

# Bodytalk

## *The Association of Maritime Arbitrators in Canada (AMAC)*

*1986 is a significant date in maritime law in Canada. Not only does it mark the adoption by Canada and its provinces of the UNCITRAL Model Law on International Commercial Arbitration and the 1958 New York Convention on the recognition and enforcement of foreign arbitration awards, it also marks the formation of AMAC. AMAC, or The Association of Maritime Arbitrators in Canada, aims to promote and provide arbitration facilities for all types of maritime disputes whether in or outside Canada.*

THE first maritime arbitration association of its kind in Canada, AMAC owes its birth to John O'Connor, a Quebec City-based attorney who decided to found and register the association and called a meeting for all those interested in getting involved. So impressive was the turnout for the first meeting, it was clear that a domestic forum to deal with Canadian disputes, which would otherwise have been resolved in London or New York, was long overdue.

"Originally, its membership mainly hailed from the Montreal/St Lawrence River shipping community," says Peter J Cullen, director of AMAC, chair of its Rules Committee and senior partner at Montreal-based Stikeman Elliot. In recent years, however, all that has changed as the reach of AMAC has spread both within Canada and beyond. Today, it boasts members throughout Canada, including Newfoundland, Labrador, Nova Scotia, New Brunswick, Quebec, Ontario, Manitoba and British Columbia, as well as the UK, Europe and the US.

There are two types of membership available – arbitrating member and member. To become an arbitrating member requires an application to be

made to AMAC's Screening Committee demonstrating appropriate qualifications and experience for consideration by the board of directors. Once admitted, arbitrating members and their parties have to abide by the association's Code of Conduct. The Code advises, not only on the appointment of arbitrators, but on their direct contact with the parties, the use of a third arbitrator, the arbitration process itself, fees, awards and how to save costs. Regular membership is open to anyone willing to participate in the activities of the association and encourage voluntary arbitration in Canada.

"The main objective of AMAC is to provide an impartial, speedy, private and structured process for the resolution of maritime-related disputes," explains Cullen, who is also an arbitrating member. However, it is not only limited to resolving disputes that arise in Canada as AMAC's Arbitration Rules have been used in Canada to resolve foreign disputes which have had nothing to do with Canada at all.

The association also has its own Mediation Rules which cover the entire mediation process from the commencement of proceedings and appointment of mediator to the settlement agreement and confidentiality. February this year saw AMAC stage, in Winnipeg, Manitoba, a mock arbitration on laytime, in conjunction with the Vancouver Maritime Arbitration Association (VMAA) to coincide with the Grain World Conference. "In fact, AMAC and VMAA are currently looking to narrow the differences between their respective arbitration rules. Although this is still work in progress, changes have been made," adds Cullen. AMAC also encourages liaison with other associations and often has speakers, including members of the SMA and LMAA, at its meetings.

AMAC also ran a mock arbitration last year while hosting a visit to Montreal from the Chinese Maritime Arbitration Commission. The

association is also called upon to provide input to governmental bodies dealing with legislation reform matters pertaining to ADR.

Along with mock presentations, the association holds regular meetings and seminars for members and any other interested parties. "These deal with topics of interest such as recently published awards, new legislation, issues which arise in arbitration, amendments to other associations' arbitration and mediation rules, comments on papers presented at other associations' functions and any other points of law," says Cullen.

So what does the future hold for AMAC and its members? "As the association has grown and gained experience, so too has its acceptance by the domestic shipping industry," says Cullen. "At the same time, due to Canada's adoption of the Model Law and New York Convention, the federal government, with respect to its shipping interests, and Canada's admiralty courts have also encouraged the use of arbitration."

According to Cullen, the success of AMAC can also be attributed to the expense of London and New York arbitration and the delays involved in conducting arbitration there. "All these factors have led to an increased adoption of the standard AMAC arbitration clause," he adds. Which is good news for AMAC's arbitrators too, as not only is the use of arbitration growing, so too is the demand for qualified arbitrators with a maritime background. It may be only fifteen years young but AMAC is certainly growing up quickly.

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