

Examining the Effectiveness of Arbitration in Maritime Dispute Resolution in Tanzania

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Abstract:

Maritime commerce generates disputes that are technically complex, geographically dispersed, and commercially urgent. Arbitration is therefore often presented as a suitable alternative to litigation, yet the availability of a general arbitration statute does not necessarily produce effective maritime dispute resolution. This article examines the effectiveness of maritime arbitration in Tanzania through doctrinal and qualitative analysis. References are made to the South African legal system in the appropriate circumstances. The study finds that Tanzania has a substantial general arbitration framework. The Arbitration Act, Cap. 15 R.E. 2023, supports party autonomy, written and incorporated arbitration agreements, separability, competence-competence, procedural flexibility, court assistance, and recognition and enforcement. Its effectiveness in the maritime sector is nevertheless constrained by the absence of a coherent maritime-specific regime, limited specialist expertise, weak institutional specialization, uneven stakeholder awareness, cost and delay, and practical uncertainty in cross-border enforcement. South Africa's framework combining the International Arbitration Act 15 of 2017, the Arbitration Act 42 of 1965, and the Admiralty Jurisdiction Regulation Act 105 of 1983 offers lessons concerning legislative clarity, institutional coordination, specialist capacity, and enforcement. Tanzania should build on its existing framework through targeted maritime provisions, specialist training, model clauses, stronger institutional services, and more predictable court-supported enforcement.

Keywords: Maritime Arbitration, Tanzania, South Africa, Commercial Disputes, International Arbitration, Enforcement, Legal Reform.

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1. INTRODUCTION

Maritime trade depends on dispute-resolution mechanisms that can address cargo claims, charterparty disputes, bills of lading, marine insurance, ship operations, and related commercial obligations without unnecessarily interrupting shipping activity. Arbitration is attractive in this setting because parties may select a neutral forum, specialist decision-makers, flexible procedures, and a process capable of producing an enforceable award across borders.¹ The commercial value of these advantages, however, depends on more than the formal right to arbitrate. It depends on whether the legal system supplies predictable arbitration agreements, competent tribunals, supportive courts, credible institutions, and practical enforcement.²

Tanzania's maritime sector is supported by the port of Dar es Salaam and its regional connections to landlocked neighbours. As shipping activity increases, so does the potential for disputes involving carriers, shipowners, charterers, cargo interests, insurers, port operators, and financial institutions. Tanzania has modernized its general arbitration law through the Arbitration Act³ and the Arbitration (Rules of Procedure) Regulations.⁴ Maritime matters are also governed substantively by the Merchant Shipping Act,⁵ and the Carriage of Goods by Sea Act.⁶ The resulting framework makes maritime arbitration legally possible, but it is distributed across general arbitration legislation, maritime legislation, subsidiary rules, judicial practice, and institutional arrangements.

The central argument of this article is that Tanzania's principal deficit is not the absence of arbitration law. It is the limited specialization and integration of the existing framework for the technical, international, and time-sensitive character of maritime disputes. The article asks three questions: (a) how adequate is Tanzania's legal and institutional framework; (b) what practical constraints affect utilization and effectiveness; and (c) what lessons can Tanzania draw from South Africa? The contribution is to connect doctrinal analysis with stakeholder evidence and a focused African comparison, rather than assessing maritime arbitration only by reference to statutory text.

¹ Mugisha, E. J., Mwendapole, M. J., Ngongi, W. E., & Kiwia, D. (2024). Optimizing maritime dispute resolution in Tanzania: A comprehensive assessment of arbitration's role. *Open Journal of Social Sciences*, 12, 330–340. <https://doi.org/10.4236/jss.2024.129019>.

² Redfern, A., & Hunter, M. (2015). *Law and practice of international commercial arbitration* (6th ed.). Sweet & Maxwell. Confirm edition metadata against the copy actually consulted; if using a later edition, update all in-text citations and references consistently.

³ Cap. 15 R.E. 2023.

⁴ Arbitration (Rules of Procedure) Regulations, 2021, Government Notice No. 146 of 2021 (Tanzania).

⁵ Cap. 165 R.E. 2023,

⁶ Cap. 164n R.E 2023.

2. LEGAL MATERIALS AND METHODS

The study used a qualitative legal research design combining doctrinal and comparative. The doctrinal component examined legislation, regulations, international instruments, judicial decisions, and scholarly literature. The principal Tanzanian sources were the Arbitration Act,⁷ the Arbitration (Rules of Procedure) Regulations,⁸ the Merchant Shipping Act,⁹ and the Carriage of Goods by Sea Act.¹⁰ The international framework included the New York Convention and the UNCITRAL Model Law. The South African materials included the International Arbitration Act 15 of 2017, the Arbitration Act 42 of 1965, and the Admiralty Jurisdiction Regulation Act 105 of 1983.

The comparative component focused on issues that directly affect maritime arbitration: the structure of international arbitration law; arbitration agreements and court referral; arbitral expertise and institutional support; the relationship between arbitration and maritime jurisdiction; and recognition and enforcement. South Africa was selected because it provides a geographically and commercially relevant African comparator with an express Model Law framework and a distinct admiralty regime.

The analysis proceeded thematically. It first identifies the statutory foundations of arbitration agreements, tribunal jurisdiction, procedural autonomy, court support, and enforcement. It then examines how those rules interact with substantive maritime legislation and the international law of recognition and enforcement. Finally, it compares Tanzania's framework with South Africa's differentiated regime in order to identify reforms capable of improving legal certainty, institutional coordination, and the maritime suitability of arbitration.

3. RESULTS AND DISCUSSION

Conceptual and legal framework

Maritime arbitration is a form of arbitration used to resolve disputes arising from maritime and shipping transactions. Its subject matter may include carriage of goods, charterparties, bills of lading, marine insurance, shipbuilding, ship management, vessel operations, cargo damage, seaworthiness, maritime liens, and port services. The defining feature is not merely that a dispute concerns a vessel; it is that the dispute combines commercial obligations with a specialized maritime context. This context may require technical evidence, expert knowledge, urgent interim relief, and enforcement against assets or parties located in different jurisdictions.¹¹

⁷ Cap 15 R.E 2023.

⁸ Arbitration (Rules of Procedure) Regulations, 2021, Government Notice No. 146 of 2021 (Tanzania).

⁹ Merchant Shipping Act, Cap. 165 R.E. 2023 (Tanzania).

¹⁰ Carriage of Goods by Sea Act, Cap. 164 R.E. 2023 (Tanzania).

¹¹ Baughen, S. (2018). Shipping law (7th ed.). Routledge.

The effectiveness of arbitration is assessed in this article as a composite concept. It includes legal validity and jurisdiction; procedural fairness and flexibility; quality and independence of decision-makers; institutional accessibility; reasonable cost and time; judicial support; and the recognition and enforcement of awards. This approach avoids equating effectiveness with the existence of a statute. A statute may recognize arbitration while parties still prefer litigation because clauses are poorly drafted, specialist arbitrators are unavailable, proceedings are costly, or awards are difficult to enforce.

In Tanzania, the Arbitration Act provides the principal procedural and institutional framework. It recognizes written arbitration agreements, including agreements incorporated by reference, and treats the arbitration agreement as separable from the underlying contract. These features are particularly relevant to bills of lading, charterparties, fixture notes, email exchanges, and other documents through which shipping contracts are commonly concluded. The Act also supports referral to arbitration, tribunal jurisdiction, procedural flexibility, privacy, challenges, awards, and recognition and enforcement. The Tanzania Arbitration Centre has statutory responsibilities that include promoting arbitration and contributing to public education and institutional development.¹²

The Merchant Shipping Act and the Carriage of Goods by Sea Act perform a different function. They provide substantive rules for shipping relationships and carriage obligations, rather than a complete procedural regime for maritime arbitration. Their interaction with the Arbitration Act is therefore decisive: the tribunal may apply maritime legislation to the merits while relying on arbitration legislation for jurisdiction, procedure, and enforcement. This interaction is workable, but fragmented legislation can produce uncertainty where a dispute involves arbitration, maritime security, urgent court measures, or assets located abroad.¹³

South Africa offers a useful comparator because its framework differentiates international and domestic arbitration. The International Arbitration Act 15 of 2017 gives the UNCITRAL Model Law force of law for international commercial arbitration and addresses recognition and enforcement in a manner aligned with the New York Convention. The Arbitration Act 42 of 1965 remains relevant to domestic arbitration. In addition, the Admiralty Jurisdiction Regulation Act 105 of 1983 provides a specialized framework for maritime claims and admiralty proceedings. The comparison is not a claim that Tanzania should copy South Africa. It is a way of identifying how specialization,

¹² Mugisha, E. J., Mwendapole, M. J., Ngongi, W. E., & Kiwia, D. (2024). Optimizing maritime dispute resolution in Tanzania: A comprehensive assessment of arbitration's role. *Open Journal of Social Sciences*, 12, 330–340. <https://doi.org/10.4236/jss.2024.129019>.

¹³ Ibid.

international visibility, maritime jurisdiction, and institutional capacity can reinforce the general law of arbitration.¹⁴

A substantial general framework, but no integrated maritime regime

Tanzania has a substantial general legal foundation for arbitration, but not a comprehensive maritime-specific regime. The Arbitration Act¹⁵ recognizes party autonomy, written arbitration agreements, incorporation by reference, separability, tribunal jurisdiction, procedural flexibility, court assistance, awards, and recognition and enforcement. These provisions are capable of supporting maritime arbitration, but they do not expressly organize the distinctive features of shipping disputes: specialist tribunal composition, technical experts, urgent measures concerning vessels or cargo, evidence located on ships, or coordination between arbitral proceedings and admiralty or commercial court processes. The principal weakness is therefore one of legal specialization and integration rather than legislative absence.

This is best understood as a problem of integration. The Arbitration Act¹⁶ supplies the procedural architecture; the Merchant Shipping Act¹⁷ and Carriage of Goods by Sea Act¹⁸ supply substantive maritime rules; the courts supply supervision and coercive enforcement; and the Tanzania Arbitration Centre supplies the institutional platform. The system can function, but the distribution of legal responsibilities creates avoidable uncertainty where a dispute involves specialist appointments, interim relief, evidence, tribunal composition, or execution of an award against a vessel or foreign asset. A coherent maritime framework should connect these components without displacing the general principles of arbitration.

Arbitration agreements and judicial support

Tanzania's rules on arbitration agreements provide a workable doctrinal foundation. Written agreements, incorporation by reference, and separability are particularly important in maritime commerce, where terms may be incorporated from charterparties into bills of lading or exchanged through commercial communications.¹⁹ The legal framework therefore respects party autonomy and provides a basis for referring maritime disputes to arbitration.

¹⁴ Ozoemena, R. (2020). Arbitration and commercial dispute resolution in South Africa. *African Journal of International Commercial Law*, 8(1), 77–92.

¹⁵ Section 82 of The Arbitration Act Cap 15 R.E 2023.

¹⁶ Ibid

¹⁷ Cap. 165 R.E. 2023 (Tanzania).

¹⁸ Cap. 164 R.E. 2023 (Tanzania).

¹⁹ Mashauri, P. (2022). Maritime dispute resolution and arbitration challenges in Tanzania. *East African Law Journal*, 14(2), 45–60.

The practical qualification is that validity on paper does not remove interpretive disputes. Maritime contracts may involve multiple parties, successive documents, and different forms of incorporation. Courts and tribunals must determine whether the clause was incorporated, which parties are bound, what disputes fall within its scope, and whether the dispute is arbitrable. Consistent, commercially informed jurisprudence is consequently as important as statutory wording.²⁰

The statutory scheme also contemplates supportive judicial intervention. The Arbitration Act provides mechanisms for referral, stays, tribunal constitution, jurisdictional rulings, challenges, and enforcement. Such support is essential in maritime disputes, where urgent preservation of property or evidence may be needed.²¹ The doctrinal challenge is to maintain a principled boundary between court assistance and arbitral autonomy. Courts should protect the arbitration agreement and facilitate effective relief without converting supervisory applications into a parallel determination of the merits.

Expertise, institutions, awareness, cost, and delay

Maritime arbitration also exposes a gap between general procedural authorization and specialist legal design. Shipping disputes may involve charterparties, bills of lading, seaworthiness, cargo claims, marine insurance, vessel operations, maritime liens, and international shipping practice.²² The Arbitration Act²³ provides a general framework for appointment, challenge, and replacement of arbitrators, but it does not establish a maritime qualification framework or explain how technical experts should be integrated into maritime proceedings. A specialist regime could preserve party autonomy while providing guidance on competence, disclosure, independence, and the use of technical evidence.

Institutional capacity was closely related. The Tanzania Arbitration Centre provides an important foundation, but its potential in the maritime field has not been fully developed. The study points to the need for a maritime program within the Centre, a public database or panel of qualified arbitrators and experts, model clauses for charterparties and carriage contracts, specialist rules or guidance, and continuing professional development. Collaboration with universities, the judiciary, shipping organizations, insurers, and

²⁰ Mugisha, J., Msabaha, J. M., Werneld, E. N., & Diana, K. (2025). Enhancing the viability of maritime arbitration for trade dispute resolution in Tanzania. *Transportation Research Interdisciplinary Perspectives*. <https://www.sciencedirect.com/science/article/pii/S2590198225001757>. Accessed in October 2023.

²¹ Ibid.

²² Horton, D. (2023). Maritime arbitration: The dispute resolution cornerstone of the global shipping sector. Chartered Institute of Arbitrators. <https://www.ciarb.org/news-listing/maritime-arbitration-the-dispute-resolution-cornerstone-of-the-global-shipping-sector/>. Accessed in October 2023.

²³ Cap 15 R.E 2023.

established arbitral institutions would help transform maritime arbitration from a formal legal possibility into a usable service.²⁴

Doctrinal accessibility is equally important. Clear model clauses and institutional guidance would assist shipowners, cargo interests, insurers, freight forwarders, port operators, and their advisers in understanding when arbitration is suitable, how clauses should be drafted, and how arbitration interacts with maritime court remedies. Public education is therefore not merely an administrative activity; it supports the effectiveness of party autonomy and reduces disputes about incorporation, scope, and jurisdiction.²⁵

Cost and delay are also legal-design concerns. The Arbitration Act expresses a preference for fair and efficient proceedings, but maritime-specific rules could further promote proportionality, timely constitution of tribunals, focused technical evidence, and case management suited to disputes involving vessels, cargo, and ongoing trading operations.²⁶ The objective should not be to assume that arbitration is inherently cheaper than litigation, but to ensure that the procedural framework can deliver a proportionate and commercially useful outcome.

Recognition and enforcement

Tanzania's formal enforcement framework is substantial. Section 83 of the Arbitration Act²⁷ provides for recognition and enforcement of domestic and foreign awards, while the New York Convention supplies an international basis for cross-border enforcement. The *Commercial Division decisions in Louis Dreyfus Suisse S.A. v. Kahama Oil Mills Limited*,²⁸ *Higher Education Students' Loans Board v. Tanzania Building Works Limited*,²⁹ and *Puma Energy Tanzania Ltd v. Yapi Merkezi Insaat Ve Sanayi A.S.*³⁰ illustrate an important distinction between recognition of an award as binding and its subsequent enforcement as a court decree.

This distinction is practically significant in maritime commerce. The successful party may need to enforce against a vessel, cargo, insurance proceeds, or other assets located outside Tanzania. Formal enforceability and practical enforceability are therefore different. The value of a maritime award depends on whether recovery can be obtained predictably and within a commercially reasonable period. The South African experience similarly

²⁴ Jamoh, B. Y. (2025). Anchoring fairness: The art of maritime arbitration in resolving high-stake disputes in Africa. *International Journal of Research and Scientific Innovation*.

²⁵ Chuah, J. (2020). *Theory, law and practice of maritime arbitration*. Wolters Kluwer.

²⁶ *Ibid.*

²⁷ Cap 15 R.E 2023.

²⁸ Misc. Commercial Cause No. 67 of 2023, [2024] TZHCComD 105;

²⁹ Misc. Commercial Cause No. 39 of 2022, [2023] TZHCComD 254

³⁰ Misc. Commercial Cause No. 49 of 2023, [2023] TZHCComD 367.

emphasizes a pro-enforcement orientation under a framework expressly connected to the UNCITRAL Model Law and New York Convention.³¹

Lessons from South Africa

South Africa's principal lesson is structural clarity. By giving the UNCITRAL Model Law force of law for international commercial arbitration, the International Arbitration Act makes the international regime visible and predictable.³² Its coexistence with the domestic Arbitration Act clarifies the distinction between domestic and international arbitration. The Admiralty Jurisdiction Regulation Act adds a specialized maritime jurisdictional framework, including jurisdiction over maritime claims and related court powers. Together, these instruments show how international arbitration standards, domestic arbitration, and maritime jurisdiction can be coordinated without treating them as identical.³³

For Tanzania, the comparison supports targeted rather than wholesale reform. Tanzania could retain its general Arbitration Act while adding a dedicated part or regulations on maritime arbitration. Such provisions could address specialist arbitrator qualifications, technical experts, emergency and interim measures, preservation and security of vessels and cargo, evidence on ships, interaction with admiralty proceedings, institutional administration, and cross-border enforcement.³⁴ The South African model also highlights the importance of judicial and professional specialization. Legislative reform without trained judges, advocates, arbitrators, and institutional administrators would have limited effect.

4. CONCLUSION AND RECOMMENDATIONS

Conclusion

Maritime arbitration is legally viable in Tanzania but remains institutionally and practically underdeveloped. The country has a sound general arbitration foundation that recognizes party autonomy, incorporation by reference, separability, tribunal jurisdiction, procedural flexibility, court support, and enforcement. The problem is that maritime disputes require more than general legality. They require specialized knowledge, integrated institutions, efficient procedures, informed users, and dependable execution across borders.

The empirical evidence supports a targeted reform agenda. The most urgent needs are specialist maritime arbitration expertise, stronger institutional services, greater

³¹ *Industrius D.O.O. v. IDS Industry Service and Plant Construction South Africa (Pty) Ltd.*, Case No. 2020/15862, [2021] ZAGPJHC 350. The cited case is used here for its pro-enforcement reasoning in the South African international-arbitration context

³² Born, G. B. (2020). *International commercial arbitration* (3rd ed.). Kluwer Law International.

³³ Baughen, S. (2018). *Shipping law* (7th ed.). Routledge

³⁴ Mashauri, P. (2022). Maritime dispute resolution and arbitration challenges in Tanzania. *East African Law Journal*, 14(2), 45–60.

awareness, more proportionate and timely procedures, and improved predictability in recognition and enforcement. South Africa demonstrates the value of an express international arbitration framework, a differentiated domestic regime, and specialized maritime jurisdiction. Tanzania need not reproduce that architecture verbatim. It should adapt its underlying lessons to local institutions and commercial realities. If it does so, maritime arbitration can contribute to commercial certainty, investor confidence, and Tanzania's position in regional seaborne trade.

Reform priorities

Several priorities follow from the preceding analysis. First, Parliament should consider maritime-specific provisions within the Arbitration Act or specialized regulations. The aim should be integration with existing maritime legislation, not duplication or unnecessary replacement of the general arbitration regime. Second, the Ministry responsible for justice should coordinate a legal-reform strategy involving the Tanzania Arbitration Centre, judiciary, maritime authorities, shipping companies, insurers, advocates, and academics. Third, the Tanzania Arbitration Centre should establish a maritime arbitration program, develop model clauses, publish practical guidance, maintain a specialist panel, and promote training and public education.³⁵

Fourth, the Judiciary should promote consistent and efficient treatment of referrals, interim measures, jurisdictional challenges, award challenges, and enforcement applications. Clear procedural pathways are especially important where arbitration intersects with urgent maritime remedies. Fifth, universities and professional bodies should deepen doctrinal teaching and comparative research on maritime arbitration, including the interaction between arbitration statutes, maritime legislation, admiralty jurisdiction, and international enforcement.³⁶

³⁵ Chuah, J. (2020). *Theory, law and practice of maritime arbitration*. Wolters Kluwer.

³⁶ *Ibid.*

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