

# Arbitration and mediation in international maritime contracts

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## Legal effectiveness is part of maritime capacity

Dispute resolution must be planned when drafting the contract, with a view to making the outcome effective where performance is due. This dimension of the *Theory of the Maritime State* requires contractual choices to be coordinated with the legal framework governing the outcome.

## From settlement to performance

In the hypothetical case, a foreign shipping company and a Mexican company mediate a claim arising from a delay in unloading cargo bound for Progreso. They agree on a payment, but default follows and the assets are in Mexico. The settlement is not embodied in a judgment or arbitral award: the creditor must identify what to submit, to which authority, and with what legal effect to enforce it.

## Three choices and an essential check

**Applicable law:** which law governs the substance of the contract. **Forum and seat:** who will resolve the dispute and, if arbitration is chosen, its legal seat. **Mechanism:** how the dispute will be managed. The effectiveness of the resulting outcome must then be assessed where the assets are located.

Foreign arbitral awards have a recognition and enforcement framework, subject to requirements and safeguards; recognition does not guarantee recovery. A standalone mediated settlement requires its own applicable legal route. Mediation does not automatically suspend every time limit: deadlines, evidence, signatory authority, and available urgent measures require attention.

## Proposals to build effective legal capacity

**International.** Promote Mexico's participation in the Singapore Convention on Mediation, determining the legal route for becoming a party and any permissible reservations.

**Federal.** Use the 2018 UNCITRAL Model Law on mediation as a legislative reference, coordinated with Mexico's Commercial Code and General Law on Alternative Dispute Resolution Mechanisms. Specify the competent authority, procedure, and evidence, and train those applying the framework.

**Yucatán.** Add a provision to the proposed state private international law framework distinguishing applicable law, forum, and dispute resolution mechanism, and referring the effects of the agreement and its outcomes to treaties and the applicable legislation.

These are proposals for discussion, not enacted reforms. The state provision would not itself make the settlement enforceable or replace federal commercial legislation.

## Mexico is a maritime nation

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