

## *The French port, theatre of shipping disputes (1850-1940)*

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“And so, one can consider maritime trade as an immense coalition, tacit or explicit, formed by all the settled individuals who live in the ports, and directed against all the nomads who pass through”<sup>1</sup>

Ports have been described as the theatre of financial and industrial disputes, where sailors and port workers faced a particularly tough capitalist system. The port sectors were often presented as a monolithic group that only came into conflict with port workers or the state. The “maritime trades” dominated the port’s commercial and industrial activity as one entity, with the ready assistance of ancillary professions and trades, all of which were dedicated to the pursuit of riches in the port. The port itself was characterised by its private<sup>2</sup> or public<sup>3</sup> organisational structure; in France, public chambers of commerce often ran the ports. However, the most recent studies have shown that this image needs to be re-examined and clarified<sup>4</sup>.

Another category of conflict, termed “shipping disputes”, is, with few exceptions, not linked to the social question. These bitter and long-lasting disputes pitted the extremely divergent interests of employers and contractors against one another: the interests of shipowners and shippers, insurers, shipbrokers and insurance brokers, consignees, and so on, in addition to the goods-handling and towing contractors, the pilots and various financiers. The complexity of how port enterprises were organised caused muted struggles, hidden by media promotion, sense of place and, on the part of the employers, a taste for secrecy, shared by many contractors. This all clouds the visibility of divisions, encroachments, and miscarriages of justice, and what was at stake is not easily understood as it was muddied by the individuals concerned and the legal implications of a law which purports to escape civil and commercial terrestrial law. Discussing all the aspects of the conflictual nature of port enterprises is beyond the scope of this article. In this first approach, we will take four paths of analysis, allowing us to comprehend the strategy of some of the institutions, whether French or otherwise, working in France’s ports. We will initially see how, by taking the example of disputes related to stowage<sup>5</sup>, the absence of regulation caused conflict between shipowners, shippers and stevedores. We will also see that the standardization of port customs on the initiative of the chambers of commerce and the creation of national legislation, was met with the stagnation of practice and

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<sup>1</sup> “De sorte qu’on peut se représenter le commerce maritime comme une gigantesque coalition, tacite ou explicite, conclue entre tous les sédentaires qui vivent d’un port, et dirigée contre tous les nomades qui y relâchent.” Jean-Richard Bloch, *Sur un cargo*, Paris, NFR, 1924, p.128

<sup>2</sup> Following the Waldeck-Rousseau law of 21 March 1884, authorising the creation of professional syndicates in France.

<sup>3</sup> The *chambres de commerce* [chambers of commerce], also called *chambres consulaires* [consular chambers], are public institutions in France, removed by the French Revolution, they increased in number during the 19th century.

<sup>4</sup> See chapter III in particular: “L’illusoire solidarité des intérêts portuaires”.

<sup>5</sup> Loading a boat and stowage, that is, the positioning and possession of goods, are linked.

by no means resolved all the issues. Then, we will analyse how the accelerated speed of sailing and loading methods in France between 1885 and 1930 led to a generalized dispute between shipowner-lessors and shipper-charterers, to the considerable benefit of the professional organization of French shipowners, *Comité central des armateurs de France*, founded at the turn of the century. The legal recognition of the French shipbroker, a relic from the institutions of the Ancien Régime that ruled prior to the French Revolution, was outmoded in an international context and did not allow for the harmonious development of the shipping agent profession. The tension in the ports created by this statute multiplied the contentions between shipowners and charterers, and even several national crises could not put an end to this institution, that rested on the principles of heredity and exclusive privilege. Lastly, analysing the interactions between the *Comité central des armateurs de France* (CCAF)<sup>6</sup>, and the Baltic and White Sea Conference (BWSC)<sup>7</sup> either side of the First World War, will enable us to see how, in the commercial life of French ports, solidarity developed between two widely divergent shipping companies, linked to the international arbitration movement, which put a stop to the global crisis.

### **The weight of port customs: stevedores, shipowners and shippers**

Despite the banality of disputes over customs, attested to by the maritime jurisprudence records, the idea that “the Trade”, charterers, or “the Flag” lessors, or the other “ancillary companies” wallowed in a culture of conflict must be avoided. In reality, as far as the proliferation of the contractual regulations essential to maritime law is concerned, the private initiative of contractors often preceded the progress of public law, as the stowage disputes demonstrate.

#### “Blowing up the ship”

It seems that, at the beginning of the 1870s, French stevedores did not have official status, despite the existence of “jurés” or “sworn in” stevedores locally. The profession mentioned in the directories of the time, “stevedores”<sup>8</sup> in the north of France and “aconiers”<sup>9</sup> in the south, thus seems to be related to “in good faith” practices. Shipowners and shippers made use of the stevedores according to their needs, satisfying one of the captains’ principal requirements: spending the least time possible in the port and completely avoiding demurrage, that is, penalties for a delay in goods-handling operations, defined by port customs and the charter-party agreed between the lessors (shipowners) and charterers (shippers).

On a purely nautical level, good relations between stevedore and chief mate were important, as the latter was responsible, on behalf of his superior, for the trim of the vessel. This delicate operation was essential for the vessel’s survival, particularly for small and large sailing ships, which were more unstable by

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<sup>6</sup> The professional organization of French shipowners. From here on CCAF. Present day: *Armateurs de France*.

<sup>7</sup> From here on BWSC. Since 1928 and present day: Baltic and International Maritime Council (BIMCO). At the time, commonly known as the Baltic.

<sup>8</sup> That is, the “action of loading and discharging ships”, and in the maritime world, stevedore, is, contrary to appearances, of Italian origin.

<sup>9</sup> *Aconier* or *aconnier*. The *acon* is a barge, a small boat used for loading and discharging ships.

nature<sup>10</sup>. Many captains understandably mistrusted stevedores and relied on their own experience and know-how. In 1858, Robert White Stevens, agent of Lloyd's in Falmouth and editor of a well-known stowage manual, explained this reluctance by defining the potentially conflictual nature of the relations between port inhabitants and nomad sailors calling at port: "At times the interest of the stevedore is directly opposed to that of the shipowner. When the stowage is paid for by a round sum, endeavours are made to fill as fast as possible by what is technically termed 'blowing the ship up',"<sup>11</sup> that is, not fully loading the hold.

When the first French stowage law came into force in 1893<sup>12</sup>, the scientific columnist from French newspaper *Le Temps*, Max de Nansouty (1854-1913), was pleased that "all kinds of port custom and bias"<sup>13</sup> concerning stowage were to be eliminated. He was unaware of the pioneering initiatives taken by the commercial courts "of land and sea" and disseminated by three large chambers of commerce (Le Havre, Bordeaux and Antwerp) from the middle of the century, in order to initiate the process of updating former customs following new traffic conditions.

### **Port commerce, creator of stowage conflict regulation**

The issue of defective stowage, initially consisting of "customs that originate in the distant past, and whose origin is not well known,"<sup>14</sup> was a concern of the trade long before Samuel Plimsoll's campaign. However, in the 20th century, we come across a body that evaluated the methods used by stevedores: Lloyd Marseillais. It was an "informal institution, whose intervention is sometimes imposed by the bill of lading and whose appraisal, accepted by the trade, was sanctioned by court ruling."<sup>15</sup> This precautionary and private expert assessment was thus carried out in the port of Marseille and perhaps existed in other forms in other ports.

However, in May 1855, it was the commercial court of the port of Le Havre that proposed a bill with the goal of regulating goods stowage aboard merchant vessels, intended for application in all French ports. It was sent to the commercial courts of all the sea ports. The following year, the Bordeaux chamber of commerce passed regulation strongly inspired by that of Le Havre, but "drafted in the plenitude of its judgement and that it could modify of its own authority,"<sup>16</sup> in other words, taking account of the particular problems of the stowage of wine barrels. It was not until 1863 that the minister for trade became interested in the issue and demanded that stevedores abandoned "the usual stowage method of arranging the barrels according to the shape of the vessel." He recommended a much more secure horizontal arrangement, as on British ships. Following Le Havre's example, the Antwerp chamber of commerce became very interested

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<sup>10</sup> Joseph Conrad, *Le Miroir de la Mer (Souvenirs et Impressions)*, translation by J. Aubry, Paris, Gallimard, 1946, p. 70-72.

<sup>11</sup> R. W. Stevens, *On the Stowage of Ships and their Cargoes: Information regarding Freight, Charter parties, &c. &c.* 1869. Paragraph 1061

<sup>12</sup> *Décret du ministre du Commerce et des Colonies du 1<sup>er</sup> décembre 1893 relatif à la réglementation de l'arrimage à bord des navires de commerce.* JORF, *Lois et décrets, Journal Officiel de la République française* (JORF), 6 December 1893, p. 6002.

<sup>13</sup> "toutes sortes d'usages locaux et de préjugés" in Max de Nansouty, "revue scientifique", *Le Temps*, 27 December 1893.

<sup>14</sup> "usages qui remontent à une époque reculée, et dont l'origine n'est pas bien connue" Comité des assureurs maritimes de Bordeaux, *Arrimage des vins en fûts. Règlement d'arrimage du 9 janvier 1856. Étude et proposition d'une rédaction nouvelle des articles 10, 11, 12*, Bordeaux, R. Coussau & F. Coustalat, 1889, p. 40.

<sup>15</sup> "institution sans caractère officiel, dont l'intervention est quelquefois imposée par le connaissement et dont les appréciations, acceptées par le commerce, ont été sanctionnées par des décisions judiciaires" *Ibid.*, p. 9.

<sup>16</sup> "rédigé dans la plénitude de sa compétence et qu'elle pourrait modifier de sa propre autorité" *Ibid.*, p. 3.

in standardizing these regulations, due to the rise in reimportations of full wine loads from Algeria to its two rival ports. The large steamships could now take on 1,500 to 2,000 barrels, consequently changing the terms of insurance. From 1888, the insurers of Bordeaux put pressure on shipowners to prevent the most dangerous loads: it was not uncommon to stack up to seven levels of barrels in a steamship without a tween deck, as opposed to the four generally allowed, by adding deck cargo that could represent up to ten per cent of the total load weight and, consequently, endanger the ship's stability.

The 26 articles of the 1893 decree on stowage are, in fact, simply a rationalized expansion of the commercial customs practised in the large ports mentioned above. It is, therefore, no surprise that, when the draft bill was tabled to the French National Assembly in June 1892, the elected representative of the Seine-Inférieure department, Félix Faure, previously Secretary of State for the navy and colonies, demanded that the chambers of commerce be consulted before the drafting of the decree<sup>17</sup>. But it was his colleague of the Seine-Inférieure, Richard Pendrell Waddington (1838-1913), who, alongside his "overwhelming activity" in the Senate, had at his disposal both contractual experience and expertise of shipping disputes: he succeeded his father in running the family spinning mill, and gained legislative experience as a judge at the commercial court of Rouen from 1864 to 1873, before re-joining the chamber of commerce of which he became president in 1896. The minister of commerce, industry and the colonies, Jules Roche (1841-1923), emphasised that it was not a question of "establishing new regulations, but simplifying and, in particular, standardizing those that exist", the goal being to facilitate the work of the courts and insurers, and "to cut short the many lawsuits that create variations in the regulations, which differ from one port to another."<sup>18</sup> The driving force behind this was, therefore, less the safety of men, ships or goods, and more the difficulty of solving shipping disputes in the context of a return to protectionism.

The law of 20 December 1892 on stowage<sup>19</sup> entailed only one article that announced the publication of a "well thought out decree"<sup>20</sup>, as the government wanted to avoid all conflict with shippers and shipowners. Indeed, the provisions included in the decree had no real value unless they were applied. In reality, we find a rather ineffectual compromise: on the one hand, the primary article stipulated that "conventions contrary" to the rules of the decree could be agreed between shipowners and shippers, implicitly referring to charter-parties and bills of lading. On the other hand, it was also stipulated that no measure for inspection was yet envisaged. Only goods which must "be stowed with all the care and precautions required by their nature" were included in the legislation. The reference made to the captain at the end of the document did nothing but state the responsibilities that he already had. Above all, the absence of international regulation determining the load line on ships caused disputes in the event of a stowage conflict, since the correct trim of the vessel made it possible to check stowage quality. Practices "in good faith" and port customs continued and, with them, hordes of commercial disputes. These conflicts only started to decline with the beginning of the implementation of the container system, which began on a small scale, but was already fully effective by the middle of the 1920s on the cross-channel sea links shared by

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<sup>17</sup> *Le Temps*, 11 June 1892.

<sup>18</sup> "d'établir des règlements nouveaux mais de simplifier et surtout d'uniformiser ceux qui existent"; "couper court aux nombreux procès que fait naître la diversité des règlements qui varient d'un port à l'autre"

<sup>19</sup> *Loi sur l'arrimage des marchandises à bord des navires de commerce du 20 décembre 1892*.

<sup>20</sup> "décret bien pondéré" *Le Temps*, 27 December 1893.

London Midland and Scottish Railway and French railway company, *Compagnie du chemin de fer du Nord*<sup>21</sup>.

### **Limits of the national scale: the matter of bills of lading**

The long-term conflict, in France and elsewhere, between shippers<sup>22</sup> and shipowners, can be seen in the deteriorating reliability of the maritime transport contract.

### **Shipowner negligence clauses, cause of conflict**

Following British influence, clauses specific to transport contracts started to spread into the world of shipping. These clauses were handwritten onto the printed instrument termed “bill of lading”, which article 222 of commercial law defines as the “recognition of the goods for which the shipowner is liable.” The document ensures that the contract of affreightment agreed in the charter-party is executed. Exploring the complexity of affreightment is beyond the scope of this article. However, briefly, it involves hiring out the ship (freight), the individual who hires out the ship (the lessor) and the individual who hires the ship (the charterer) and cannot, therefore, be compared to the relative simplicity of land transport. The inopportune additions of handwritten clauses on the bill of lading could not guarantee the correct assumption of risk for shippers, since, contrary to the commercial law in force, these clauses freed the shipowner from liability on various points. In addition, these clauses were difficult to understand for the vast majority of shippers, whose numbers increased due to the rise in direct exports by small companies, and who were not familiar with the mysteries of maritime law. What was regarded by shippers as an attack on the integrity of the contract and, consequently, on law and order, was, on the contrary, proof of the respect of the freedom of contract for shipowners.

The proliferation of what the Paris chamber of commerce termed “legal fiction”<sup>23</sup> in 1902 was due to the radical transformation of the practical conditions of loading in ports, related to the progress of steam-powered navigation. Instead of waiting for a load, the ship stayed in the port for a limited number of days; the loading of goods was done hurriedly, possibly at night, without checks. According to a journalist from the French newspaper *Le Temps* in 1931, which expressed the point of view of shipowners, the accelerated speed of operations would benefit both shippers and shipowners. The possible deterioration of goods-handling and stowage would only be the “price of progress.”<sup>24</sup> In fact, the conflict that we will describe was born from the tyranny of shipowners, exacerbated by the continuous decrease in freight, which began at the end of the 1860s. The price collapse of maritime transport unleashed fierce competition and, consequently, a fall in the quality of services from shipowners in relation to the guarantees that shippers could previously

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<sup>21</sup> C. Borde, “La genèse du système des *containers*, entre route, rail et navigation maritime (1896-1956)”, in Béatrice Touchelay, Jean-François Eck, Pierre Tilly, (eds.), *Villes portuaires, fleuves et hinterlands, emporiums de l'Occident*. Projet *Vilport*. Final conference, Antwerp 11 and 12 September 2013, forthcoming.

<sup>22</sup> The shipper is the person or company that has goods transported by sea according to private contract termed bill of lading, charter party or charter.

<sup>23</sup> “une fiction juridique” *Bulletin de la chambre de commerce de Paris*, 8 March 1902, p. 248.

<sup>24</sup> “rançon du progrès”. “Le régime des transports maritimes”, *Le Temps*, 9 April 1931 p. 1, col. 3.

expect. The legal complexity of the problem is beyond the scope of this study, but the broad outline can be given.

For sixty years, divergent interpretations of the shipowner's responsibilities and the litigation related to damages or shortfalls<sup>25</sup> were resolved by the commercial law of 1807<sup>26</sup>. The lawsuits that followed allowed shippers to nullify these clauses. However, in 1869, a judgement by the court of cassation<sup>27</sup> ruled in favour of the maritime services company, *Messageries Impériales*, recognising, for the first time, the validity of the general negligence clause. The court declared it was unable to rule against the company, due to its inability "to sufficiently determine the basis of this liability." It seems that justice reinforced the tradesmen's own regulatory system, asserting specificities of maritime law which annulled all the guarantees established on land. The division of the legal fields was at its height when the court of cassation made a series of rulings between 1877 and 1892 revoking judgements made in favour of shippers, which allowed shipowners to multiply these clauses to their hearts' desire, exonerating them from any liability.

The port and trade sectors reacted in 1886 with a bill from their representatives in parliament, Felix Faure, Jules Siegfried and other politicians. They sought to make the exemption from liability valid only for "nautical faults" as opposed to "commercial faults". The former related to the command or the execution of piloting the vessel, whereas commercial faults related to stowage, the guard, care and delivery of the goods. The chambers of commerce were divided, as six of them (Bayonne, Boulogne, Dunkirk, La Rochelle, Roubaix and Rouen), influenced by shipowners, were against the bill, whereas the other chambers, more favourable to the shippers, supported it. In the middle of the 1890s, the creation of professional organizations of shipowners further weakened the position of the chambers of commerce on a national level. These organisations were: *Syndicat marseillais de la marine marchande* founded in 1891, *Syndicat des armateurs du Nord* in 1897 that joined forces with the CCAF (above) in 1903.

On the other hand, the chambers of commerce found support in an international context: the highly protectionist American regulation, the Harter Act of 1893, imposed a 2,000-dollar fine on shipowners that failed to provide a "good bill of lading", that is, containing negligence clauses. This position is explained by the fact that shippers had a dominant role in the US. Despite this, the division of the provincial chambers of commerce was at its height: between 1895 and 1905, 12 of the 31 maritime chambers and 10 of the inland chambers ruled in favour of adopting the American law in France. Marseille confirmed its approval by three rulings, Le Havre and Rouen by two. The inland chambers that approved, seem, other than Perpignan, Orleans and Lille, to be sufficiently distant from the ports to suffer from the risks of remote transport and requested the abolition of the shipowner negligence clauses. They were in a much stronger position than the insurers and the German shipowners of Hamburg and Bremen had just agreed not only on nautical faults, but also on commercial clauses. The conflict consequently left the theatre of the French ports to unfold in Paris.

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<sup>25</sup> The term "shortfalls" refers to goods that disappear during the voyage, either in weight or in number and are an essential concern of charter-parties.

<sup>26</sup> Articles 216, 221, 222, 223, and 230, the latter could decide if a case related to a force majeure.

<sup>27</sup> Judgement from 10 March 1869, *Bulletin des arrêts de la Cour de cassation*, 1869, volume 71, n° 3, p. 75. "déterminer d'une manière suffisante les bases de cette responsabilité"

## Shippers, shipowners and insurers against the port chambers of commerce

It seems that the Paris chamber of commerce acted as mediator in this head-on collision between lessors and charterers, even though the chamber appeared to favour the shipowners in 1895, by proposing one of their demands: a call for international agreement. Indeed, shipowners across the world adopted the clauses exempting them from liability, which gave them room to manoeuvre in disputes over low freight. While favourable for bulk cargo, this system could be disastrous for general cargo, which made up the majority of exports of Parisian trade. The 1895 bill, by ministers of commerce, André Lebon, and of justice, Jacques Trarieux, was original in its proposal of an international conference in order to avoid penalizing French shipowners. Indeed, shipowners in France faced competition from global shipping companies that practised what was effectively dumping, in particular with respect to the *Messageries maritimes*, whose freight was too high. André Lebon, company director, explained pragmatically that “experience shows that shippers always choose the best contract.”<sup>28</sup> Shippers thus found themselves in a paradoxical situation: they demanded both low freight and good transport conditions which, according to shipowners, required a rise in freight.

It was the insurers who finally caused the crisis that broke the stalemate. First of all, they were obliged to insure against the new risks not covered by the increase in negligence clauses by shipowners, and, at a certain point, they struggled to back this uncontrolled deregulation of shipping instruments. The French maritime insurers had been organized in a central committee for a long time: created in 1836, it was restructured in 1860 with international branches, which enabled the committee to react effectively to the crisis between shippers and shipowners thirty years later. The insurers, gathered at an international congress in Paris on 20 September 1900, decided that from 1 January 1903, they would no longer compensate for fault exempted under charter-parties and bills of lading, or the theft of goods committed in the course of a voyage. They would no longer accept the clauses freeing shipowners from their liability for the faults of the captain and crew, removed by the American law of 1893. A “shippers’ congress” was hastily organized in October 1902. While it did not signal the structuring of this very heterogeneous category of customers into an institution, it was undoubtedly the result of the insurers’ move against shipowners. The shippers, who were, therefore, no longer covered by either the insurers or the shipowners, had only the divergent support of the provincial chambers of commerce. They turned to parliament with the aim of France adopting the Harter Act, a step which, by making the state the mediator of commercial disputes, clearly opposed liberal beliefs.

Meanwhile, the CCAF had been founded and the bill of lading crisis was an essential driving force in actualising the creation of this organization of shipowners, faced with the protesting shippers. A “joint committee”, created ad hoc, brought shipowners and shippers together in the buildings of the Paris chamber of commerce on 14 May 1903. André Lebon, former minister favourable to the shippers, became president of the CCAF. He tried to justify his turnaround citing the crisis that affected the merchant navy, but

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<sup>28</sup> “l’expérience démontre que le chargeur va toujours au meilleur marché” *Connaissements, Syndicat des exportateurs, commerce et industrie d’exportation, Compte-rendu de la commission mixte pour la réforme des clauses d’exonération des connaissances. Réunion du jeudi 14 mai 1903 tenue sous la présidence de M. Derode à la chambre de commerce de Paris, Marseille, Moullot fils aîné, 1903, p. 21.*

he also insisted, more convincingly, that shipowners found support in Germany from the chambers of commerce, without evoking, of course, the hostility of the French chambers. Finally, in the conclusion of his intervention, he was on the offensive: "If they want to strangle us, we will protest, until the end, and if necessary, we will lay up."<sup>29</sup> The response of Master Frederic Autran, lawyer for the shippers, was just as virulent:

"Shipowners do not have a monopoly over the law, they have a de facto monopoly, and this is still extended by the pools and trusts. Do I reproach you for it? Not at all, seeing as it is possible that at the present time, the trust is the shape of the employers' union to come... How would you like it if an individual trader, who has 500 quintals of chickpeas or beans to load, can charter a boat or discuss transport issues when it concerns such a small quantity of goods!"<sup>30</sup>

The conflict was thus at a stalemate. The shippers' campaign went on to unsuccessfully propose modifications to commercial law and the scope statement of the subsidized companies throughout the entire period preceding the First World War.

### **Disputes between shipbrokers and the trade**

In France, shipbrokers<sup>31</sup> had the title "sworn brokers, interpreters and conductors of ships". They were ministerial officials named by decree of the Head of State, whose remit and obligations were legislated by six articles in the commercial law of 1807<sup>32</sup>. They were simultaneously "the notaries of maritime trade", spokesmen of the law and the guarantors of customs protectionism.

#### Auxiliary brokers for customs and the law

Customs brokerage was the main activity of shipbrokers, and consisted in accompanying or representing the captains of ships in all the formalities that they had to carry out at customs, either on the arrival or departure of the ship. However, the parties concerned, captain or shipowner, the consignees of the cargo and the shippers, could decide to do without brokers if they wished to act on their own behalf. They could be also represented by a clerk with a mandate exclusive to their firm, but not by the consul of their nation. If the captain wished to carry out the formalities himself, he had to know the French language, and he was, nonetheless, accompanied by a broker.

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<sup>29</sup> "Si on veut nous étrangler, nous protesterons, jusqu'au bout, et au besoin nous désarmerons". *Ibid.*

<sup>30</sup> "Les armateurs n'ont pas de monopole de droit, ils en ont un de fait et ce monopole est encore étendu par les pools, par les trusts. Est-ce que je vous en fais un reproche ? Pas le moins du monde, vu qu'il est possible qu'à l'heure actuelle, le trust soit la forme de l'union patronale de l'avenir... Comment voulez-vous qu'un négociant isolé, qui aura à charger 500 quintaux de pois chiches ou de haricots puisse affréter un bateau ou discuter des questions de transport lorsqu'il s'agit d'une si petite quantité de marchandises !" *Ibid.* p. 15-16.

<sup>31</sup> Translation of "courtiers-jurés interprètes et conducteurs de navires". Sometimes called at the time "courtiers de navires" in France, literal translation of shipbrokers.

<sup>32</sup> Articles 80, 81, 83 à 85, 87 - 90 of the commercial law.

Above all, they played an essential role in shipping disputes, acting as an intermediary for foreign captains and shipowners. Indeed, only the sworn shipbrokers were entitled to translate declarations, charter-parties, bills of lading, contracts and all other commercial deeds, before the courts or for customs. From 1880, they could carry out this duty before any jurisdiction and not solely before the commercial courts.

#### Private businesses excluded from commercial activities

The sworn shipbrokers had a monopoly over the brokerage of freight, reporting freight rates, the translation of documents before the courts and at customs, and lastly clearing ships through customs, which was their principal activity. While the public sale of ships was another activity reserved for them, they were strictly prohibited from undertaking commercial transactions on their own behalf and from having financial interests in a commercial company, including shipping companies. However, some of the shipbrokers also undertook the duties of stockbroker and, in practice, all maritime insurance brokers were shipbrokers. Other occupational sectors were reserved exclusively for them, in particular the sale of boats and ships.

From 1887, the sworn shipbrokers' monopoly could be upheld only in commercial ports where their position as a public official was certified by law. Charter brokerage, which was still a profitable undertaking in the first half of the 19th century, tended to disappear with globalisation and the relative concentration of shipping. This was due to the fact that shipowners began to receive requests for freight directly in their offices and agencies, thanks to the rise of the telegraph, the organization of agency and advertising services. This brokerage sector continued to flourish only for the chartering of entire ships and tramp trade. As these businesses were centralized in Paris, where many shipping companies had their registered office or agents, the charters were negotiated by freelance shipbrokers who were not restricted to the ports. However, in the ports themselves, shipping agents acted as representatives for charterers or played the role of freight forwarder. They could draft charter-parties, as this was not the exclusive privilege of shipbrokers. The latter seemed more attached to their hereditary title than to strictly respecting their state-granted monopoly that they themselves would violate, by investing in maritime commerce or collaborating with "unlicensed brokers".

#### The Salvy affair, 1852

Jean-Baptiste Salvy was the manager and director of the Loire and Morbihan branch of the steamship company, *Compagnie des paquebots à vapeur*, established in the port of Nantes under *Edel et Cie*. From September 1850 to April 1851, he was responsible for making declarations to the customs office of Lorient (Morbihan) on behalf of the company. The brokers of Lorient took him to court for illicit brokerage. Salvy was sentenced in the first instance in Lorient, then in the second instance in Vannes. His appeal to the court of cassation sent him to the Rennes court of appeal<sup>33</sup>. The lawsuit had national repercussions<sup>34</sup> as the brokers of Lorient assembled all the French broker associations against all the shipowners, who disputed

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<sup>33</sup> *Annales de la science et du droit commercial, terrestre et maritime*, 1852, 2<sup>e</sup> partie, jurisprudence, p. 313-315 et 406-408.

<sup>34</sup> *Journal des Débats*, 10 April 1852, p. 3 citing *Le Lorientais* du 7 April 1852.

their right to act on behalf of their captains at customs. The court of cassation made its decision<sup>35</sup> calling on the provisions of the ordinance of 1681, which allowed captains and shipowners to negotiate without the assistance of brokers. These provisions were repealed by the law of 21 April 1791, which abolished the title of broker, that was then reinstated under the Consulate in year X and sanctioned by the commercial law of 1807. This was a very political choice, published a few days after the bloody *coup d'état* of 2 December 1851 that put an end to the Second Republic. It was a good decision for the new regime, as it was able to satisfy the reactionaries, royalist legitimists and Bonapartists, by valuing the contribution made by the rulings of the Ancien Régime and Napoleonic legislation while thwarting the gains of the French Revolution. The Rennes court of appeal's definitive judgement ruled that shipowners and steamship companies could either act on their own behalf in customs offices, regarding octroi duties and direct taxation, or be represented by clerks. It sanctioned the fact that "the exclusive privilege of shipbrokers ceases whenever the masters or merchants can or want to act on their own behalf, exercising such an ability is besides only a return to the general principle which leaves each individual free to manage his affairs himself."<sup>36</sup>

But this ruling did not put an end to the conflicts between shipowners and sworn shipbrokers. The Second Empire attempted to call into question this "exclusive privilege" that opposed the liberal principles strongly reaffirmed in 1860 in the treaty of free trade with Great Britain. The law of 16 and 24 July 1866 did away with the title of commercial broker, but maintained that of the "sworn broker, interpreter, conductor of ships", and the maritime insurance broker. Other contentions between shipowners, traders and shipbrokers would still break out, resulting in new crises.

### The Bordeaux Resistance 1869-1876

Conflict broke out in Bordeaux in 1869 when legal tariffs remained arbitrarily fixed at a higher rate than in other ports<sup>37</sup>. The shipbrokers of Bordeaux achieved unanimity against the chamber of commerce, the commercial court, shipowner-lessors and merchant-charterers, who united in support of the laws on brokerage. The 22 shipbrokers only agreed to lower the tariff in 1871 at the cost of a "really odd treaty" according to the minister of commerce himself, Victor Lefranc<sup>38</sup>. They proposed reducing their workforce to 12 "so that the clientele of the shipbrokers that would remain increased by that of the 10 brokers who would be compensated." A tax of one franc per tonne was instated in the port of Bordeaux from 1872 to pay this compensation to the shipbrokers<sup>39</sup>. It was extended until 1875 despite the court of cassation ruling it illegal, as it fell on ships which did not use the brokers' services. The court condemned the actions of the shipowners, who lowered their offer of services to the disadvantage of the shippers: "It cannot be up to the

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<sup>35</sup> *Bulletin des arrêts de la Cour de cassation*, 1852, volume 57, p. 75-77

<sup>36</sup> "le droit exclusif des courtiers cesse toutes les fois que les maîtres ou marchands peuvent ou veulent agir par eux-mêmes, faculté dont l'exercice n'est d'ailleurs qu'un retour aux principes général qui laisse chacun libre de gérer ses affaires par lui-même" *Annales de la science et du droit commercial*, art. cit.

<sup>37</sup> *JORF débats de la chambre des Députés*, 11 November 1876, p. 8137.

<sup>38</sup> Victor Lefranc (1809-1883) minister for trade and agriculture from 1871 to 1872, negotiated directly with Gladstone over the revision of the bilateral commercial treaty of 1860, which makes his remark all the more interesting: "traité vraiment bizarre". Original of following quotation: "de façon que la clientèle des courtiers qui resterait s'augmentât de celle des dix charges qui seraient rachetées".

<sup>39</sup> Decree of 22 May 1872, official tariff of brokerage in the port of Bordeaux. JO 29 May 1872, p. 3569.

shipowner, while offloading the care he could have taken himself on to a broker, to burden the shippers with an expenditure that they did not expect to cover and to make their conditions worse than they had intended.”<sup>40</sup>

In 1883, the chambers of commerce were called to give their opinion on brokerage law<sup>41</sup>. That gave the parliamentarian for the Seine-Inférieure, Felix Faure (above), the opportunity to stand out by presenting the position of Bordeaux. The Bordeaux shipbroker association questioned whether it was necessary to unify these customs by extending the application of the tariff established in Le Havre, by the decree of 9 June 1882, to all ports. In Bordeaux, the modifications of 1872 would have satisfied the shippers since the taxes were levied more heavily on the shipowners. The shipbrokers justified these increases on the basis of the so-called “special services rendered in the Bordeaux region”<sup>42</sup>. Faure emphasised, as did the Dunkirk chamber of commerce, that the complaints mostly came from foreign shipping agents “more concerned to be free themselves of the expenses which weigh on them in our ports, than to examine impartially if, in their own countries, higher expenses do not impact maritime trade”. This time, the Bordeaux chamber of commerce aligned itself with the shipbrokers regarding the impossibility of unifying the tariffs while allowing diversity of use and services. Once more, port customs were successful, to the great displeasure of British shipowners<sup>43</sup>.

## Shipowner solidarity

The *Comité central des armateurs de France* (CCAF) founded in 1903 was a professional syndicate; it brought the vast majority of French shipowners together and lobbied actively in French institutions. The Baltic and White Sea Conference (BWSC) founded in 1905, was initially a freight agreement between European shipowners concerning the transportation of the wood and coal of northern Europe. The BWSC then extensively expanded its activities of supplying charter-parties to shipowners the world over. Its evolution is spectacular: 11 member states in 1905 (2.5 million DWT) including France, 19 in 1925 (12.5 million DWT), and 29 in 1938 (15 million DWT).

### French lack of interest in the Baltic and White Sea Conference (1905-1907)

The primary goals of the BWSC were clear: “to abolish misconduct, to introduce reform and to raise freight.”<sup>44</sup> From June 1905, circulars were sent to certain French shipowners engaged in the transportation of wood. Despite this, from December 1905, the leaders of the BWSC deplored the lack of interest of

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<sup>40</sup> “Il ne peut dépendre de l’armateur, en se déchargeant sur un courtier des soins qu’il aurait pu prendre lui-même, de grever les affréteurs d’une dépense à laquelle ils n’ont pas entendu se soumettre et de faire leurs conditions moins bonnes qu’ils n’ont eux-mêmes entendu la faire” Court of cassation rulings, 1877, volume 79, n° 8, Ruling of 14 August 1877p. 250, n° 138 *Courtiers maritimes, affrètement, armateurs*.

<sup>41</sup> *Le Journal des Chambres de Commerce et d’industrie*, September 1883, n° 9, p. 469.

<sup>42</sup> “services spéciaux rendus dans la région de Bordeaux”; following quotation: “plus soucieux de s’affranchir des charges qui pèsent sur eux dans nos ports, que d’examiner avec impartialité si, chez-eux-mêmes, des charges supérieures ne frappent pas le commerce maritime”

<sup>43</sup> The specific history of their diplomatic intervention through the intermediary Chamber of Shipping is yet to be explored.

<sup>44</sup> “abolir les abus, introduire des réformes et faire relever les frets” ANMT, 52AS/249-1, BWSC to CCAF, 8 December 1905.

French shipowners in the Conference. Only two shipowners became members: the *Frisch* firm in Marseille and the *Compagnie des Bateaux à vapeur du Nord*, in Dunkirk. Yet, in reality, from its beginnings on the French freight market, its aim was to set low freight rates, referred to as the “Copenhagen regulation”, the Danish capital being the seat of the Baltic. This step provoked a reaction typical of the competitiveness that poisoned the relationships between localities: in Dieppe, the firm *Carins, Noble et Cie* protested, as the new regulation was advantageous for the port of Honfleur, situated six hours by boat from Dieppe and whose port, according to the firm, would be “encumbered by muddy deposits and the ships must wait several days before gaining access.”<sup>45</sup> The BWSC’s response to the CCAF was categorical: the merchants concerned had only to join the Conference to resolve the issue<sup>46</sup>. Yet no French shipowners attended the second BWSC general assembly in London in November 1906. They struggled to have any interest in the Conference if they practised neither tramping, nor worked in the geographical area implied by the name of association. In 1907, in desperation, the BWSC asked only for French “moral support to show solidarity between shipowners.”<sup>47</sup>

After two years’ experience, the BWSC understood that the issue of raising freight was secondary and that the reform of charter-parties and the abolition of misconduct in the ports were essential to shipowners. Indeed, even if they obtained advantageous freight, they lost all profit due to the expensive conditions in the charter-parties, which took up to fifty per cent of freight in commissions and various expenses. Thus, fixing freight in Bordeaux in 1905 was decided in accordance with the constraints of the port: the slow discharging process, numerous complaints from importers, the excessive cost of discharging wood. Freight increased from 37 to 39 francs in La Rochelle and Rochefort and reached 45 francs in the port of Gironde<sup>48</sup>.

The revival of the repressed: strike clauses

The closer relations between the BWSC and the CCAF involved the return of the nagging issue of strikes in ports. The CCAF discreetly founded an association for French workforce employers, *Association des employeurs de main d’œuvre dans les ports de France*, which enabled them to have direct control over the conditions of goods-handling in ports. Conceived as a subsidiary of the CCAF, it held its first general assembly on 20 November 1907 and gathered together the contractors of manual labour (stevedores) and the principal shipowners of the large ports. It is worth bearing in mind that the CCAF, reinforced by the new institution, was able to calmly communicate with the BWSC regarding a topic less controversial than purely commercial issues. Of course, the two associations tacitly agreed to stigmatize strikers, but the only way of tackling the problem was to reduce the commercial consequences of going on strike as much as possible. The BWSC was especially concerned, stressing that it was “a question of the highest importance for

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<sup>45</sup> “encombré de dépôts vaseux et les navires doivent attendre plusieurs jours avant d’entrer” *Ibid.*, CCAF to BWSC, 28 September 1905.

<sup>46</sup> *Ibid.*, BWSC to CCAF, 30 September 1905.

<sup>47</sup> “appui moral pour démontrer la solidarité existant entre les armateurs” *Ibid.*, 30 August 1907.

<sup>48</sup> *Ibid.*, 13 October 1905.

shipowners and charterers.”<sup>49</sup> It was also a means of broadening its influence in shipping disputes, without explicitly saying so.

From 1858, French case law considered that the risk of strike was inherent to the shipowner and charterer industry<sup>50</sup> and that it was down to them to take precautions against this risk by negotiating wages with their employees. Consequently, strike clauses spread throughout charter-parties. With the proliferation of strikes in Europe from 1889, the French courts started to change their position, but they generally did so in favour of the local charterer, without taking account the shipowner’s interests, who was generally foreign and a member of the BWSC. For a strike to become a force majeure in the eyes of the courts, it had to affect the corporation’s entire workforce dedicated to goods-handling and also had to be unforeseen. The complexity of the local situation was then added to the delicate task of establishing these facts, and the foreign shipowner was ultimately the main victim<sup>51</sup>. Charterers put forward the inevitable, a case of force majeure, against the shipowner, that the French lawyer George Barbey called “the empty words of the Master Mariners.”<sup>52</sup> Charter-parties, therefore, required a strike clause to solve this problem. This clause had to be able to not only release the vessel, allowing it to load or discharge in a port of its choice, but also to exempt the charterer from any losses due to accumulated delays. This commercial legal system, which had to, according to terrestrial law, first be finalised by the International Law Association, was ultimately implemented by the BWSC in its charter-parties. The disparity between civil law and Anglo-Saxon pragmatism obliged the CCAF to dissociate itself from the BWSC, whose clauses allowed charter-parties to be annulled that were considered “uncontrolled” by French shipowners.

### **The integration of the CCAF into the work of the BWSC**

Instead of entering directly into conflict with French shipbrokers, the BWSC decided that its members should profit from the information gathered from the CCAF. The entire shipping world could benefit, that is, shipowners, charterers, shippers, forwarding agents and brokers as well as shipping agents. Mutual benefit insurance clubs, known as Protection and Indemnity clubs (P&I), as well as national associations of shipowners were also members. The extensive expansion of the BWSC’s activities was able to arouse the sympathies of the CCAF, itself limited by the terms of the law on professional syndicates of 1884, which prevented the Committee from negotiating commercial deals with its members, under the authority recognized by the BWSC for the drafting of charter-parties. From February 1909, the BWSC allowed shipbrokers to become members of the Conference after lengthy internal debates. This could certainly be put down to friendship and goodwill<sup>53</sup>, but above all, formidable efficacy, as the British and Scandinavian shipbrokers were charged with informing the Conference of the local conditions and tariffs. Yet the rallying cry of the BWSC in December 1922, even after it allowed shipbrokers to become members, was to renew

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<sup>49</sup> “une question de la plus haute importance et pour les armateurs et pour les affrèteurs” *Ibid.*, 21 January 1907.

<sup>50</sup> Birac against Worms, 22 March 1858, *Mémorial de jurisprudence commerciale et maritime de Bordeaux*, 1856 volume 26, p. 125-128.

<sup>51</sup> *Association des employeurs de main-d’œuvre dans les ports de France*, Circular n° 28 of 14 November 1908, p. 213.

<sup>52</sup> “la tarte à la crème des capitaines au long cours” *Ibid.*, p. 219.

<sup>53</sup> *BIMCO 1905-1980, 75 Years of International Co-operation*, Copenhagen, The Baltic and International Maritime Conference, 1980, p. 16.

the “urgent calls, occasionally made partly by the Conference and partly by international organizations” so that shipowners could avoid entrusting their interests to merchant brokers<sup>54</sup> or, indeed, speculators.

Before joining the BWSC, the CCAF was invited to work with the Conference on the specific case of the wood charter. The BWSC/CCAF system functioned as follows in 1922: the BWSC tasked the tramp trade section of the CCAF with examining the terms within the charter-party entitled Wood Charter Norway and Baltic Form that were disadvantageous for shipowners. Shipowners were invited to consult one another and state the seven clauses that were unfavourable and force shippers to remove them in November 1922. Three months later, the CCAF tramp trade section presented the terms of an amended version of the Wood Charter intended for the French wood consortium, the *Société centrale des bois de Paris*<sup>55</sup>. Another method involved replacing the standard charter-party with another. The BWSC thus suggested that the CCAF use the Syndicate Charter instead of the Wood Charter. However, the French shipowners declined the offer of this contract as the text was favourable to wood importers and contained, as in the previous charter, troublesome clauses for shipowners that increased discharging costs. Finally, the CCAF, satisfied with this working method, suggested that all shipowners demand the charters to apply to loading as well as discharging, so that with only one charter-party, “playing into the hands of the adversary”<sup>56</sup>, that is, the charterer, could be avoided.

However, in November 1923, negotiations for the revision of charter-parties had not yet come to a successful conclusion, despite the CCAF acting as mediator with the *Société centrale des Bois*, the consortium of French importers. In fact, the CCAF thought that the Scanfin charter-party of 1899 was encumbered with clauses making the utilisation of ships “very unpredictable.” For example, the “congestion clause” applied in the event of significant obstruction of the ports. If the recipient port potentially had a means of avoiding this congestion, the shipowner, referred to as “the ship”, would be caught completely off-guard. Consequently, the shipowner should receive compensation for time lost waiting for berth. Other clauses had to disappear, such as the one termed “customs of the ports”. They believed that these obsolete clauses were “a unique opportunity to put as much pressure on the shippers as well as on the charterers to change these terms, given that the laytime must vary according to a scale proportional to the capacity of the vessel.”<sup>57</sup>

This close cooperation was fruitful, as, when the British ratified the new Scanfin charter on 26 May 1924, the CCAF announced to the BWSC that several French shipowners had joined by signing an “undertaking” in advance, “that proves the desire for our members to collaborate in all activities of a nature that protects the shared interests of shipowners.”<sup>58</sup> This support was all the more important for the BWSC, as the wood traders of Humber Timber Merchants did not follow its guidelines in May 1924. The consequence of this Franco-Baltic unanimity was felt immediately: the tramp trade section of the CCAF requested to join the Documentary Council of the BWSC on 13 June 1924.

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<sup>54</sup> “appels urgents, lancés de temps en temps partiellement par la Conférence et partiellement par les organisations internationales” ANMT, 52AS/249-1, BWSC to CCAF, 20 December 1922.

<sup>55</sup> *Ibid.*, 26 February 1923.

<sup>56</sup> “faire le jeu de l’adversaire” *Ibid.*

<sup>57</sup> “une occasion unique de faire pression sur les chargeurs autant que sur les affréteurs pour modifier ces conditions, étant donné que le temps de planche doit varier suivant une échelle proportionnelle à la capacité du navire” *Ibid.*, 4 April 1924.

<sup>58</sup> “ce qui prouve le désir pour nos adhérents de collaborer à toute action, de nature à protéger les intérêts commun des armateurs” *Ibid.*, 26 May 1924.

After the Great War, the influence of port customs was particularly felt in the handling of wood, necessary for reconstructing France and, in particular, rebuilding the mines of Nord/Pas-de-Calais. This was the chance for the management of the CCAF and the participating members of the BWSC to adhere to the cultural customs of foreign fellow-members and vice versa. Wood importers from northern Europe complained that operations of loading and discharging wood were considered separately in Calais and Le Havre. The prices went from 18 to 22 francs on average. In Nantes, where the two operations were not separate, the price fell to 15.50 francs, the ship providing winches and men for the task. The Scandinavian shipowners, therefore, believed that the current price could go down to 8 or 9 francs<sup>59</sup>, and that, in the ports, they had to pay up to 18 francs on average to the profit of the shippers. To avoid this kind of miscalculation, charter-parties included the following clause: "at lowest current price not exceeding Fracs. 12.50 per Std."<sup>60</sup> However, this excluded stowage and brokerage fees which were due by the receiver, who tended to unduly defer these costs to the ship, ultimately making the shipowner pay 19.50 francs. While issues of weights and measures further complicated matters<sup>61</sup>, it can also be said that they improved communication by circulating information, while noting the limits of the system.

Regarding these port customs, the CCAF had to educate and explain, on many occasions, why the Committee could not force the French public authorities to reform this or that official text applied to all French shipowners and traders, for the benefit of foreign shipowners. This principle of equality between all shipowners was not, incidentally, universal. The stevedores of Amsterdam and Zandam, who charged Dutch ships lower tariffs, were also obliged to lower their rates after the BWSC complained to the Dutch association of shipowners<sup>62</sup>.

## **Towards international arbitration**

At the annual congress in Oslo in 1925, the BWSC resolved to create an ad hoc committee to investigate whether or not it was possible and desirable to introduce international arbitration for shipping disputes. In October 1925, the BWSC thus asked its participating institutions to name committee members and collate the experience of other arbitration institutions:

"[...] we are firmly convinced that many of the disputes which are now subject to costly litigation, sometimes covering several years, might be settled quite as satisfactorily by direct reference to experts. Time and money would be saved for the parties to the dispute, as well as for other shipowners who might, while the case was pending before the courts, be up against the same trouble. If the arbitration is given an international character, there is reasonable grounds for presuming that similar disputes arising in different

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<sup>59</sup> *Ibid.*, E. Standröm of Gothenburg to BWSC, 7 December 1922.

<sup>60</sup> *Ibid.*, BWSC to CCAF, 4 September 1922.

<sup>61</sup> French shipbrokers, applying the decree of 21 August 1861, had to foresee remuneration based on the number of freight tonnes in the load of wood. Such as the St Petersburg standard measure, specifically for bulk wood, equal to 165 feet cubed or 4,672 m<sup>3</sup>, meaning 3.24 freight tonnes in a standard measure. The basis of 2.8 is the Christiania standard measure, only used by Scandinavians at the time.

<sup>62</sup> ANMT, 52AS/249-1, CCAF to BWSC, 19 December 1922 and 26 January 1923.

countries would be settled on the same principles, instead of in the haphazard manner that is often the case at present with one local court giving one decision, and another quite a contrary one.”<sup>63</sup>.

The convergence of the two organizations seems favourable, with the CCAF itself in the process of developing a maritime arbitration chamber<sup>64</sup>. The BWSC noted that the CCAF was a member of the court of arbitration of the International Chamber of Commerce (ICC)<sup>65</sup> and questioned the utility of this membership, leaning instead towards an independent representation of international shipping. To this end, the Conference contacted the League of Nations (LN) to ratify an open protocol in Geneva on 24 September 1923 concerning the arbitration clauses in the trade contracts not yet ratified by France<sup>66</sup>. The CCAF was rather hostile to the LN and heavily involved in the ICC, which it considered to have shown vitality and effectiveness: it already had regulation covering mediation and arbitration, which had undergone the test of practice. Moreover, the ICC adopted the same methods to solve the conflicts concerning maritime and terrestrial matters<sup>67</sup>. The BWSC ultimately came round to the CCAF’s idea, which meant that the new arbitration body would be part of the framework provided by the ICC, proposing a diversified structure for managing shipping disputes, capable of inspiring confidence in all parties and comprising three departments:

“One dealing with disputes between merchants and merchants, another representing international shipping interests, dealing with disputes between owners and owners, and a third, a joint one, with disputes between merchants and owners.”<sup>68</sup>

## Perspectives

On a national level, the Paris/province tensions only began to gradually die out from the creation of the CCAF in 1903. This new professional actor was, of course, dominated by the big players, *Messageries maritimes*, the CGT and *Chargeurs réunis*, but it also gathered together the other short sea shipping companies, fishing companies, and shipping companies providing port services, towing and piloting. Strengthened by this vast gathering of maritime sectors, it acquired considerable weight as a parliamentary lobby at a national level. It could thus circumvent the influence of the port chambers of commerce, which had been supported for decades by their districts and alliances with concerns divergent from those of the maritime world, by founding two institutions that regulated the relations between the two economic sectors.

Indeed, the recourse to arbitration was not the only means of escaping the stuffy legalism that occasionally obscured shipping disputes. In France, the institutional focus of the maritime and port lobby

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<sup>63</sup> *Ibid.*, 17 October 1925.

<sup>64</sup> C. Borde, “Les deux rêves du commerce maritime au premier xx<sup>e</sup> siècle. Arbitrage social et commercial chez les Armateurs de France (1891-1950)” in: Albercht CORDES, Serge DAUCHY, *Eine Grenze in Bewegung : Private und öffentliche Konfliktlösung im Handels-und Seerecht / Une frontière mouvante : Justice privée et justice publique en matières commerciales et maritimes*, München, R. Oldenbourg Verlag, 2013, p. 345-362.

<sup>65</sup> ICC

<sup>66</sup> ANMT, 52AS/249-2, BWSC to CCAF, 20 October 1925.

<sup>67</sup> *Ibid.*, CCAF to BWSC, 23 October 1925.

<sup>68</sup> *Ibid.*, BWSC to CCAF, 4 November 1925.

contributed to this more discretely but undoubtedly more decisively. In July 1917, the CCAF led to the creation of the large French ports association, *Association des grands ports français*. The two organizations then came together in joint effort in 1921 with the maritime chambers of commerce and French ports union, *Union des chambres de commerce maritimes et des ports français*. In victoriously putting an end to the tensions of the shippers' revolt, the CCAF finally found a good level of cohesion with the most influential chambers of commerce. At the end of the 1930s, shipowners and shippers could follow their own policies while remaining united. This was partly facade, but real enough to put an end to the outward division of the "maritime trades" and the relative triviality of shipping disputes.

The preservation of the shipbrokers' exclusive privilege is symptomatic of the French language argument, which required legal translators considered essential by the legislator, then by the beneficiaries of the system themselves. The exclusive privilege of the "sworn shipbroker, interpreter, conductor of ships" was finally removed by the law of 16 January 2001<sup>69</sup>. This French cultural exception, preserved for too long, seems to confirm Mickaël Miller's hypothesis, set forth to explain the vexations of the merchant navy from the 1970s and according to which shipowners "did not conform to the cultural practices of their colleagues from other maritime countries."<sup>70</sup> Unless this disparity applies less to shipowners and more to ancillary shipping companies, the period that we have studied seems to show the opposite, at least with regard to the CCAF, which managed, year in year out, to be integrated into global shipping. On this international stage, the collision of the civil legal traditions in France and the Common Law of the British world led to an outbreak of conflict and, at the very least, caused the communication difficulties which added to the economic weight of economic hegemony.

We can also state that, regarding the historiography of this "maritime-port" conflict, studying how the law is used by each actor is essential to understanding the issues and what was at stake. It is a means of putting to the test the effects of scale, from local to global, from both an economic and socio-political angle. The regulation, by lobbying or arbitration, of these conflicts was carried out by institutions and groups of professionals that are still little studied or unknown. Studying this regulation, we believe, provides a new way of addressing the history of shipping.

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<sup>69</sup> Virginie Bismuth, *La fin du monopole des courtiers maritimes : Droit maritime et des transports*, Paris, 2011.

<sup>70</sup> "ne se conformaient pas aux habitudes culturelles de leurs confrères des autres pays maritimes" Mickaël Miller, "l'énigme de la marine marchande française au XX<sup>e</sup> siècle", *Revue d'Histoire maritime, La marine marchande française de 1850 à 2000*, n° 5, 2006, p. 119.