> Comment:

The home of resolution

There are very good reasons why London remains the nerve centre of arbitration globally, says **Aleka Mandaraka-Sheppard**, maritime arbitrator and mediator and founder of LSLC – Maritime Business Forum

More international and commercial arbitrations take place in London than in any other city. But what does the future hold for London as the legal nerve centre of global commerce, including shipping?

It is a timely question, considering that a campaign. led by TheCityUK, has just been launched to promote London as the world's dispute resolution centre.

The campaign's brochure, entitled *Unlocking Disputes,* maintains: "All roads lead to London for the unlocking of international disputes. London has been a global trading centre since Roman times. With centuries of experience to draw on, it is the world leader in international finance and business services."

The campaign hits the question "Can London carry on as the legal nerve centre of the shipping world?" on the head. It also fits with the role and work of the London Shipping Law Centre, now known as LSLC-Maritime Business Forum, which has been promoting London's maritime legal and commercial services for more than 16 years.

I am confident that there are common purposes and potential synergies between TheCityUK initiative and LSLC-MBF.

Rebecca Bailey

The reason why London has long been the legal nerve centre of global commerce is its reputation for impartial justice and excellence in its legal and other related services. This applies to all methods of dispute resolution: litigation in the courts, arbitration and mediation.

I recall my foreign students at University College London (UCL), particularly Chinese and Singaporeans, were eager to learn the reasons for London's success in this role. *Unlocking Disputes* neatly summarises them:

- English law, being firmly established in the nineteenth century, has a history of being predominant in commerce for international business transactions.
- Judges understand commercial practices and have extensive experience through their long legal practice in resolving a wide variety of high-value commercial disputes involving international trade, finance, energy, oil, shipping, insurance and reinsurance.

Similarly, arbitrators have had long commercial, technical or legal experience in resolving disputes, taking a more commercial approach than the courts. There are many well-known institutions in London running international arbitration.

For maritime disputes, the LMAA, an association of maritime arbitrators and supporters, does not institutionally control arbitrations but the parties can agree their own procedures, being subject to the general framework of the Arbitration Act 1996 and the LMAA terms. The process is invariably less expensive than institutional arbitrations.

The use of English law in contracts by commercial people is widespread, as they look for a neutral legal system to resolve disputes. The English legal system, including arbitration, has pre-eminence for neutrality, integrity, expertise and impartiality. What is more, English court judgments are easily enforceable in other jurisdictions.

Worldwide enforcement

For arbitration, the commercial court fulfils a complementary role to international and UK arbitrations and assists in the worldwide enforcement of arbitration awards.

Three major factors, in my view, have contributed to the outstanding reputation of and trust in the English legal system and hence London as a legal nerve centre:

- Apart from the integrity and impartiality of the judges, the system is adversarial, allowing for scrutiny of evidence and exposure of the weakness of the opponent's case through rigorous argument, resulting in frequent settlement of cases.
- The judges are not elected; nor are they career judges without practical experience. They are selected based on experience and character by an independent appointments commission.
- The expertise of the lawyers, judges and arbitrators is unrivalled, so cases are thoroughly examined and the decisions are based on well-developed legal precedent, providing predictability and certainty.

But it is not only legal precedent that is the bedrock of English law. It is the combination of precedent and flexibility that distinguishes the English legal system from those that are codified. For instance, while judges follow earlier court decisions that are binding on them, they may adapt past rulings when applying them to the particular facts of a case to relate them to modern business.

Arbitrators, too, follow legal precedent. But since arbitrators adopt a commercial approach rather than a strict legalistic one to resolve a dispute, commercial factors underpin their award, while considering the dispute's surrounding matrix.

Worldwide developments and, in particular, the global economic crisis has brought more dispute resolutions to London, especially by arbitration, since 2007. Many maritime disputes have been resolved under the LMAA terms in London – a trend that is likely to continue. F