conducting arbitration proceedings is faster than conducting court proceedings. Maritime disputes, such as those involving charter parties, cargo claims, or collisions, can be resolved in a swift and effective way. An important influence on the conduct of arbitration proceedings is the high degree of autonomy enjoyed by the parties. Arbitration procedures are typically streamlined and flexible, allowing for a quick resolution.

Unlike court cases, arbitration proceedings are private. This confidentiality is particularly valuable in the maritime sector, where companies prefer to keep sensitive commercial matters out of the public eye.

Furthermore, arbitration awards are generally easier to enforce internationally due to treaties like the New York Convention, which facilitates the recognition and enforcement of awards in over 160 countries. This ensures that maritime companies can rely on arbitration outcomes across global jurisdictions.

In addition maritime arbitration allows parties to tailor procedures to suit the needs of their case, including selecting the location, the number of arbitrators, and the rules governing the proceedings. This flexibility can significantly enhance the efficiency and fairness of the process.

Arbitration has long been the go-to method for resolving maritime disputes, supported by established institutions such as UNUM Transport Arbitration and Mediation, London Maritime Arbitrators Association and the Singapore Chamber of Maritime Arbitration. These bodies offer clear frameworks and procedures to facilitate the resolution of maritime conflicts.

MEDIATION

Another effective form of ADR is mediation, where a neutral third-party mediator helps disputing parties resolving their conflict or to negotiate a mutually acceptable settlement. Unlike an arbitral panel the

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mediator does not impose a decision on the parties but facilitates discussions to help them reach a consensus.

Mediation focuses on collaborative problem-solving, helping to preserve relationships by promoting an amicable resolution. This is particularly important in ongoing commercial partnerships where litigation could strain or terminate business ties.

Typically mediation is less expensive than both arbitration and court proceedings. Since the process encourages settlement through negotiation, it often resolves disputes more quickly, saving both time and legal expenses.

In mediation, the parties retain full control over the outcome. The mediator facilitates discussions, but the final resolution is entirely in the hands of the disputing parties. This allows for more creative and business-focused solutions, such as renegotiating terms or adjusting operational procedures, which are not typically available through arbitration or court decisions.

Like arbitration, mediation is a private process, ensuring that sensitive business information remains confidential. This discretion helps companies avoid public exposure of disputes, which can be critical in maintaining reputation and commercial standing.

Compared to formal arbitration or court litigation mediation is a quicker process. In the fast-paced maritime industry, where delays can lead to significant financial loss, a swift resolution through mediation can be highly advantageous.

In general mediation is particularly well-suited for disputes involving ongoing contractual relationships, such as long-term charters or service agreements, where parties are interested in finding a practical solution without permanently damaging their commercial relationships. In fact, many maritime contracts now include mediation clauses as a first step before resorting to arbitration or litigation.

CONCLUSION

It is safe to say that alternative dispute resolution offers significant advantages for resolving disputes in the international maritime industry. Both arbitration and mediation provide flexible, efficient, and commercially focused approaches, with a high degree of autonomy enjoyed by the parties.

Incorporating ADR clauses in maritime contracts is not only a prudent legal strategy but also a commercially wise decision that can help companies navigate disputes with minimal disruption to their business operations.

ROTTERDAM MARITIME CHAMBER

Since 2017 the maritime chamber of the Rotterdam court has - within the boundaries of EU rules - exclusive jurisdiction in nearly all shipping cases in the Netherlands.

Many port- and maritime related cases result from an

international context. That is why parties can opt to conduct legal proceedings in English.

The court has a long standing legal and substantive expertise on maritime issues, and holds an outstanding reputation in this

area. Being able to rely on judges who are specialised in maritime affairs helps to improve efficiency of procedures and the quality of jurisdiction. But also enhance the knowledgebase and expertise at the district's court even further.