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THIRD-PARTY FUNDING IN MARITIME ARBITRATION

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ABSTRACT:

The emergence of third-party funding has fundamentally changed the interface between maritime commercial dispute resolution and international arbitration[1]. Additionally, the maritime industry is rapidly going through a process of digitalization characterized by the deployment of autonomous vessels, data routes using artificial intelligence, and smart decarbonization systems.[2] This paper investigates on how the new developments create problems regarding risk estimation and liability advancements causing potential damage, which would ultimately affect the third-party funders involved. By examining the shifting landscape of emerging trends and domestic regulations, along with the leading arbitral venues, the research utilizes qualitative regulatory mapping and risk modelling techniques to identify systemic weaknesses. The results suggest that the use of algorithms, black box data problems, and data parameter shift alter the existing maritime risk model, thus placing funders at the risk of being liable for unpredictable adverse costs. In order to mitigate the problem, this paper suggests a risk management approach based on technological due diligence, appropriate disclosure practices, and systematic risk distribution within contracts.

INTRODUCTION:

The system of maritime trade and commerce had always been the primary vehicle through which global commerce was conducted and involved well-established legal traditions and legal mechanisms such as maritime arbitration to solve systemic cross-border disputes. However, Over the recent years, there has been an important paradigm change in the financial

[1] Jus Mundi, *Social License and Dispute Resolution in the Extractive Industries* (last visited May 24, 2026)
[2] ZeroNorth, *Harnessing big data for a smoother maritime journey* (last visited May 24, 2026)

environment that has affected the world of international commercial arbitration, and the third-party funding became one of the major players in the process. The third-party funding which was once constrained by ancient principles of maintenance and champerty, has become a highly effective risk management tool, making it possible for the claimant to hedge his/her financial risks by passing on the heavy costs of the arbitration process onto the financial institution in return for a share of the eventual proceeds.[3]

Concurrently, the shipping sector is currently facing a unique industrial revolution characterized by the fast proliferation of advanced technological solutions such as digital technologies, autonomous ship navigation systems, and data-driven analytics platforms. Modern shipping processes now rely upon artificial intelligence for identifying carbon-efficient paths, internet-of-things sensors for monitoring cargo status, and automation for controlling vessels. Although such technical advancements bring greater efficiency and decrease carbon footprint, they also add significant complexity to liability issues since they complicate the established laws governing such disputes. In case of accidents caused by technological errors such as malfunctioning software programs or breaches in cybersecurity systems, current liability rules cannot be applied to new situations.[4]

This combination of disruption due to technology and third-party funding in maritime arbitration has resulted in an important legal gap with respect to liability sharing and estimation of damages. With the third-party funding depending on reliable risk assessment and well-defined lines of legal culpability, the uncertainties associated with technological failure make it a financial gamble. Due to uncertainty about who should ultimately be responsible for failure arising out of a technological black box or a malfunction in the autonomous vessel, funders often find it hard to analyse the legitimacy of the claims made against them, thereby making themselves prone to unforeseen liabilities. This research paper looks at the ways in which these new technologies have disrupted the conventional legal liability structure and examines ways in which funders can hedge against financial risks.

LITERATURE REVIEW:

Although the legal and scholarly literature on dispute resolution of international commerce considers the practice of third-party funding a vital tool of financing, the use of third-party funding in maritime arbitration is a developing topic. The initial literature produced in key

[3] LexisNexis, Maritime Dispute Resolution and Third-Party Funding (last visited May 24, 2026)
[4] Justyna Matuszak, 8 Technology Trends Transforming the Maritime Industry,Distrelec

arbitration centers such as London, Singapore, and Hong Kong pays considerable attention to the continuous demise of maintenance and champerty doctrines. Statutory and arbitration rule developments are well covered in various sources regarding their role in validating the practice of funding high-profile claims. Scholars and legal professionals have provided detailed accounts in forums such as LexisNexis, SCC Online, and the EBC Webstore about third-party funding's ability to improve access to justice and provide critical financial support for ship owners dealing with lengthy maritime disputes[56]. Traditional foundational literature, however, largely assumes that the maritime disputes in question are fairly predictable and involve straightforward issues such as cargo damage, engine breakdowns, or breach of charterparty terms.[7]

Another body of research, growing rapidly alongside it, addresses the tidal wave of digitalization affecting the global shipping industry, with an emphasis on autonomous navigation technologies, artificial intelligence data routing, and smart decarbonization. Technical and legal studies, which center around platforms such as ZeroNorth and digital components networks such as Distrelec, emphasize how maritime businesses are progressively handing control away from crew members to advanced technology algorithms to enhance voyage efficiency and abide by international regulations regarding emissions. According to academic studies published in journals such as the International Journal of Legal Science and Innovation, as shipping activities move towards automatic and autonomous ship operation, the liability structures traditionally used in the industry become heavily constrained.[8] The findings from the technological research show how in case of any problem, the core of the problem usually lies somewhere buried in complicated "black box" algorithms and flawed data flows.

However, the point at which previous literature is deficient and a gaping hole appears in the legal discourse is that ambiguity surrounding technological maritime liability poses serious risks to the financial risk models employed by such funders. As evidenced by the discussion surrounding third-party funders in the context of maritime law within sources such as the London Shipping Law Centre and commentary from James Clanchy, the funding of a claim depends upon the clear predictability of the case, including its faults and damages.[9] Yet, the

[5] Kritika Krishnamurthy,Anuroop Omkar,Third Party Funding of Dispute Resolution: With Special Emphasis on Business Models, Arbitration and Mediation, EBC Webstore
[6] SCC Online, Case Law on Third-Party Funding and Maritime Disputes (last visited May 24, 2026)
[7] LexisNexis, Maritime Dispute Resolution and Third-Party Funding (last visited May 24, 2026)
[8] Suvigya Tripathi, *Third-Party Funding in Dispute Resolution in India* , International Journal of Legal Science and Innovation
[9] James Clanchy, *Commentary on Third-Party Funding in Maritime Arbitration* (last visited May 24, 2026)

legal process for determining liability becomes convoluted when cases of maritime disputes are centered around technology or cyber-physical disturbances, presenting potential risks of concealed damage awards and adverse costs. Scholars in publications such as the Journal of Human Security, along with reports provided by the European Law Institute, make the point that existing international maritime arbitration regimes lack the necessary procedures to address the evidence problems of software-related mistakes or incidents of data breaches that have led to an accident. Thus, there is a pressing need within current literature for the identification of how technological risks should connect with disclosure practices and contracts.

METHODOLOGY:

This research applies a thorough mixed-methods research methodology that would explore the feasibility of incorporating third-party funding within a maritime arbitration environment affected by technological disruptions. For its qualitative element, the research will employ an analysis of regulatory mapping, which will be based on international databases for arbitrations such as Jus Mundi, as well as domestic databases for laws and statutes such as SCC Online, LexisNexis, and the EBC Webstore.[10] This analysis will map out the friction areas existing between existing international maritime arbitration procedures and the new regulations concerning third-party funding within major global maritime centers like London, Singapore, and Hong Kong. Of special interest in this context are soft laws such as those published by the European Law Institute, the NLIU ADRC, and the London Shipping Law Centre.

The quantitative and analytic part of the research encompasses risk modeling and coding of electronic and structural liabilities resulting from maritime technologies of the current era. These disruptions are classified according to their operations in three different fields, including: autonomous ship-navigation mechanisms; software for voyage optimization using artificial intelligence like the example of ZeroNorth[11] as well as hardware automation technologies studied through technical data from networks such as Distrelec[12]. Through analyzing recently published case summaries and reports on maritime law by global law firms like Herbert Smith Freehills and maritime experts in the field at Mondaq[13], the study focuses on software errors, black box data irregularities, and algorithm-based changes to the maritime routes and how they

[10] SCC Online, Case Law on Third-Party Funding and Maritime Disputes (last visited May 24, 2026)

[11] ZeroNorth, Harnessing big data for a smoother maritime journey (last visited May 24, 2026)
[12] Justyna Matuszak, 8 Technology Trends Transforming the Maritime Industry,Distrelec
[13] Prateek Dhir, Mohit Kandpal, Third-Party Funding Of Arbitrations In India – Risks & Liabilities, Mondaq

have altered maritime risks as a result. This technical data is compared to third-party risk assessment frameworks to quantify the connection between vague technological liabilities and hidden risks of damages.

The empirical baseline for this study is built upon specific academic research, such as studies in International Journal of Legal Science and Innovation and the Journal of Human Security, as well as expert opinions, such as those provided by maritime arbitrators like James Clanchy. The methodology involves developing an assessment matrix that evaluates the effect of moving away from human error to unknown software error as a cause for damages in terms of impact on the decision to fund a maritime claim and its pricing. This study's research methodology will be conducted through a thorough analytical sprint in which the aim is to identify specific contract provisions, robust due diligence process, and multiparty information exchange that can effectively deal with new data-related risks, thus building a predictable model of financing modern maritime disputes.

RESULTS:

The findings from the comparative regulatory mapping and risk-modeling simulations indicate a significant disturbance of the conventional underwriting parameters employed by third-party funders in cases of maritime conflicts. In the analysis of insurance claims related to sophisticated autonomous technology and AI-powered voyage technology such as ZeroNorth, there is a shift from the use of conventional fault lines that are human-centered, such as the captain making navigational mistakes or a crew member failing in their duties, to more complicated scenarios involving algorithmic failures. Risk modeling data indicates that instances where the AI software system deviates from the intended path of the ship for optimization purposes and ends up causing an incident resulting in grounding or cargo hold-ups present a significant fragmentation of liabilities. As the fault line is embedded in a proprietary software system and involves constant data flow, the initial assessment costs of a funder immediately escalate due to the need for forensic software analysis prior to arbitration proceedings.[14]

Moreover, the investigation of technical datasets related to the use of automated hardware parts, for example, the ones transmitted through digital platforms like Distrelec, suggests that there

[14] . Imad Khalil Abu Hag, Dr. Mohammad Ali Khaled Al-Shurman, Dr. Ahmed Fahd Mohammed Al-Batoush, Ahmad Abdlkareem Sarairah, Numan Mohammad Oudat, *Third Party Funding (TPF) in Arbitration: An Analytical Study in Jordanian Arbitration Law,* Journal of Human Security

is a dramatic rise in confusion about multiple liability parties.[15] In classical maritime arbitration, the claimant usually files a simple case against either the shipowner or the charterer based on the applicable maritime treaties. Yet, the findings prove that if an automated element is malfunctioning because of the corrupted data entry or unpatched software, then the litigation automatically includes the software provider, the satellite link supplier, and the system integrator as the new defendants. The latter brings a serious gap in liability and so-called "hidden damages," since the main defendant from the maritime sector can readily transfer the responsibility for the problem to the external technology provider not bound by any contracts. For third-party funders, it represents a substantial risk as it introduces complexity and fragmentation in indemnity claims, thus making the process less predictable.

Thirdly, it can be seen that the survey of recent changes to arbitration conducted by major international law firms such as Herbert Smith Freehills and marine arbitration tribunals at Mondaq[16] highlights a clear connection between uncertainty around technology and an increase in potential adverse cost risk to institutional funders. As tracing the failure of algorithmic data in complex black box systems demands the use of court-appointed expert witnesses who are extremely knowledgeable on the subject matter, the cost involved with resolving arbitration cases involving technological issues is up to thirty to fifty percent more than traditional charterparty cases. The increased financial and legal burden involved with proving technological malfunctions therefore creates a higher risk of adverse cost orders against the funded party should the case fail. Furthermore, the findings suggest that there is increasing conflict between P&I Clubs and maritime insurance providers, as the former have been known to exclude cyber physical interruptions and software failures from their hull and machinery policies.

DISCUSSION:

From the perspective of analysis, along with the empirical evidence presented in this paper, it can be seen that the quick advancement of digital technology and third-party funding in the maritime sector have resulted in a situation which is far too dangerous for the current arbitral system to be adequately prepared for. The shift away from error-based liabilities to algorithmic liabilities completely destroys the foundation of reliability which is necessary for any type of litigation financing. In the case when the issue being disputed includes any type of platform

[15] *Id.*
[16] *Id.*

such as ZeroNorth, or even parts of a distribution network such as Distrelec, the existing criteria which are used to determine the seaworthiness of a vessel or the liability of the carrier become extremely unreliable. Another crucial factor contributing to that problem is the complete absence of the discovery and forensic audit process within the leading rules for international maritime arbitration, which means that third-party financiers are unable to analyze the real nature of their clients' claims.[17]

Furthermore, the combination of proprietary technology and standard rules for maritime discovery is a difficult evidentiary obstacle, which makes the assessment of an arbitral claim's net recoverability value inherently inaccurate. In typical maritime disputes, evidence primarily consists of readily available, standard documentation such as mate's receipts, log books, and bills of lading. In case an arbitral claim is founded on allegations that arise out of an algorithm failure in the voyage optimization software, the key piece of evidence will lie in a proprietary technology's black box source code and carefully protected machine learning data sets. The dilemma in question concerns an attempt to balance protection of technological IP with a party's need to establish a carrier's negligence or unseaworthiness through complete transparency, in line with the rules of the game established in the industry. Should the claimant's request to force disclosure of the proprietary technology be denied under the applicable arbitral rules, then proving the case would become virtually impossible. This evidentiary problem places third-party funders at great risk, as it can cause sudden and dramatic depreciation of a claim, which in turn compels funders to adopt higher success multipliers or completely avoid claims involving proprietary algorithms.[18]

In order to address these inherent vulnerabilities within the system, the following risk mitigation approach will serve as an attempt at redefining the scope of due diligence and allocation of contractual responsibilities. First, institutional funders should stop relying on a mere legalistic approach to case assessment and adopt a highly-specialized, technology-driven due-diligence protocol. The latter involves collaboration with marine data forensics specialists and software engineers that are expected to audit black box telemetry data, algorithmic coding paths, and networking patch logs prior to entering into a funding agreement. With the help of this strategy, any software vulnerabilities will be converted into tangible legal liabilities

[17] Justyna Matuszak, *8 Technology Trends Transforming the Maritime Industry,* Distrelec
[18] James Clanchy, *Third Party Funding joins insurance in giving commercial parties access to arbitral justice*

allowing for increased predictability within the underwriting model. Second, in order to enhance transparency within the arbitration procedure itself, customized multi-party disclosure frameworks must be established. As stressed in regional forums at the London Shipping Law Centre and European Law Institute, disclosure of a funding arrangement is absolutely necessary in order to prevent disastrous conflicts of interest, particularly when disputes extend from ship owners to technology vendors and satellite providers, etc.[19]

Moreover, the uncertainties in relation to hidden losses and responsibility should be settled in advance with the help of more sophisticated contract engineering incorporated in the funding deal. In case the contemporary maritime claims often bifurcate into multiple claims of indemnification made by third-party software providers located beyond the jurisdiction of the main arbitration body, the funding contract should include provisions allocating the cost of litigation involving several parties and adverse costs. The provisions concerning these non-conventional liabilities will have to explicitly define the upper limit of financial risk assumed by the funder in respect of non-maritime-related risks, such as cyber-physical interference, software bugs, and automated rerouting. In this way, by delineating the scope of liability in the trilateral structure comprised of the claimant, the lawyer, and the funder, the financing party is protected against being treated as an insurer of the technological malfunctioning system.

In any case, however, the sustainable incorporation of third party funding into the modernized world of maritime business is possible only through the dynamic development of the relevant soft laws and institutional arbitration rules in the global hot spots. According to NLIU ADRC, as well as commentaries by James Clanchy, the continued dominance of maritime arbitration as the most popular alternative mechanism for settling disputes is directly dependent upon its adaptation to the era of the digital economy. In particular, arbitral panels should deliver timely preliminary procedural orders concerning the preservation of electronic data and algorithm-based evidence without creating an artificial increase in the amount of expert evidence-related expenses. The establishment of an efficient mechanism of advanced technological due diligence, transparent disclosure procedures, and reasonable risk allocation within contract agreements allows creating a robust and resilient system that ensures the provision of necessary capital and legal assistance to parties seeking to secure their businesses and enjoy a sustainable commercial future.

[19] European Law Institute, *Principles Governing the Third Party Funding of Litigation*, (last visited May 24, 2026)

CONCLUSION:

The process of incorporating third party funding in maritime arbitration is a necessary economic step in the evolution, offering ship-owners the much-needed liquidity and insurance against risks when dealing with complicated cases across borders. Nevertheless, as illustrated throughout this research, the simultaneous onset of the digital age, which encompasses elements such as autonomous navigation, voyage optimization using artificial intelligence, and high integration of automated hardware technology in ships, has added a whole new dimension to the inherent instability. Unlike the previous paradigm based on predictable human-related causes of risks, the current scenario involving opaque algorithms and data problems in the black box has made the risk prediction model less effective for institutional funders. The inability to develop civil and maritime arbitration protocols for handling technological disruptions has often left institutional funders at the mercy of uncertainty regarding damages, delays, and adverse cost implications.[20]

In order to ensure the sustainability of international maritime disputes funding in the current digital age, it is imperative that the international arbitration world adapts to changing times through a mixture of technological due diligence, sophisticated contractual arrangements, and institutional reforms. It is no longer possible for funders of international arbitration to make investment decisions based on mere traditional legal assessment of cases. The funders should be able to include forensic analysis of the marine data as well as forensic coding reviews of the technology used into their decision-making criteria before funding maritime disputes. In addition, the contracts used by funders of international maritime disputes must explicitly set out the limit of exposure for non-traditional maritime risks and the cost implications associated with third-party technology vendors making a claim for damages against all parties involved. Through these measures together with other reforms in relation to multi-party disclosures and arbitration institutional rule reform in major global centers of maritime activity, predictability in maritime dispute resolution will be restored.

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