

T H O M A S  
C O O P E R

## **CIArb 2018 Annual Conference – European Branch Update on Maritime Arbitration**

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## A Brief History of Maritime Arbitration

- Arbitration is particularly suited to the maritime industry.
- Parties involved in maritime business, face complex, specialised and international disputes, which they have chosen to resolve outside of state courts since ancient times.
- One of the first arbitration clauses in the maritime world dates back to 323 BC in a case referred to as “*Against Dionysodorus*”.
- The parties amicably settled the dispute and then drew up a settlement agreement, referring any dispute arising out of the settlement agreement to “*one or more merchants of the port*”.

## A Brief History of Maritime Arbitration

- Today, the maritime business uses clauses which have hardly changed in their essence.
- One of the most common standard contractual documents in the industry expressly stipulates that the arbitrators “*shall be commercial men*”.
- Judges and academics are no more sought after as arbitrators than ship brokers, sea captains, or naval engineers.

## A Brief History of Maritime Arbitration

- One long lasting legacy of the British Empire's rule of the seas, is the prevalence of English law as the dominant law governing maritime commercial contracts today
- London emerged as the centre for international maritime business.
- Institutions, such as Lloyds insurance market and the Baltic Exchange, are icons not only of the international maritime business but of London itself.

## A Brief History of Maritime Arbitration

- The London Baltic Exchange was originally founded by Stephen Ralli and Michael Rodocanachi in the mid 18th century.
- Both men were Greeks from the island of Chios. Prior to the Chios massacre of 1822, the island was home to many merchant and ship owning families, who were a mix of Greek and Genoese decent.
- Following the massacre, London became the new home for much of the Chios diaspora and the Baltic Exchange became the centre for market information and trades.

## A Brief History of Maritime Arbitration

- As the international trading centre for the maritime business, brokers who manned the floor of the exchange were inevitably involved in the resolution of maritime disputes.
- According to those who were involved in this dispute resolution process, it is said that until the 1950's it was not uncommon for disputes to be resolved informally over cocktails between experienced shipbrokers, with reference to a third experienced shipbroker if the two shipbrokers could not agree.
- The Baltic Exchange maintained a list of brokers willing to act as arbitrators. Fifty five years ago, it was essentially that list of broker arbitrators, which was transformed into the LMAA.

# Maritime Arbitration Fora around the World Statistics 2016

## 1. London

- The industry's favorite forum, holding approximately 80% of all maritime arbitrations.
- Over 1,750 maritime arbitrations.
  - 1,700 handled by the LMAA alone.
  - 50 handled by the LCIA and ICC.

# Maritime Arbitration Fora around the World

## Statistics 2016

### 1. London

- Success is expected to continue after Brexit:
  - London arbitration awards will still be internationally enforceable under the New York Convention 1958.
  - Companies arbitrating in London may also gain the right to use anti-suit injunctions, to prevent attempts to start litigation in other EU countries in breach of London arbitration clauses. Such remedy is, at present, unavailable as contrary to EU law.

# Maritime Arbitration Fora around the World Statistics 2016

## 2. Singapore

- London's strongest competitor.
- Less than 10% of London maritime arbitration case load.
- A total of 120 cases:
  - 67 by the Singapore International Arbitration Centre.
  - 46 by the Singapore Chamber of Maritime Arbitration.
  - 15-20 by the LMAA on average in Singapore and Hong Kong.
  - the ICC.

# Maritime Arbitration Fora around the World Statistics 2016

## 3. Hong Kong

- Coming up behind Singapore.
- Alternative regional center and gateway to mainland China.
- A total of 46 cases in 2016:
  - 36 by the Hong Kong International Arbitration Centre.
  - 10 by the LMAA.

# Maritime Arbitration Fora around the World Statistics 2016

## 4. Dubai and Paris

- The Emirates Maritime Arbitration Center was launched in 2016.
- Paris has a long standing reputation as a maritime arbitration forum.
- Dubai and Paris arbitration institutions together hosted fewer than 20 maritime arbitrations in total in 2016.
- Neither jurisdiction is a major challenger to London.

# Maritime Arbitration Fora around the World Statistics 2016

## 5. Other fora

- New York.
  - 29 Society of Maritime Arbitration awards in 2016.
  - However, the SMA do not publish all of their awards.
- Scandinavia.
  - As per the Arbitration Institute of the Stockholm Chamber of Commerce → 48% of the SCC's caseload in 2016 related to Swedish parties alone.
  - A future Nordic shipping arbitration center is promoted.
  - May challenge Hong Kong and Singapore, as an alternative to London.

# Maritime Arbitration Fora around the World Statistics 2016

## 5. Other fora

- China.
  - Numerous arbitrations take place in mainland China, but generally involve at least one domestic party.
  - It is rarely chosen by international maritime companies with no connection to China.

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