Journal of Korea Trade Vol. 24, No. 5, August 2020, 18-34
https://doi.org/10.35611/jkt.2020.24.5.18
ISSN 1229-828X

JKT 24(5)

Received 24 April 2020
Revised 24 May 2020
Accepted 20 June 2020

Arbitrator Acceptability in International Maritime Arbitration: The Perspective of Korean Shipping Companies*

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Abstract

Purpose – In the international shipping industry, arbitration is mainly chosen for resolving maritime disputes. This study investigates the "acceptability" of an international maritime arbitrator based on an existing theoretical model of arbitrator acceptability.

Design/methodology – Using structural equation modeling techniques, this study examines a sample of senior managers who engage in the judicial affairs of their international shipping companies to verify a hypothesized model of arbitrator acceptability that covers cultural intelligence, arbitral experience, reputation, practical/legal expertise, and procedural justice as independent variables. Furthermore, the relative "perceived required time" of arbitration is tested as a moderator.

Findings – Arbitrator acceptability is significantly influenced by six constructs of arbitrator characteristics: cultural intelligence, arbitral experience, reputation, practical and legal expertise, and procedural justice. Furthermore, the moderating effect of the perceived required time of arbitration is demonstrated in the relationship between arbitrator acceptability and arbitrator characteristics even though these relationships are not equally influenced.

Originality/value – The originality of this study can be found in its context, that is, international maritime arbitration. Despite the potential growth of international maritime arbitration, existing studies have mainly focused on domestic arbitration. The findings of this study are expected to provide useful guidelines for nurturing international maritime arbitration in Korea.

Keywords: Arbitrator Acceptability, Behavioral Model, International Maritime Arbitration, Shipping Companies
JEL Classifications: F50, F51

1. Introduction

Over the last several decades, the utilization of alternative dispute resolution (ADR) has significantly increased as an alternative to legal proceedings. Particularly, the popularity of arbitration, one of the main types of ADR, has recently soared. Considering the high costs and risks related to litigation, this trend is not surprising (Barkett, 2009). In the international shipping industry, arbitration has also been mainly used to resolve maritime disputes (The Maritime Executive, 2019). However, despite the rising popularity of arbitration, studies on

* This work was supported by the Ministry of Education of the Republic of Korea and the National Research Foundation of Korea (NRF-2018H1A2A1060051).
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arbitrator acceptability have been scarce until recently.

One of the most significant differences between arbitration and litigation is that under arbitration, the parties themselves have the authority to select the arbitrator (Giacalone, Reiner and Goodwin, 1992). Despite this unique feature of arbitration, there is still a dearth of studies on parties' arbitrator acceptability (Chung Yong-Kyun and Ha Hong-Youl, 2016). Furthermore, while the use of arbitration has been rapidly increasing internationally, most studies on arbitrator acceptability have focused on domestic arbitration (e.g., Dezalay and Garth, 1996; Weigand, 2009). Regarding studies on international arbitration, a few scholars have presented practical international arbitrator selection criteria and others have shown survey results on arbitrator selection (Mistelis, 2004; Schultz and Kovacs, 2012). However, they have rarely focused on arbitrator acceptability based on a theory (Bishop and Reed, 1998; Bond, 1991; Lopez, 2014).

In order to bridge this gap in the literature, we investigate the "acceptability" of an international arbitrator. While Chung Yong-Kyun and Ha Hong-Youl (2016) were the first to conduct a study on the acceptability of international commercial arbitrators, a further study appears necessary. Thus, this study develops a model of arbitrator acceptability by examining an auxiliary hypothesis on the cultural intelligence of an arbitrator founded on the model of Houghton, Elkin and Stevenson (2013) and Chung Yong-Kyun and Ha Hong-Youl (2016).

2. Literature Review

Studies on arbitrator acceptability are typically divided into three distinct stages (Chung Yong-Kyun and Ha Hong-Youl, 2016). In the beginning, several scholars mainly focused on demonstrating the background factors that influence arbitrator acceptability in domestic arbitration (Bemmels, 1990; Nelson and Curry, 1981). After a few decades, a new stream of studies that attempt to explain arbitrator acceptability based on a theoretical framework followed. Recently, background factors related to arbitrator characteristics have been integrated into the theory-based model that reflects organizational justice (e.g., Chung Yong-Kyun and Ha Hong-Youl, 2016; Houghton, Elkin and Stevenson, 2013).

In the first stage, the personal characteristics of arbitrators (e.g., age, education and experience in arbitration) were mainly under focus that is whether these characteristics significantly influence arbitrator selection. Several studies showed mixed results. While a few studies demonstrated the positive relationship between the characteristics of arbitrators and arbitrator acceptability (Briggs and Anderson, 1980; Lawson, 1981; Nelson and Curry, 1981), the others did not (Bemmels, 1990; Heneman and Sander, 1983; Kauffman, Vanlwaarden and Floyd, 1994). One of the main shortcomings of the studies in this first stage was the lack of a theoretical foundation supporting the empirical results (Bemmels and Foley, 1996).

In the second stage, scholars attempted to establish the theoretical foundation of arbitrator acceptability. According to the suggested theory-based model, arbitrator acceptability can be predicted based on organizational justice (e.g., Posthuma and Dworkin, 2000; Posthuma, Dworkin and Swift, 2000). Specifically, a behavioral model of arbitrator acceptability was constructed on the basis of the theories of planned behavior (Ajzen, 1991), optimal control, and organizational justice (Greenberg, 1990). Regarding the arbitration process, the level of parties' satisfaction on the arbitrator's decision is likely to be evaluated depending on how they perceive the facts and merits of the case (i.e., the input) and the award as being fair (Houghton, Elkin and Stevenson, 2013; Posthuma and Dworkin, 2000). In other words, they tend to regard the fairness of outcomes quite importantly. Additionally, the fairness of

procedures, that is, procedural justice, tends to be regarded among parties as significant (Posthuma and Dworkin, 2000). In the end, one main factor affecting the perception of overall fairness is procedural fairness, irrespective of the actual outcomes of a case (Thibaut and Walker, 1978). Specifically, arbitration can be considered a dispute-resolution technique of which the parties possess minimal control in terms of outcomes but maximal control in terms of the process itself. Accordingly, creating perceptions of procedural justice is particularly important in the case of arbitrator acceptability (Posthuma and Dworkin, 2000). An empirical study demonstrated a significant positive relationship between the procedural justice practiced by arbitrators and arbitrator acceptability (Posthuma, Dworkin and Swift, 2000).

In the third stage, studies on arbitrator acceptability in the first and second stages were combined to bridge the gap between them. However, to our knowledge, any effort has not yet been made to examine simultaneously both arbitrator demographic characteristics and organizational justice factors to determine which of these myriad of factors is the most important in determining arbitrator acceptability.

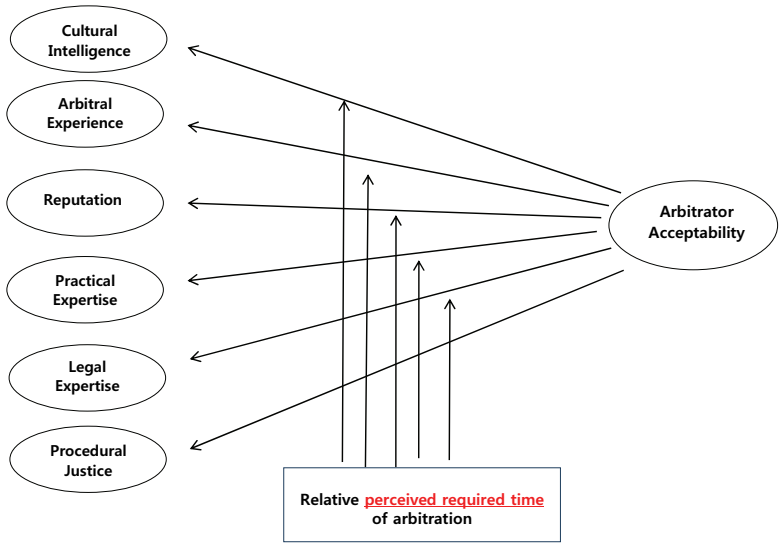
3. Model and Hypotheses

Following the study of Chung Yong-Kyun and Ha Hong-Youl (2016), a model that simultaneously examines arbitrator characteristics and organizational justice is constructed in this study. This study is expected to contribute in three ways. First, the cultural intelligence of arbitrators is added as part of arbitrator characteristics. Second, the moderating effect of the perceived required time of arbitration is examined to contribute to the studies on arbitrator acceptability. Accordingly, a six-factor model of arbitrator acceptability is constructed under the premise that cultural intelligence, arbitral experience, reputation, practical and legal expertise, and procedural justice represent the characteristics of arbitrators. Finally, a theoretical explanation of the hypotheses in the six-factor model as moderated by the perceived required time of arbitration is provided in Fig. 1.

There is ongoing interest in effective negotiations across cultures (Imai and Gelfand, 2010). This has been observed early by Herodotus (ca. 400BC; known as the first historian in the world; Herodotus, Marincola and de Selincourt, 2003) when Egyptians engaged in international trade with Greeks in ancient times. Today, in the era of globalization, a key aspect of various inter-organizational relationships (e.g., strategic alliances, joint ventures, mergers and acquisitions, licensing and distribution agreements, and sales of products and services) is the ability to negotiate effectively across cultures (Adler, 2000). In today's geo-political scene, where the origin of conflict among parties has cultural undertones, the necessity for effective negotiations across cultures is quite evident (Huntington, 1996). In the same vein, the main proposition of this study is that arbitrators with higher cultural intelligence would show greater cooperative spirit and epistemic motivation in a cross-cultural world. Furthermore, they are more likely to engage in effective, integrative arbitration processes. Thus, the concerned parties are expected to consider the arbitrator's cultural intelligence when choosing an international arbitrator. Earley and Ang (2003) defined cultural intelligence as the capability of individuals to adjust effectively to circumstances of cultural diversity. Therefore, the first hypothesis is proposed as follows:

H1: Arbitrator acceptability is significantly influenced by the cultural intelligence of international arbitrators.

Fig. 1. Conceptual Model



Arbitral experience is suggested as the second factor that affects arbitrator acceptability. Existing arbitrator acceptability studies show that experienced arbitrators are likely to be preferred (Nelson and Curry, 1981) since parties are hesitant to accept those of unreliable quality (Coulson, 1965). The entry of inexperienced arbitrators into the arbitration market is hindered by information asymmetry between parties and arbitrators. Parties are especially uncertain about the future performance of inexperienced arbitrators in an international setting. Since arbitrators may hide their weaknesses in order to be selected as utility maximizers, an information cost is paid by parties to examine the capability and background of arbitrators. As a way of reducing information (Alchian and Demsetz, 1972) and transaction costs (Williamson, 1975), parties are likely to choose experienced arbitrators rather than unknown, inexperienced arbitrators. Accordingly, the second hypothesis is suggested as follows:

H2: Arbitrator acceptability is significantly influenced by the arbitral experience of international arbitrators.

To be accepted, an arbitrator associates his/her reputation with those of elite arbitrators. Generally, one's reputation provides a reliable signal of one's quality (Garoupa and Ginsburg, 2010). Accordingly, an international arbitrator desires to be part of a community of elite arbitrators. Arbitrator acceptability is likely to increase if there is close association with international arbitrators (Paulsson, 1997) since trust and emotional empathy shared by community members is expected to encourage conciliation among international arbitrators, and this leads to reappointment in other cases (D'Silva, 2014). Thus, the third hypothesis is proposed as follows:

H3: Arbitrator acceptability is significantly influenced by the reputation of international arbitrators.

Fourth, practical expertise is proposed as another factor that influences arbitrator acceptability. When selecting an arbitrator, technical expertise is important as this indicates whether the arbitrator has management or industry experience in the arbitral setting (Meason and Smith, 1991). Meanwhile, several parties maintain that arbitrators ought to be lawyers, since expert witnesses can offer technical perspective. However, an arbitrator with technical expertise concerning the arbitration tribunal may account for related issues to other arbitrators better than an expert witness can and may even determine bias, errors, or failure in the expert's evidence (Lopez, 2014). In this context, the fourth hypothesis is proposed as follows:

H4: Arbitrator acceptability is significantly influenced by the practical expertise of international arbitrators.

Next, legal expertise is suggested as another factor that influences arbitrator acceptability. The importance of an international arbitrator's legal knowledge is gradually increasing since arbitral proceedings have become increasingly analogous to common-law-style litigation (Sachs, 2006). Furthermore, contrary to domestic arbitration, international commercial arbitration unavoidably involves conflicts between common law, civil law (Gomez-Palacio, 2009), and Muslim law (Fadlallah, 2009) since the trading partners are from across various continents. Arbitrators with insufficient legal expertise may not be able to deal with international disputes efficiently. Thus, the fifth hypothesis is proposed as follows:

H5: Arbitrator acceptability is significantly influenced by the legal expertise of international arbitrators.

Finally, procedural justice is proposed as a factor that influences arbitrator acceptability. Procedural fairness can be considered more significant than outcome, especially among those who, adjudged from an objective viewpoint, have lost the dispute (Vidmar, 1992). For this reason, arbitration can be regarded as a dispute resolution method wherein the parties possess minimum control on the outcomes but maximum control on the process itself (Posthuma and Dworkin, 2000). In fact, procedural justice is more crucial in international arbitration since traders deal with business partners who belong to different legal systems and are afraid of losing the dispute in a foreign court (Drahozal, 2000). Under these uncertain circumstances, traders desire to secure the procedure of dispute resolution under international rules such as the New York Convention (Ginsburg, 2003). Accordingly, international arbitrators are expected to be well-seasoned with regard to procedural justice, as the conflicts between diverse national legal systems and the different needs of the parties are coordinated by them (Bond, 1991). Accordingly, the next hypothesis is as follows:

H6: Arbitrator acceptability is significantly influenced by the procedural justice of international arbitrators.

3.1. The Relative Perceived Required Time of Arbitration

Intercultural arbitrators are more likely to be interrupted by behavioral challenge, including noncooperation and miscommunication (Imai and Gelfand, 2010). Several studies showed that culture-specific schemas (Brett and Okumura, 1998; Gelfand et al., 2001) and behavioral strategies (Adair, Okumura and Brett, 2001) are brought to the negotiation table by negotiators from different cultures. Adair, Okumura and Brett (2001) compared negotiators from high- and low-context cultures. Specifically, negotiators from a high-context

culture, such as Asian countries, exchange information indirectly by connoting their own issue priorities through the use of diverse-issue offers. Meanwhile, information is directly exchanged by negotiators from a low-context culture, such as Western countries, via the statement of issue priorities. Compared with intra-cultural contexts, negotiators are more likely to be in trouble when conducting negotiations under intercultural contexts due to cultural differences related to normative negotiation behaviors. As a result, parties are expected to prefer arbitrators with high cultural intelligence in international contexts especially when they are anxious about such difficulties. Accordingly, the following hypothesis is proposed:

H7: When the relative perceived required time of arbitration is high, arbitrator acceptability is more significantly influenced by the cultural intelligence of international arbitrators.

When parties perceive that the relative required time of arbitration is high due to complicated arbitral processes (Dezalay and Garth, 1996) and controversial issues in modern arbitration (Gluck, 2012), they are likely to anticipate that the required time for evaluating the quality of inexperienced arbitrator would also be substantial considering rapid changes worldwide. For this reason, parties are expected to select experienced arbitrators to reduce the required time (Alchian and Demsetz, 1972). Accordingly, the following hypothesis is proposed:

H8: When the relative perceived required time of arbitration is high, arbitrator acceptability is more significantly influenced by the arbitral experience of international arbitrators.

In addition to demonstrating the relationship between arbitrator acceptability and arbitrator characteristics, this study further verifies whether this relationship is affected by a moderator. In this model, the moderator is the perceived required time of arbitration compared with that of litigation because several studies have emphasized that longer required legal time causes parties and judicial systems to shift from litigation to arbitration. Accordingly, business managers have been recommended to use arbitration instead of litigation when resolving disputes due to the longer required legal time (Allison, 1990). An entrepreneur is likely to reduce the initial public offering because of the required time for a potential litigation (Hensler, 1995). In judicial systems, the appearance of a multi-door courthouse has been caused by the delay and costs of litigation (Hedeen, 2012). However, today, the required time for arbitration cannot be negligible (Mistelis, 2004; Sachs, 2006). Plausible reasons for increasing the required time for arbitration are twofold:

(1) Today, arbitration frequently entails complicated legal and factual issues, diverse jurisdictions, and participants from different legal systems (Gluck, 2012) and
(2) Arbitration is developed via a process of "judicialization" into a type of private justice with each trait of a state court (Dezalay and Garth, 1996).

Moreover, a few commentators have argued that the required time is not contemplated when choosing modern arbitration (Drahozal, 2000; Gluck, 2012), and several studies have presented survey findings indicating that the required time for selecting arbitrators is not a significant criterion for selecting an international arbitrator (Schultz and Kovacs, 2012). The assumption of this study is that disputants have two options on dispute resolution - litigation and arbitration. Additionally, the perceived required time of arbitration is compared with the perceived required time of litigation by the disputants when choosing the dispute resolution method. Therefore, this study examines the moderating effect of the "relative perceived

required time of arbitration" on the relationship between arbitrator acceptability and arbitrator characteristics. In this study, the "relative perceived required time of arbitration" is defined as the overall perception of parties on the required time of arbitration compared with that of litigation (Gotanda, 1999; Sachs, 2006). Next, hypotheses are constructed regarding the moderating effect on the model of arbitrator acceptability in this study. If parties perceive that they are under upward pressure on the relative required time for arbitration, they will expect a higher payoff from the arbitration. This implies that distributive justice becomes prevalent since it is materialized by obtaining the outcome relative to input (Posthuma, Dworkin and Swift, 2000). Parties will select a repeat arbitrator that belongs to a community consisting of elite arbitrators in order to achieve the desired outcome in the dispute. A repeat arbitrator is likely to be more interested in preserving a solid reputation as an unbiased and accurate decision maker (Kapeliuk, 2010). The community of international arbitrators is similar to the compound of Cottrrell's (2011) community of belief and affective community (D'Silva, 2014). The community of belief refers to a community sharing common beliefs that emphasize solidarity and interdependence among members. An affective community consists of individuals with mutual affection. Thus, the following hypothesis is proposed:

H9: When the relative perceived required time of arbitration is high, arbitrator acceptability is more significantly influenced by the reputations of international arbitrators.

There are technical or commercial perspectives on the subject matter in international commercial arbitration activities that require determination (Fina, 1999; Lopez, 2014). When parties perceive that the required time of arbitration is high with regard to the required time of technical or commercial determination, they will tend to prefer an international arbitrator with practical expertise. In the same manner, when parties perceive that the relative required time of arbitration is high due to the legalization of the arbitration process (Dezalay and Garth, 1996; Sachs, 2006), they will tend to prefer an international arbitrator with legal expertise. Thus, the following hypotheses are proposed:

H10: When the relative perceived required time of arbitration is high, arbitrator acceptability is more significantly influenced by the practical expertise of international arbitrators.

H11: When the relative perceived required time of arbitration is high, arbitrator acceptability is more significantly influenced by the legal expertise of international arbitrators.

H12: When the relative perceived required time of arbitration is high, arbitrator acceptability is more significantly influenced by the procedural justice of international arbitrators.

4. Methodology

4.1. Sample and Data Collection

This study focuses on data from Korea since a dramatic growth in Asian trade has caused a significant increase in the number of maritime disputes in Asia related to trade among Asian countries and between Asian and non-Asian countries (Kaplan, 2002). A list of 151 international shipping companies was obtained in 2019 from a large public organization, the

Korea Shipowners' Association. The sample framework was in accordance with the research purpose since the key criterion for selecting firms was that they show great interest and understanding of arbitration. Before conducting the survey, senior managers involved in international shipping business with their partners were asked to complete a questionnaire. First, an email was sent to inquire about their willingness to answer the questionnaires. As a way of improving the response rate, contacting respondents by telephone was also attempted for those who were not willing to respond to the survey via e-mail because of time inconvenience. As a result of this effort, additional 30 usable surveys were collected. An incentive was offered to all respondents by the survey team. A total of 132 usable questionnaires were returned, with a response rate of 33.2%.The average length of participants' work experience is about nine years in the field of international shipping and 92% of respondents were male. The final sample totaled 121 after listwise deletion of missing data.

4.2. Measures

This study uses all items grounded on the relevant literature as shown in Table 1 due to limited empirical research related to arbitration. Multi-item measurements were adopted for each construct by combining suggestions based on previous works. For instance, a broad concept of a construct can be covered and the weakness of a single-item measure can be also supplemented by multi-item scales (Churchill, 1979). Each construct was measured by using a seven-point Likert-type scale (from 1 = strongly disagree to 7 = strongly agree). Furthermore, the moderating variable, relative perceived required time of arbitration ("the required time of arbitration is perceived less than that of litigation in dispute resolution"), was measured using a single item (from 1 = strongly disagree to 7 = strongly agree). Based on Churchill (1979)'s suggestion for the development of a new scale, the final questionnaire of this study was developed following three steps of the scale development process. First, the initial items representing each construct were examined and selected based on the relevant literature. Second, filtration of the sample items was conducted by the evaluation of experts to adjust parsimony and comprehensiveness. In this filtration process, we formed a focus group consisting of three scholars majoring in international trade and two senior experts involved in arbitration fields. Finally, a pilot study including exploratory factor analysis (EFA) and an examination of Cronbach's alpha was conducted to purify the measurement and demonstrate its reliability and validity. Diverse amendments were conducted during the pretest with 5 professors and 50 post-graduate students. Based on the results of the pilot study, we modified the final questionnaire.

This study conducted a two-stage analytic process, including the EFA and confirmatory factor analysis (CFA), to verify the dimensionality, reliability, and validity of each construct. As shown in Table 1, six factors were extracted and the variance of the retained variables was 71.23%. This variance was considered sufficient as to the total variance explained. However, five items from reputation (1: "the arbitrator is suitable if he/she is a member of an international arbitral institution"), practical expertise (1: "the arbitrator is suitable if he/she has any professional qualification"), and arbitrator's experience (1: "no matter the type of dispute cases, the arbitrator should be experienced in the dispute resolution") were eventually removed from the initial pool of items according to the result of the EFA. Each factor loading and Cronbach's alpha was over the required thresholds, demonstrating that the dimensionality and reliability of each construct is satisfied (Netemeyer, Bearden and Sharma, 2003).

Subsequent to the EFA, CFA was conducted to demonstrate the validity of the model using AMOS21. Each variable loaded significantly ($p<0.05$) on the intended latent constructs, demonstrating the convergent and discriminant validity of the measurement scales. The

Table 1. Result of the Explanatory Factor Analysis (EFA)

Factor/Item	Loadings		Eigen Value	α	AVE
	EFA	CFA			
Arbitrator Acceptability					
Cultural Intelligence					
The arbitrator should fluently speak at least two more languages.	0.73	0.78	2.43	0.84	0.72
The arbitrator should readily accept working with other people with different cultural values.	0.79	0.84			
The arbitrator should know how to adjust values and customs of people from different cultures.	0.69	0.75			
Arbitral Experience					
The arbitrator is suitable if he/she is experienced in the arbitration filed.	0.81	0.90	1.62	0.88	0.81
The arbitrator should be experienced in the dispute cases of the arbitration filed.	0.81	0.88			
Reputation					
The arbitrator should have a professional reputation.	0.76	0.78	6.27	0.79	0.52
The arbitrator should have an international reputation.	0.79	0.87			
The arbitrator should be trustworthy.	0.58	0.52			
The arbitrator should be renowned, even though costs are high.	0.77	0.63			
Practical Expertise					
The arbitrator necessarily needs expertise and knowledge about any particular arbitration area.	0.63	0.89	2.51	0.89	0.78
The arbitrator necessarily needs business knowledge about any particular arbitration area.	0.66	0.96			
The arbitrator is suitable when he/she has work experience in relevant fields.	0.59	0.77			
Legal Expertise					
The arbitrator should have legal expertise.	0.80	0.89	2.66	0.90	0.73
The arbitrator should be well acquainted with the law associated with the relevant cases.	0.81	0.89			
The arbitrator is suitable when he/she has any law qualifications or a degree.	0.71	0.77			
The arbitrator should be well acquainted with the governing law associated with the dispute cases.	0.79	0.84			
Procedural Justice					
The arbitrator should be a practiced hand in the arbitration rules of international arbitral institutions.	0.76	0.86	1.59	0.92	0.77
The arbitrator should be well acquainted with arbitration proceedings.	0.77	0.92			
The arbitrator should accept other arbitrators or interested parties.	0.77	0.82			
The arbitrator should prepare documents of arbitration proceedings in a professional manner.	0.79	0.87			

Note: Goodness of fit: x^2 (115) = 297.624, CFI = 0.912, TLI = 0.903, RMSEA = 0.065.

model fit statistics show that the measurement model fits the data well [x^2 (115) = 297.624, x^2/df = 2.604, CFI = 0.912, TLI = 0.903, RMSEA = 0.065]. Item loadings were significant (p>0.50), and all the estimates for the average variance extracted (AVE) were higher than 0.50, demonstrating the convergent validity of each scale (Bagozzi and Yi, 1988). The discriminant validity was tested by adopting the procedures of Fornell and Larcker's (1981). The discriminant validity was also satisfied since the square root of the AVE for all constructs in bold values of Table 2 is higher than the correlation between the construct and other constructs in the corresponding rows and columns.

4.3. Analysis

The main effects on acceptability were examined using structural equation modeling in the first phase of the analysis. Next, we tested the moderating effect of the relative perceived required time of arbitration on the relationship between arbitrator characteristics and arbitrator acceptability. To confirm this moderating effect, median splits on the basis of the moderator variable's value (Baron and Kenny, 1986). Accordingly, we divided the moderator into high and low groups and the moderating effect was examined by conducting multi-group causal analysis. Initially, a non-restricted model was tested, and then the path under examination was controlled to be equal across subgroups. The chi-square value is likely to be significantly changed when a moderating effect exists (Tabachnick and Fidell, 2001). For example, the critical value of the chi-square difference is 52.300 (p<0.05) with 39 more degrees of freedom for the controlled mode.

5. Results

5.1. Main Effects

The model fit statistics were calculated to examine the major effects of arbitrator characteristics on arbitrator acceptability. The proposed indices used in the current study for a good model fit are x^2/df less than 3.0, CFI and TLI higher than 0.9, and an RMSEA of less than 1.0 (Hus and Bentler, 1999). The model fit statistics demonstrate that the path model fits the data properly [x^2 (115) = 297.624, x^2/df = 2.716, CFI = 0.912, TLI = 0.903, RMSEA = 0.065] and thus, we proceeded with the subsequent analysis.

The parameter estimates of the suggested model on the entire data set are shown in Table 3. Each path coefficient is positive in all cases and statistically significant at the 0.01 level. Especially, the path coefficients of arbitrator acceptability with five constructs are quite positively significant at the 0.01 level, details of which are further discussed in the next section. Specifically, we examined if the path coefficients show any statistical difference. To do this, critical ratios for the differences were examined using AMOS21. The t-value (2.14, p<0.01) for the statistical significance was higher than the absolute value of 1.96 at p<0.05, demonstrating that the difference of path coefficients was accepted.

5.2. Moderating Effects

Subsequent to the test on the influence of all postulated relationships, the moderating effect was also examined. First, we examined the overall chi-square difference for the moderating variable (perceived required time of arbitration). A model that imposes quality constraints on all six paths across sub-groups was compared by the typical non-restricted model. Specifically, the null hypothesis that the relationships between the suggested six dimensions and arbitrator

acceptability are influenced by the moderator variable was tested.

With 39 degrees of freedom, the results on the moderating effect of relative perceived required time of arbitration are presented in Table 4. First, the results show that the relative perceived required time of arbitration has moderating effects on the relationship between the six sub-dimensions and arbitrator acceptability since the chi-square difference test is significant (chi-square difference with 39 degrees of freedom is 52.300, $p<0.05$).

Table 2. Descriptive Statistics and Correlations

	1	2	3	4	5	6
1. Cultural Intelligence	0.65					
2. Arbitral Experience	0.63	0.73				
3. Reputation	0.56	0.63	0.79			
4. Practical Expertise	0.53	0.58	0.68	0.67		
5. Legal Expertise	0.51	0.56	0.53	0.55	0.75	
6. Procedural Justice	0.47	0.45	0.49	0.47	0.51	0.82
Mean	5.34	6.09	5.67	6.32	5.54	5.86
SD	1.36	1.12	1.24	1.03	1.15	1.21

Notes: 1. The average variance extracted is indicated by the bolded values.
2. Correlations are significant at the 1% level.

Table 3. Path Coefficients

Main Model Effects	t-Value	Path Coefficient
Arbitrator Acceptability → Cultural Intelligence	8.756	0.78 **
Arbitrator Acceptability → Arbitral Experience	10.234	0.94 **
Arbitrator Acceptability → Reputation	5.423	0.54 **
Arbitrator Acceptability → Practical Expertise	8.178	0.76 **
Arbitrator Acceptability → Legal Expertise	8.891	0.81 **
Arbitrator Acceptability → Procedural Justice	9.026	0.82 **

Note: ** denotes significant at the 1% level.

Table 4. Results of Multi-Group Analysis

		Required Time of Arbitration			
	Original Path	Low	High	x^2	Δx^2 (df = 37)
Arbitrator Acceptability					
→ Cultural Intelligence	0.76**	0.75**	0.86**	647.231	63.462
→ Arbitral Experience	0.93**	0.97**	0.85**		
→ Reputation	0.52**	0.37**	0.72**		
→ Practical Expertise	0.74**	0.73**	0.73**		
→ Legal Expertise	0.81**	0.85**	0.85**		
→ Procedural Justice	0.84**	0.79**	0.84**		

Note: ** denotes significant at the 1% level.

Interestingly, we were able to confirm significantly different effects in cases where low and high relative perceived required time of arbitration are involved. For the group with low relative perceived required time of arbitration, the relationship between reputation and

arbitrator acceptability decreases (β=0.37, p<0.01), while for the group with high relative perceived required time of arbitration, the same relationship increases (β=0.72, p<0.01). Another interesting finding on the moderator's effect on the group with low relative perceived required time of arbitration is that the relationship between cultural intelligence and arbitrator acceptability is stable (β=0.43, p<0.01), while for the group with high relative perceived costs of arbitration, the same relationship decreases (β=0.76, p<0.01). In the same manner, for the group with low relative perceived required time of arbitration, the relationship between procedural justice and arbitration acceptability decreases (β=0.79, p<0.01), whereas for the group with high relative perceived costs of arbitration, the same relationship is stable (β=0.84, p<0.01). Meanwhile, there are no differences between practical expertise and arbitrator acceptability and between legal expertise and arbitrator acceptability even when the moderator is involved.

6. Discussion

An arbitrator acceptability model with an auxiliary hypothesis of cultural intelligence in international maritime arbitration is constructed and empirically tested in this study. Moreover, technical expertise is included as a strong predictor of arbitrator acceptability since an arbitrator with practical expertise is likely to explain factual and technical issues to other arbitrators more properly than an expert witness would within the arbitration tribunal (Lopez, 2014). Additionally, the legal expertise of an arbitrator is included in this study's model to take into account proper management of more legalized arbitral proceedings (Sachs, 2006). The reputation of international arbitrators is also included since reputation matters for arbitrators to be selected in international maritime arbitration. Two more predictors of arbitrator acceptability are included (arbitral experience and procedural justice) according to previous literature on arbitrator acceptability.

This study's contributions are threefold. First, it examined arbitrator acceptability in the context of international maritime arbitration. In spite of the rapidly growing importance of international maritime arbitration, there is still a dearth of studies on arbitrator acceptability in the context of international and maritime arbitration (Kapeliuk, 2010; Rogers, 2005). Specifically, there is no theory-based research that examines the parties' selection of arbitrators, who are the major decision makers in several international maritime arbitration processes. Here, a theoretical model of arbitrator acceptability is established and diverse hypotheses of arbitrator acceptability models are examined in international maritime contexts.

Second, this study developed existing theoretical and empirical models of arbitrator acceptability by testing cultural intelligence as a main predictor of arbitrator acceptability. The key findings of this study demonstrate that the selection of international arbitrators is effectively explained by this study's model of arbitrator acceptability. The results show that arbitrator acceptability is statistically and significantly explained by each construct of the arbitrator's characteristics (international and arbitral experience, reputation, practical expertise, legal expertise, and procedural justice). To examine if path coefficients have any statistical difference, extra testing of critical ratios is conducted. Thus, the relative importance of the six constructs of arbitrator characteristics and the difference of path coefficients are confirmed. The results also reveal the relative importance of the six constructs of arbitrator characteristics. The findings of this study demonstrate that international and arbitral experience comparatively have strong explanatory power of prediction on arbitrator acceptability, consistent

with the perspective that the best solutions are expected to be dictated by experience (Bernardini, 2004), as well-seasoned lawyers are known to affect outcomes (McGuire, 1995; Szmer, Johnson and Sarver, 2007). Furthermore, experienced arbitrators are necessary to prevent conflicts between international and legal cultures (Cremades, 1998). According to the findings of this study, procedural justice also supports the empirical results of Posthuma, Dworkin and Swift (2000). Additionally, the explanatory power of procedural justice is greater than that of reputation. As the findings of this study, we can interpret that procedural justice is more crucial than distributive justice in international maritime arbitration.

Finally, this study looked for a potential moderator of the predictors' strength with regard to arbitrator acceptability. Specifically, it tested the effects of relative perceived required time of arbitration on the relationship between arbitrator acceptability and arbitrator characteristics. With regard to this, the findings of this study differ depending on the specific arbitrator characteristic.

One remarkable finding is that among the six constructs of arbitrator characteristics, the relative perceived required time of arbitration is strongly influenced by the arbitrator's reputation, which showed the largest variation between low and high time frames (low of 0.37 to high of 0.72). This result demonstrates that the arbitrator selection behavior of parties is influenced when they perceive the required time of arbitration to be high, compared with that of litigation. However, the perceived required time of arbitration does not significantly affect practical and legal expertise, meaning that the relationships between practical and legal arbitrator expertise and arbitrator acceptability remain unchanged by the relative perceived required time of arbitration.

The procedural justice practiced by international arbitrators is found to be a strong predictor of arbitrator acceptability when the relative perceived required time of arbitration is high. This result is consistent with the prediction of the procedural justice theory. This implies that parties abandon the truth and prefer justice if the perceived required time of arbitration is high. In other words, parties tend to prefer the guarantee of procedural justice more than the settlement of the disputes (Thibaut and Walker, 1978). However, the hypothesis was founded on information asymmetry between parties and arbitrator, which implies that this situation does not relate to information costs.

The findings of this study suggest that knowledge of the potential moderators (e.g., the relative perceived required time of arbitration) of the predictors of arbitrator acceptability is valuable for future researchers when determining which predictors to examine in arbitrator selection research.

6.1. Limitation and Future Directions

This study has a few of limitations. First, the understanding of legal culture is not reflected as an arbitrator characteristic in the hypothesized model of this study. The international arbitrator is likely to be considered as a translator of legal culture in the international context (Bishop and Reed, 1998; Lowenfeld, 1995). Previously, international maritime arbitration was a small artisanal specialty. However, currently, great economic battles have occurred, and a genuine arbitration industry has emerged (Lowenfeld, 1995). As a result, the significant participation of jurists from diverse geographical origins and those with various approaches has led to conflicts between those educated in the common law system and those from a civil law orientation (Fadlallah, 2009).

Moreover, East Asian societies tend to emphasize conciliation (Cremades, 1998). In China, a non-adversarial technique of dispute resolution is known for five themes of legal values based on both ancient and contemporary Chinese law and legal institutions (Kun, 2013).

Arbitral practices indicate that a combination of conciliation with arbitration generally occurs since an arbitration procedure is started subsequent to a transition to conciliation procedures, and when conciliation is difficult to manage, the parties return to the arbitration procedure (Harpole, 2007). In the same vein, it is a feature of the Japanese culture that arbitration is like a type of reconciliation. Accordingly, arbitration in the sense of contemporary Western law is not similar to that in Japan (Kawashima, 1963). For this reason, an element of conciliation is included in Japanese arbitration (Tashiro, 1995). This emphasis on conciliation has been useful in Japanese arbitration law until today (Sato, 2005).

By contrast, the distinctive attitudes in selecting the governing law of arbitration have been shown in the Arab world. Shari'a is a key player in Arab-related arbitration. The Islamic law is uniquely applied in its strict sense in Saudi Arabia (Shari'a). According to Article 2 of the Constitution, the Islamic law is the key source of legislation in Egypt (Darwazeh and El-Kosheri, 2008). Therefore, it is recommended for international arbitrators that they understand various legal cultures to successfully deal with different arbitral procedures in modern international arbitration under the varied cultural backgrounds of different regions.

In addition, the data set of this study is composed of business people in international shipping companies in Korea. One caveat is that the primary entity in arbitrator selection can be the head counsel or counsel of the parties instead of the party itself (Queen Mary University of London, 2010). However, most Korean small business stakeholders have difficulties maintaining legal divisions within their firms due to the lack of financial resources. Accordingly, it is further required to construct different dataset consisting of counsels (in-house counsels, head counsels, and arbitrators) to demonstrate the implications of this study's arbitrator acceptability model.

Lastly, it is recommended to examine whether there are any industrial characteristics, maritime industry, should be considered in this context as a direction of future research. This study did not consider the fundamental characteristics of industry. Accordingly, investigating a new factor in related to international maritime arbitrator acceptability needs to be conducted in industrial context.

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