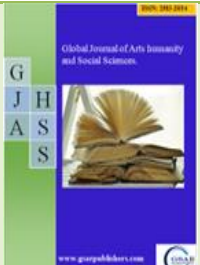
	Global Journal of Arts Humanity and Social Sciences			
	ISSN: 2583-2034			
	Abbreviated key title: Glob.J.Arts.Humanit.Soc.Sci			
	Frequency: Monthly			
	Published By GSAR Publishers			
Journal Homepage Link: https://gsarpublishers.com/journal-gjahss-home/				
Volume - 4	Issue - 11	Nov 2024	Total pages 974-981	DOI: 10.5281/zenodo.14223273

A Study on the effectiveness of Tanzania's legal framework in resolving commercial maritime disputes

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Abstract

The effectiveness of Tanzania's legal framework in resolving Commercial maritime disputes is crucial for the country's maritime industry, which plays a significant role in international trade. This study investigates the adequacy of Tanzania's maritime dispute resolution mechanisms in alignment with international standards. The study examines the country's existing legal frameworks, including the Merchant Shipping Act, maritime courts, and arbitration mechanisms, to assess their effectiveness in providing timely, fair, and expert resolution of maritime disputes.

Through a doctrinal legal analysis, the study identifies gaps and weaknesses in the current legal framework. Furthermore, Key international conventions, such as the United Nations Convention on the Law of the Sea (UNCLOS) and other international maritime regulations, are analyzed to evaluate the extent to which Tanzania's legal system integrates and adheres to global standards. The identified gaps and weakness includes; limited specialized courts, lack of maritime law expertise, and slow adoption of international norms, which hinder the effective resolution of disputes. The study contributes to the ongoing discussion of maritime law reform in Tanzania by proposing practical solutions to overcome existing gaps, such as enhancing judicial training, legislative amendments, and fostering international cooperation.

Key words: Maritime Dispute Settlement, International standards, Alternative Dispute resolution, International Laws and practices, Maritime Laws.

Article History

Received: 18- 11- 2024

Accepted: 23- 11- 2024

Published: 26- 11- 2024

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1.0 Introduction

The maritime domain serves as a vital conduit for global trade, connecting nations and facilitating economic exchange¹. For coastal nations like Tanzania, maritime resources are not merely economic assets but also strategic components of national development and security². The maritime sector plays a crucial role in the global economy, facilitating the movement of goods and resources across international borders. Tanzania, with its strategic location along the Indian Ocean, is a key player in East Africa's

maritime activities. The country's maritime laws are intended to regulate its territorial waters, exclusive economic zones (EEZs), and ensure that maritime activities are conducted in a manner that aligns with international standards. However, the effectiveness of these laws, particularly in the context of maritime dispute settlement, has come under scrutiny.

The primary problem of this study seeks to address the effectiveness of Tanzania's maritime laws in resolving Commercial maritime disputes, especially when juxtaposed with international laws and practices. Maritime disputes can arise from a variety of situations, such as shipping contracts, carriage of goods, marine insurance, maritime liens, salvage operations, collision liabilities, and environmental regulations. Tanzania's ability to effectively manage and resolve such disputes is critical to its standing in the

¹ Smith, J. "Challenges in Implementing Maritime Laws in Developing Countries: A Case Study of Tanzania(2017)". African Maritime Journal

² Johnson, P. "International Maritime Dispute Settlement: Principles and Practices(2018)". Oxford University Press



international community, its economic stability, and its ability to protect its maritime interests.

Tanzania has struggled to assert its maritime rights or has been unable to effectively resolve disputes with other states or private entities. The root of the problem lies in the gap between Tanzania's domestic maritime laws and the evolving international maritime legal landscape. While Tanzania has adopted several international conventions, the implementation and enforcement of these laws remain inconsistent. For example, Tanzania is a signatory to key international maritime conventions such as the United Nations Convention on the Law of the Sea (UNCLOS) of 1982 and the International Convention for the Prevention of Pollution from Ships (MARPOL) of 1978. However, the incorporation of these conventions into domestic law has been slow and, in some cases, incomplete³.

The government has undertaken legal reforms aimed at modernizing its maritime laws and bringing them in line with international standards. For instance, the Merchant Shipping Act, 2003, and the Tanzania Shipping Agencies Act, 2017, were enacted to regulate the shipping industry and ensure compliance with international conventions. Additionally, Tanzania has ratified several international maritime conventions, signaling its commitment to adhering to global maritime standards. Tanzania has sought to strengthen its institutional capacity to enforce maritime laws; these institutions play a critical role in regulating maritime activities and ensuring that Tanzania's maritime laws are enforced effectively⁴. Therefore, the study assesses the effectiveness of Tanzania's maritime laws within the context of international legal norms and practices pertaining to dispute settlement drawing special attention to Tanzania's Merchant Shipping Act⁵, and other related significant Tanzania legal⁶ and institutional frameworks in light of international laws and practice.

2:0 Literature Review

There are many studies conducted relevant to this study. Anne Grey (2018)⁷ provides a comparative perspective on legal frameworks for maritime dispute resolution across various jurisdictions. Her book offers valuable insights into global practices and the effectiveness of different legal systems in resolving maritime disputes. The Author's comparative approach is beneficial for understanding the diversity of maritime dispute resolution mechanisms worldwide. However, her work does not specifically focus on the maritime laws of Tanzania or their effectiveness in the context of international standards for dispute settlement. This lack of specific focus on Tanzania leaves a

significant gap in understanding how Tanzania's maritime legal framework functions within the global context.

Dr. Tumaini S. Gurumo⁸, focuses on the concept of the blue economy in Tanzania, exploring how sustainable management of marine resources can drive economic growth and development. The author emphasizes the importance of marine ecosystems in supporting livelihoods, particularly for coastal communities reliant on fishing and tourism. Author outlines various sectors, including fisheries, aquaculture, maritime transport, and renewable energy, while stressing the need for policies that balance economic exploitation with environmental conservation⁹. Further, discusses the challenges faced in implementing blue economy principles, such as overfishing, pollution, and climate change impacts. Author advocates for a holistic approach that involves stakeholder participation, community engagement, and regional cooperation to ensure sustainable practices are adopted. The book serves as a critical resource for policymakers, academics, and practitioners interested in harnessing marine resources sustainably for economic advancement. However, while the author addresses the economic potential of marine resources, she did not delve deeply into the legal frameworks that govern maritime activities.

Donald L. Chidowu's (2023)¹⁰, presents a comprehensive exploration of how the blue economy interacts with maritime law and dispute resolution within the African context. The book integrates legal history with contemporary maritime practices to provide a nuanced understanding of the challenges and opportunities in maritime dispute settlement amidst the expanding blue economy. Author's analysis begins by establishing the blue economy as a crucial component of Africa's sustainable development strategy. The blue economy encompasses various sectors such as fisheries, shipping, and marine tourism, all of which contribute significantly to national economies.

The Author also discusses the limitations of current arbitration and litigation processes, noting that they often fail to adequately address the environmental and socio-economic impacts of maritime disputes. He advocates for the development of more holistic and flexible dispute resolution mechanisms that incorporate environmental sustainability and community welfare considerations. These weaknesses identified in Author's analysis provide a foundation for this study on analysis of the effectiveness of Tanzania maritime laws in dispute settlement.

Ibrahim Mbiu Bendera¹¹, provides a comprehensive overview of the legal framework governing maritime activities within Tanzanian waters. The book delves into various aspects of admiralty law, including the principles of shipping, marine navigation, and the legal implications of marine pollution. Further,

³Johnson, P, "International Maritime Dispute Settlement: Principles and Practices.(2018)". Oxford University Press

⁴ White, P. *Maritime Boundary Delimitation: Principles and Practices*(2016).

⁵Merchant Shipping Act, Cap. 20 of 2003

⁶ The Carriage of Goods by Sea Act, Cap. 164 of 2002

⁷Grey, A "Legal Framework for Maritime Dispute Resolution: A Comparative Analysis" (2018), Hart Publishing

⁸ Dr. Tumaini S. Gurumo, "Uchumi wa Bluu, fursa Chachu ya Maendeleo", (2021). Ps Counseling Consultants.

⁹ Ibid

¹⁰Donald L. Chidowu's, *The Blue Economy and Boundaries of Africa: A Legal Historical Analysis* (2023), published by Juris Publishers Limited

¹¹Ibrahim Mbiu Bendera, "Admiralty and maritime law in Tanzania (2017)", Law Africa Publishing



emphasizes the importance of maritime law in regulating the relationships between ship owners, charterers, and other stakeholders in the shipping industry.

One of the key themes in the book is the integration of international maritime conventions into Tanzanian law. The author discusses how Tanzania, as a member of the international community, aligns its national legislation with global standards, ensuring compliance with treaties such as the United Nations Convention on the Law of the Sea (UNCLOS) and the International Convention for the Prevention of Pollution from Ships (MARPOL)¹². This alignment helps Tanzania effectively address issues like oil spills and other forms of marine pollution, which have significant environmental and economic implications.

3.0 Research Methodology

The study employs a qualitative (doctrinal) approach, analyzing data from various pieces of legislation, policies, scholarly books, journals and articles to establish the study's findings. The analysis progress in stages, beginning with an introduction to the problem, an analysis of the concept of marine dispute, overview of its causes, effects, and control measures, followed by a discussion of the legal aspects of marine dispute settlement by relating them to underlying concepts and best principles and practices¹³. Subsequently, the study present assertions and provide tangible recommendations.

4:0 Legal and Institutional Frameworks in Resolving Commercial Maritime Dispute

4.1 International instruments

United Nations Convention on the Law of the Sea (UNCLOS)

UNCLOS, also known as the "Constitution of the Oceans," is a comprehensive treaty that establishes the legal framework for marine and maritime activities. It was adopted in 1982 and came into force in 1994. UNCLOS addresses issues such as territorial waters, exclusive economic zones (EEZs), continental shelves, and the high seas, Article 3, Defines the breadth of the territorial sea up to 12 nautical miles, Article 56, Grants coastal states sovereign rights in their EEZ for the exploration and use of marine resources, Article 76, Defines the continental shelf and provides rights to resources on and beneath it.

Tanzania ratified UNCLOS in 1985, aligning its maritime laws with the convention's provisions. This alignment has facilitated Tanzania in asserting its rights over its EEZ and continental shelf, thus enhancing its ability to exploit marine resources sustainably. Moreover, UNCLOS has been instrumental in guiding Tanzania's legislative framework on maritime boundaries, ensuring peaceful coexistence with neighboring countries. In the case of *Dispute Concerning Delimitation of the Maritime Boundary between Ghana and Côte d'Ivoire in the Atlantic Ocean (Ghana/Côte*

*d'Ivoire)*¹⁴, the International Tribunal for the Law of the Sea (ITLOS) applied principles from UNCLOS to resolve the dispute. Though not directly involving Tanzania, this case illustrates how UNCLOS principles are used to resolve maritime boundary disputes, a matter relevant to Tanzania's interests in maritime boundary delineation.

International Convention for the Prevention of Pollution from Ships (MARPOL)

MARPOL, adopted in 1973 and modified by the 1978 Protocol, aims to prevent marine pollution by ships due to operational or accidental causes. It addresses various forms of pollution, including oil, noxious liquid substances, harmful substances in packaged form, sewage, and garbage, Annex I: Regulations for the prevention of pollution by oil, Annex II: Regulations for the control of pollution by noxious liquid substances, Annex V: Regulations for the prevention of pollution by garbage from ships¹⁵.

Tanzania is a party to MARPOL and has incorporated its standards into national legislation to ensure compliance and enforcement. The convention plays a critical role in safeguarding Tanzania's marine environment, particularly given its rich biodiversity and dependence on marine resources for economic activities such as tourism and fishing. In the case *The Erika Case (France)*¹⁶ involved the sinking of the oil tanker Erika off the coast of France, causing extensive environmental damage. This case highlighted the importance of MARPOL in enforcing regulations to prevent oil pollution, underscoring the need for Tanzania to maintain robust enforcement mechanisms to prevent similar incidents in its waters.

Hamburg Rules

The Hamburg Rules was adopted in 1978 and came into force in 1991. This Convention represents a modern and comprehensive framework designed to govern the international carriage of goods by sea. Its primary goal is to update and replace the Hague Rules, incorporating more equitable provisions for cargo owners. Article 5 outlines the carrier's liability for loss or damage to goods during carriage, emphasizing the carrier's responsibility for ensuring that the cargo is carried and delivered in good condition. Article 6, deals with the extent of the carrier's liability, It introduces a regime where the carrier's liability is extended to cover a broader range of damages, including those arising from the negligence of the carrier or its servants, Article 18 allows for the extension of time limits for claims, which is beneficial for cargo owners facing difficulties in claiming damages due to extended transit times or other issues¹⁷.

¹⁴ *Dispute Concerning Delimitation of the Maritime Boundary between Ghana and Côte d'Ivoire in the Atlantic Ocean (Ghana/Côte d'Ivoire), Judgment, ITLOS Case No. 23, 23 September 2017.*

¹⁵ Green, L. "International Law and the Protection of Maritime Resources", (2017), Routledge

¹⁶ *Commune de Mesquer v. Total France SA, [2008] ECR I-4501*

¹⁷ Brown, R. *International Legal Instruments in Maritime Dispute Resolution* (2017), Oxford University Press

¹² Ibrahim Mbiu Bendera, *Admiralty and maritime law in Tanzania* (2017), Law Africa Publishing

¹³ *ibid*



In the context of Tanzanian maritime law, the Hamburg Convention's principles are reflected in the country's efforts to align with international standards. However, Tanzania has not fully ratified or implemented the Hamburg Rules, meaning that while the principles of the Convention may be considered in practice, they do not have binding legal force. Tanzania's maritime legislation primarily adheres to the *Hague-Visby Rules*, which were implemented through the *Carriage of Goods by Sea Act (CAP 365)*. In Tanzanian maritime jurisprudence, the application of international conventions like the Hamburg Rules has been limited. Cases such as *MV Amani Vs. Tanzania Harbors Authority* have primarily focused on the Hague-Visby Rules, given their binding status in Tanzanian law. The absence of specific legislation incorporating the Hamburg Rules reflects the need for further alignment with international practices to enhance the protection of cargo owners and streamline dispute resolution.

Hague-Visby Rules

The Hague-Visby Rules, an update to the original Hague Rules, were adopted in 1968 and are widely used in maritime law. These rules govern the liability of carriers for loss or damage to cargo during transport. They are considered a cornerstone of maritime law and are crucial in resolving disputes arising from maritime transport. Article III, Rule 1 establishes the carrier's obligation to exercise due diligence in maintaining the seaworthiness of the vessel, including its equipment¹⁸. This provision sets the standard for the carrier's duty of care, influencing how liability is assessed in case of cargo damage or loss, Article III, Rule 6 limits the carrier's liability to a specific amount per package or unit, providing a predictable framework for compensation claims. This limitation is important for managing risk and resolving disputes related to cargo claims. Article IV, Rule 2 outlines the exceptions to the carrier's liability, including cases of inherent defect in the goods or perils of the sea. It helps delineate the boundaries of the carrier's responsibility and is critical in determining the outcome of liability disputes¹⁹.

In Tanzania, the *Hague-Visby Rules* have been incorporated into national law through the *Carriage of Goods by Sea Act*. This integration ensures that the principles and provisions of the Hague-Visby Rules are applied in resolving Commercial maritime disputes within Tanzania's jurisdiction. Cases such as *MV Amani v. Tanzania Harbors Authority*²⁰ demonstrate the application of the Hague-Visby Rules in Tanzanian courts. These cases illustrate how the Rules are used to determine carrier liability and resolve disputes involving cargo claims. Tanzanian courts frequently refer to these rules to adjudicate issues related to carrier negligence and limitations of liability, reflecting the effectiveness of the Hague-Visby framework in local maritime law.

4.2 International Institutions

International Maritime Organization (IMO)

The IMO is a specialized agency of the United Nations responsible for regulating shipping. Its primary purpose is to develop and maintain a comprehensive regulatory framework for shipping, covering safety, environmental concerns, legal matters, technical cooperation, maritime security, and efficiency of shipping. As a member of the IMO, Tanzania participates in the development of international maritime regulations and standards. The IMO's conventions and guidelines are integral to shaping Tanzania's maritime policies and ensuring the safety and security of its maritime operations²¹.

International Tribunal for the Law of the Sea (ITLOS)

International Tribunal for the Law of the Sea ²²(ITLOS) is an independent judicial body established by UNCLOS to adjudicate disputes arising out of the interpretation and application of the convention. It plays a crucial role in resolving maritime disputes and promoting the rule of law at sea, Tanzania can utilize ITLOS to resolve commercial maritime disputes amicably, especially those related to boundary delimitation and resource exploitation. This tribunal offers a platform for Tanzania to seek legal redress in complex maritime issues that cannot be settled through negotiation or mediation. *The M/V "Louisa" Case*²³, involved the detention of a vessel, raising questions about jurisdiction and state responsibility under UNCLOS. ITLOS's decision underscored the tribunal's importance in clarifying legal ambiguities in maritime disputes, a process beneficial to Tanzania when faced with similar legal challenges.

Tanzania's commitment to international conventions and institutions significantly enhances the effectiveness of its maritime laws. Conventions like UNCLOS and MARPOL, coupled with institutions such as the IMO and ITLOS, provide Tanzania with the necessary legal frameworks and platforms for dispute resolution and maritime governance²⁴. By aligning its laws with international standards, Tanzania ensures the sustainable use of its marine resources and the peaceful resolution of maritime disputes, fostering economic growth and regional stability

5.1 National Legal Frameworks

5.1.1 Tanzania Merchant Shipping Act

The Tanzania Merchant Shipping Act, enacted in 2003, provides comprehensive regulations for the registration, licensing, and operation of ships in Tanzanian waters. This Act is crucial for maintaining safety standards, environmental protection, and maritime security. Key provisions include the registration of ships (Part III, Sections 12-79) and the establishment of maritime safety regulations (Part IX, Sections 219-250). And legal proceedings

²¹Green, L., "International Law and the Protection of Maritime Resources" (2017), Routledge

²²International Tribunal for the Law of the Sea (ITLOS), of 1982

²³Saint Vincent and the Grenadines v. Spain, International Tribunal for the Law of the Sea, Judgment of 23 May 2011, ITLOS Reports 2011, p. 10.

²⁴Ibrahim Mbiu Bendera, "Admiralty and maritime law in Tanzania (2017)", Law Africa Publishing

¹⁸Brown, R. "International Legal Instruments in Maritime Dispute Resolution" (2017), Oxford University Press

¹⁹ Ibid

²⁰ MV Amani v. Tanzania Harbors Authority [1989] TLR 55 (High Court of Tanzania).



(Part XXII, Section 399-416). One notable case that illustrates the application of the Merchant Shipping Act is *NITC v. M/S Bahari Bounty*²⁵, where the National Iranian Tanker Company sued for damages after their tanker collided with a local fishing vessel. The court applied sections related to safety and navigation standards, emphasizing the importance of compliance with maritime safety regulations to prevent such incidents.

The Act aims to harmonize Tanzania's maritime laws with international standards, such as those set by the International Maritime Organization (IMO), by adopting regulations that promote safe and secure shipping practices. However, challenges remain in enforcement due to limited resources and capacity, impacting the overall effectiveness of the Act. While the Merchant Shipping Act aims to align Tanzania's maritime laws with international standards, its effectiveness in resolving commercial maritime disputes is subject to several factors²⁶. The Act's comprehensive nature reflects intent to provide a robust legal framework for maritime operations. The effectiveness of the legal framework is also influenced by the judicial and administrative capacity to handle maritime disputes. Delays in the judicial process and limited expertise in maritime law can hinder the timely and fair resolution of disputes. Ensuring that the judiciary is well-equipped to handle complex maritime cases is crucial for the Act's success.

5.1.2 Tanzania Ports Act

The Tanzania Ports Act, No.17 of 2004 establishes the legal framework for the management, operations, and development of ports in Tanzania. The Act's primary objective is to enhance port efficiency and competitiveness, fostering trade and economic growth²⁷. Key sections include the establishment of the Tanzania Ports Authority (TPA) (Part II, Sections 4-10) and provisions for port management and operations Part III, IV, and Part VIII.

A significant case under the *Ports Act* is *TPA v. M/S East African Cables*²⁸, involving a dispute over port charges and services, the case highlighted the need for transparent and efficient port operations to facilitate smooth trade activities. The Court of Appeal emphasized the TPA's role in managing port operations effectively and adhering to international best practices. The Ports Act aligns with international standards by promoting efficient and competitive port services, crucial for Tanzania's integration into global trade networks. However, challenges such as infrastructure limitations and bureaucratic inefficiencies continue to hinder the full realization of the Act's objectives.

The infrastructure challenges are deeply rooted in the inadequate development of port facilities, limited access to modern technology, and insufficient investment in maritime services. Sections 51 to 60 of the Merchant Shipping Act, 2003, for instance, establish the legal framework for the operation and management of ports and harbors in Tanzania.

²⁵[2007] TLR 123

²⁶ibid

²⁷Ibrahim MbiuBendera, *Admiralty and maritime law in Tanzania* (2017), Law Africa Publishing

²⁸[2010] TZCA 12

5.2 National Institutional legal framework

5.2.1 Arbitration Bodies

Maritime disputes in Tanzania are primarily handled by the Tanzania Arbitration Centers, such as Tanzania Institute of Arbitrators (TIA) and Tanzania Maritime Arbitration Centre (TMAC). The TMAC was established as a specialized forum for resolving maritime disputes, it offers arbitration and mediation services, facilitating the resolution of disputes related to maritime contracts, insurance claims, and other maritime activities. A notable case involving the TMAC is *M/S Marine Services Co. Ltd v. M/S Azam Marine Co.Ltd*²⁹, where the parties disputed over a charter contract. The TMAC's decision emphasized the importance of adhering to contractual terms and international maritime arbitration practices.

The effectiveness of the TMAC is crucial for Tanzania's commercial maritime dispute resolution, aligning with international practices by offering efficient and specialized dispute resolution mechanisms. However, the TMAC faces challenges such as limited awareness and acceptance of arbitration among maritime stakeholders, which can impact its effectiveness Tanzania recognizes arbitration as a means of resolving maritime disputes.

5.2.2 The High Court of Tanzania

The High Court of Tanzania, particularly through its Commercial Division, is vested with the jurisdiction to resolve maritime disputes³⁰. Maritime disputes in Tanzania are governed by a combination of domestic laws, including the Merchant Shipping Act, Cap 165, and international conventions that Tanzania has ratified, such as the United Nations Convention on the Law of the Sea (UNCLOS). The court has the authority to adjudicate on matters related to shipping contracts, marine insurance, carriage of goods by sea, and disputes arising from maritime accidents. In the case of *Fritz Shipping Co. Ltd. v. KCB*³¹, the High Court dealt with a shipping contract dispute involving cargo damage. The court emphasized the importance of adhering to contractual terms and international maritime conventions³².

The effectiveness of the High Court of Tanzania in resolving maritime disputes can be assessed through the lens of its legal framework and procedural efficiency. The Merchant Shipping Act provides the foundation for the legal regulation of maritime activities in Tanzania, addressing issues such as ship registration, safety, and liability. This Act, along with the Civil Procedure Code, Cap 33 [R.E 2019], guides the court's procedures in handling maritime cases. However, despite these legal provisions, there are several challenges that affect the effectiveness of the High Court in resolving maritime disputes. The primary challenges are the lack of specialized maritime judges, lack of specific regulations and guidelines in resolving maritime dispute³³. Maritime law is highly

²⁹ [2015] TMT 5 (Tanzania Maritime Tribunal, 2015)

³⁰Blue,J. "Maritime Dispute Settlement: Case Studies and Lessons Learned"(2020), Routledge

³¹[2009] TLR 319

³²Ibrahim MbiuBendera, *Admiralty and maritime law in Tanzania* (2017), Law Africa Publishing

³³Blue,J"Maritime Dispute Settlement: Case Studies and Lessons



specialized, requiring expertise in both national and international regulations. The generalist nature of the Tanzanian judiciary means that judges may not have the specialized knowledge necessary to handle complex maritime cases effectively. This can lead to delays and inconsistencies in the application of maritime law.

Another significant challenge is the limited incorporation of international maritime conventions into domestic law. While Tanzania has ratified several key international maritime conventions, the implementation of these conventions into domestic law is often incomplete. For example, while Tanzania is a signatory to the Hague-Visby Rules, which govern the carriage of goods by sea, these rules are not fully reflected in domestic legislation, leading to legal uncertainties in maritime disputes.

5.2.3 Tanzania Shipping Agencies Corporation (TASAC)

The Tanzania Shipping Agencies Corporation (TASAC) plays a crucial role in resolving maritime disputes in Tanzania, operating under the framework established by the Tanzania Shipping Agencies Act, 2017. TASAC is responsible for regulating and overseeing maritime activities, including dispute resolution, ensuring compliance with maritime safety, security, and environmental standards. However, the effectiveness of TASAC in resolving maritime disputes and the adequacy of its legal framework have been subjects of scrutiny. TASAC is mandated to oversee maritime services and ensure that maritime disputes, particularly those involving shipping, cargo handling, and related activities, are addressed efficiently. The agency is responsible for enforcing maritime laws, conducting investigations, and facilitating the resolution of disputes through administrative measures³⁴. It also works in collaboration with other bodies, such as the Tanzania Ports Authority (TPA) and the Tanzania Maritime Authority (TMA), to ensure that commercial maritime disputes are resolved in accordance with national and international laws³⁵.

The legal framework governing TASAC, primarily the Tanzania Shipping Agencies Act, 2017, provides a broad mandate to the agency but lacks specificity in dispute resolution mechanisms. While TASAC has the authority to regulate maritime activities and enforce laws, the Act does not explicitly outline detailed procedures for resolving commercial maritime disputes, which can lead to ambiguity and inefficiencies in handling complex cases. The Act focuses more on regulatory oversight and compliance rather than providing a robust legal structure for dispute resolution. One of the significant challenges TASAC faces in resolving maritime disputes is the lack of specialized legal provisions tailored to the complexities of maritime law.

6.0 Conclusion

This study on the effectiveness of Tanzania's maritime laws, viewed through the lens of international laws and practices in

commercial maritime dispute settlement, thus, underscores a complex landscape marked by both progress and areas needing significant improvement. Tanzania, with its strategic location along the Indian Ocean, plays a vital role in regional and international maritime activities. Consequently, the adequacy of its maritime legal framework is crucial not only for national interests but also for the broader context of global maritime governance.

Tanzania's maritime laws have made considerable strides in aligning with international standards. Tanzania is a party to several key international conventions, such as the United Nations Convention on the Law of the Sea³⁶, the International Convention for the Prevention of Pollution from Ships³⁷, and the International Convention on Standards of Training, Certification, and Watch keeping for Seafarers³⁸. These conventions provide a comprehensive legal framework that governs maritime activities, ensuring safety at sea, protection of the marine environment, and the fair treatment of seafarers.

Despite this alignment, the study identifies critical areas where Tanzania's maritime laws fall short of international expectations. The most notable of these is the enforcement of maritime laws and the capacity of the judiciary to handle maritime disputes effectively. The Tanzanian judicial system often lacks specialized knowledge in maritime law, which results in delays and inconsistent rulings in maritime cases. This shortcoming undermines the confidence of international stakeholders in Tanzania's maritime dispute resolution mechanisms.

7.0 Recommendations

Strengthening Legal and Institutional Frameworks

Tanzania should prioritize the development of a comprehensive maritime policy that integrates various aspects of maritime law, ensuring coherence and consistency in its application. This policy should aim to streamline regulatory functions and enhance coordination among different government agencies involved in maritime governance.

Enhancing Implementation and Enforcement

To address implementation challenges, Tanzania should invest in strengthening its maritime infrastructure and resources. This includes upgrading ports, improving surveillance and monitoring systems, and enhancing the capacity of law enforcement agencies. Additionally, fostering partnerships with international organizations can provide technical assistance and support for effective implementation.

Promoting Alternative Dispute Resolution

Encouraging the use of ADR mechanisms such as arbitration and mediation can enhance the efficiency and effectiveness of maritime dispute settlement in Tanzania. Establishing specialized maritime arbitration centres and training legal professionals in ADR

Learned", (2020) Routledge

³⁴Green, L., "International Law and the Protection of Maritime Resources" (2017), Routledge

³⁵Johnson, P. "International Maritime Dispute Settlement: Principles and Practices, (2018) Oxford University Press

³⁶United Nations Convention on the Law of the Sea (UNCLOS), of 1983

³⁷International Convention for the Prevention of Pollution from Ships (MARPOL), of 1973

³⁸International Convention on Standards of Training, Certification, and Watch keeping for Seafarers (STCW), of 1978



techniques can provide more accessible and timely dispute resolution options.

Capacity Building and Training

Tanzania should invest in education and training programs to build the capacity of its maritime sector workforce. This includes offering specialized courses in maritime law and dispute resolution, as well as facilitating exchanges and collaboration with international experts and institutions.

Fostering Regional and International Cooperation

Strengthening regional and international cooperation is vital for addressing transboundary maritime issues and enhancing dispute resolution mechanisms. Tanzania should actively participate in regional maritime organizations and initiatives, sharing best practices and collaborating on joint efforts to address common challenges.

Public Awareness and Stakeholder Engagement

Raising public awareness about maritime laws and engaging stakeholders, including the private sector and local communities, can enhance compliance and support for maritime governance initiatives. Public education campaigns and stakeholder consultations can foster a culture of responsibility and collaboration in maritime activities.

Accelerating the Domestication of International Conventions

Tanzania should prioritize the domestication of international maritime conventions that it has ratified. This process should involve a comprehensive review of existing laws to identify gaps and inconsistencies, followed by the drafting and enactment of new legislation that fully incorporates international standards.

Promoting Regional Cooperation

Given the transnational nature of many maritime issues, Tanzania should continue to strengthen its cooperation with neighbouring countries and international organizations. This includes participating actively in regional initiatives to combat piracy, illegal fishing, and other maritime crimes. Enhancing information sharing, joint training exercises, and coordinated patrols in the Western Indian Ocean region would contribute to a more secure and stable maritime environment.

Incorporating Technological Innovations

Embracing technological innovations can greatly enhance the effectiveness of maritime law enforcement and dispute resolution in Tanzania. The use of digital platforms for case management, electronic documentation, and online dispute resolution mechanisms should be explored to reduce delays and increase transparency in maritime legal processes.

References

1. Smith, J. "Challenges in Implementing Maritime Laws in Developing Countries: A Case Study of Tanzania (2017)". African Maritime Journal
2. Johnson, P. "International Maritime Dispute Settlement: Principles and Practices (2018)". Oxford University Press
3. White, P. *Maritime Boundary Delimitation: Principles and Practices* (2016).
4. Grey, A. "Legal Framework for Maritime Dispute Resolution: A Comparative Analysis" (2018), Hart Publishing
5. Dr. Tumaini Gurumo, "Uchumiwa Bluu, fursa Chachu ya Maendeleo", (2021). Ps Counseling Consultants.
6. Donald L. Chidowu's, *The Blue Economy and Boundaries of Africa: A Legal Historical Analysis (2023)*, published by Juris Publishers Limited
7. Dispute Concerning Delimitation of the Maritime Boundary between Ghana and Côte d'Ivoire in the Atlantic Ocean (Ghana/Côte d'Ivoire), Judgment, ITLOS Case No. 23, 23 September 2017.
8. Green, L. "International Law and the Protection of Maritime Resources", (2017), Routledge
9. Commune de Mesquer v. Total France SA, [2008] ECR I-4501
10. Brown, R. "International Legal Instruments in Maritime Dispute Resolution" (2017), Oxford University Press
11. Green, L., "International Law and the Protection of Maritime Resources" (2017), Routledge
12. International Tribunal for the Law of the Sea (ITLOS), of 1982
13. Blue, J. "Maritime Dispute Settlement: Case Studies and Lessons Learned" (2020), Routledge
14. Green, L., "International Law and the Protection of Maritime Resources" (2017), Routledge
15. Johnson, P. "International Maritime Dispute Settlement: Principles and Practices", (2018) Oxford University Press
16. Green, E. "Tanzania's Maritime Infrastructure: Challenges and Solutions" (2019), International Development Journal

Case laws

1. MV Amani v. Tanzania Harbors Authority [1989] TLR 55 (High Court of Tanzania).
2. Saint Vincent and the Grenadines v. Spain, International Tribunal for the Law of the Sea, Judgment of 23 May 2011, ITLOS Reports 2011, p. 10.

List of International Instruments

1. The United Nations Convention on the Law of the Sea (UNCLOS) of 1982;
2. The International Convention for the Prevention of Pollution from Ships (MARPOL) of 1978;
3. The Hamburg Convention of 1978
4. The Hague-Visby Convention of 1968



List of Municipal Legislation

1. The Merchant Shipping Act No. 21 of 2003 (MSA 2003)
2. The Port Act, No. 17. of 2004
3. Carriage of Goods by Sea Act, Cap 365 of 2002
4. The Maritime Transport Act, No. 5 of 2006
5. Zanzibar Maritime Transport Act, of 2009

