

## **THE NAIROBI PERSPECTIVE: NAIROBI INTERNATIONAL CONVENTION ON THE REMOVAL OF WRECKS, 2007**

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The Nairobi International Convention on the Removal of Wrecks, 2007 has been adopted by a five-day Diplomatic Conference held in the United Nations Office at Nairobi (UNON) in May 2007 under the auspices of the International Maritime Organization (IMO), the United Nations specialized agency with responsibility for safety and security at sea and prevention of marine pollution from ships. The Diplomatic Conference was addressed by President Mwai Kibaki of Kenya.

The Convention will fill a gap in the existing international legal framework, by providing the first set of uniform international rules aimed at ensuring the prompt and effective removal of wrecks located beyond the territorial sea. The new convention will provide the legal basis for States to remove, or have removed, shipwrecks or ships within their exclusive economic zone (EEZ) that may have the potential to affect adversely the safety of lives, goods and property at sea, as well as the marine environment. The EEZ is the area between the territorial sea and extending not more than 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.

During the week before the Diplomatic Conference in Nairobi was about to begin the IMO Secretary-General Mr. E.E. Mitropoulos approached the Government of the Netherlands that due to very regrettable personal circumstances Dr. Thomas Mensah from Ghana and President of the International Tribunal for the Law of the Sea in Hamburg could not be present. Therefore the Secretary-General requested the Head of the Netherlands delegation to be nominated as Chairman of the 'Committee of the Whole'<sup>1</sup> of the Conference. This challenge was only accepted after it was confirmed that the IMO Secretariat had conveyed full trust and confidence in such a nomination for this responsible and crucial task at the Diplomatic Conference. This exceptional role at the Conference was no doubt thanks to

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\* Head of Netherlands delegation and Chairman Committee of the Whole of the Nairobi International Conference on the Removal of Wrecks, 2007

<sup>1</sup> The substantial part of the Diplomatic Conference in which delegations from 64 States participated.

the initiatives of the Netherlands delegation during the last 15 years of deliberations of the IMO Legal Committee when developing what has now become the Nairobi Convention on Wreck Removal.

## **1. Introduction**

The consideration of a Convention on the subject of Wreck Removal was for more than 36 years one of the top-priority items on the work programme of the Legal Committee of the International Maritime Organization (IMO). The subject has already a long history within the IMO, and the Legal Committee started considering the issue already at its 12th session. This was directly caused by the incident in 1967 with the oil tanker 'Torrey Canyon' before the coasts of France and the United Kingdom. In these early discussions in the beginning of the 1970's, it was felt that until there was a more general Convention on the Law of the Sea, it would be premature to even attempt drafting a new convention. Since the United Nations Convention on the Law of the Sea was successfully concluded in 1982, the IMO Legal Committee decided further on that the subject should be dealt with when work on the HNS Convention and the LLMC Protocol had been concluded. Both the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea (HNS Convention) and a new Protocol to the Convention on Limitation of Liability for Maritime Claims (LLMC) were successfully established in 1996 and furthermore complemented by the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001 (Bunkers Convention). In the meantime interested Governments were encouraged to continue consultations on the subject of wreck removal. As a result a draft Wreck Removal Convention (WRC) was prepared by Germany, the United Kingdom and the Netherlands in close consultation with other interested states. Following consideration of the draft WRC at its 74th session in 1996 the Legal Committee agreed to establish a formal IMO Correspondence Group on Wreck Removal. The Correspondence Group was co-ordinated by the Netherlands with the aim to identify and, where appropriate, develop options for dealing with several issues identified by the correspondence group for the consideration of the Legal Committee. The consideration in the Legal Committee has finally resulted in the conclusion of a text for a Convention on the Removal of Wrecks to be adopted at the Diplomatic Conference in Nairobi.

## **2. Primary aim of the Nairobi Convention on Wreck Removal**

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posed by wrecks located beyond the territorial sea. By this it will also enhance the uniformity and clarity of international law. Furthermore the Convention will complement existing international law relating to maritime casualties. First I will try to explain how the Convention will work in practice. Thereafter I will focus on some particular aspects of the new Convention:

- scope of application of the WRC:
  - (a) as regards to which geographical areas;
  - (b) safety/environmental concerns; and
  - (c) to what wrecks/ships;
- the legal basis for government intervention
- limitation of liability/ compulsory insurance

### *2.1 The Nairobi Convention on Wreck Removal in practice*

The Nairobi Convention on Wreck Removal will place primary responsibility for the removal or elimination of a hazardous wreck on the shipowner<sup>2</sup>. However, the State in whose Convention area the wreck is located shall set a deadline for removal and, if the wreck were not removed within the deadline, that State may remove the wreck at the shipowner's expense. The State in whose Convention area the wreck is located will be responsible for determining whether a hazard exists<sup>3</sup> and is also responsible for the marking of the wreck<sup>4</sup>. Shipowners will be required to make a full report on casualties involving their ships in accordance with IMO guidelines<sup>5</sup>. Shipowners will also be strictly liable for the costs of location, marking and removal of hazardous wrecks<sup>6</sup>. The Convention will not affect a shipowner's right to limit liability under the applicable international conventions such as the LLMC, the Civil Liability Convention and the HNS Convention<sup>7</sup>.

### *2.2 Scope of application*

#### *2.2.1 Geographical areas*

As stated before the primary aim of the Nairobi Convention on Wreck Removal is to clarify rights, duties and liabilities relating to the elimination of hazards posed by wrecks located beyond the territorial sea. A convention which does not apply to wrecks located beyond the territorial sea would therefore be unlikely to secure much support because application within the

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<sup>2</sup> Cf. art. 9, Nairobi International Convention on the Removal of Wrecks, 2007.

<sup>3</sup> Cf. art. 6, Nairobi International Convention on the Removal of Wrecks, 2007.

<sup>4</sup> Cf. art. 8, Nairobi International Convention on the Removal of Wrecks, 2007.

<sup>5</sup> Cf. art. 5, Nairobi International Convention on the Removal of Wrecks, 2007.

<sup>6</sup> Cf. art. 10, Nairobi International Convention on the Removal of Wrecks, 2007.

<sup>7</sup> Cf. art. 10, par. 2, Nairobi International Convention on the Removal of Wrecks, 2007.

territorial sea is in many instances regulated by national law. Studies have shown that the applicable laws in the territorial seas of various states do not differ that much. In that sense the Wreck Removal Convention might function as well as a guide of model of application in territorial waters of states (the area not exceeding 12 nautical miles from the coastline). Experience shows that many vessels and their cargo sink just outside territorial waters. This area can for example in the case of the Netherlands be a relatively big area. Therefore there certainly exists a need for a regime for the waters beyond the territorial sea. The Legal Committee has considered extensively whether the Convention should also apply to wrecks located within the territorial sea and, if so, whether such application should be mandatory or optional. In the preparatory work of the Correspondence Group the following four options were identified as regards the geographical scope of application:

1. application only to waters beyond the territorial sea;
2. optional application to the territorial sea and mandatory application to waters beyond the territorial sea;
3. mandatory application both within and beyond the territorial sea;
4. application only to waters within the territorial sea.

During the 92<sup>nd</sup> session of the Legal Committee in Paris in October 2006 (held at the location of UNESCO because of the major refurbishment of the premises of IMO in London) a general agreement was reached on the text of the draft Convention but no final solution was found for the possible application of the Convention within the territory including the territorial sea of a State Party.

Although Germany, the President of the Council of the European Union in the beginning of 2007, was requested to work out a compromise-proposal under high time-pressure before the Diplomatic Conference in Nairobi and despite a further meeting in London in the spring of 2007, no final agreement was reached as regards the possible application to the territory up till the start of the Conference in Kenya. Therefore it was anxiously awaited for how the Chairman of the 'Committee of the Whole' would deal with this important point at the Conference.

By responding to the co-operative efforts of Germany and many other countries and by using a counter-proposal at the Conference of Turkey and the United States for territorial application by national law only based on a Conference Resolution as a big stick, it was possible to narrow the differences and to arrive at a broad-based consensus and agreement based on the opt-in proposals by Germany and other proponents.

As a result the Conference decided that besides mandatory application beyond the territorial sea the new Convention includes an optional clause enabling States Parties to apply certain provisions to their territory, including

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their territorial sea<sup>8</sup>. This will provide for certainty and clarity since like in the EEZ shipowners will be financially liable and be required to take out insurance or provide other financial security to cover the costs of wreck removal in the territorial sea. It will also provide States with a right of direct action against insurers in such cases.

### 2.2.2 *Navigational and environmental concerns, coastal State interests*

The Convention covers risks to the safety of navigation and the risks of damage to the marine environment, or to the coastline or related interests<sup>9</sup>. Already before a clear majority in the Legal Committee has expressed their view in favour of covering all safety, environmental and coastline risks. On the other hand the view was also expressed to cover safety risks only, on the grounds that pollution damage is already adequately covered in existing conventions (1992 CLC, the 1969 Intervention Convention and 1973 Protocol thereto and the HNS Convention). Possible overlapping and conflicts with the existing conventions such as the 1969 CLC, the 1969 Intervention Convention and the HNS Convention will, however, be avoided by means of exclusion clauses<sup>10</sup>. There also exists strong support for fishing activities to be addressed by the convention.

### 2.2.3 *Inclusion of drifting ships and offshore installations*

In general the Convention will apply to all types of danger to navigation located beyond the territorial sea of States Parties. Especially drifting ships and other ships which may reasonably be expected to result in wrecks, will be covered. Earlier on there already was an over-whelming support to include objects which have been on board ships and which may pose the same risks as a wreck, such as containers<sup>11</sup>. Furthermore also offshore installations are included, particularly when they become wrecks as a result of an incident.

Wrecked aircraft can also constitute maritime hazards. However, given the relation between IMO and ICAO it has been decided not to cover also such wrecks.

## 2.3 *Legal basis for government intervention*

As regards the legal basis for government intervention coastal States have first of all the right to remove wrecks in the territorial sea as they have sovereignty over their internal waters and their territory. As regards wreck removal beyond the territorial sea, both the Intervention Convention and the

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<sup>8</sup> Cf. art. 3, par. 2, Nairobi International Convention on the Removal of Wrecks, 2007.

<sup>9</sup> Cf. art. 1, par. 5, Nairobi International Convention on the Removal of Wrecks, 2007.

<sup>10</sup> Cf. art. 4, par. 1, juncto art. 11, Nairobi International Convention on the Removal of Wrecks, 2007.

<sup>11</sup> Cf. art. 1, par. 4, Nairobi International Convention on the Removal of Wrecks, 2007.

United Nations Convention on the Law of the Sea 1982 (UNCLOS) establish the rights of coastal states to take measures. These measures have to be undertaken to avoid damage to their coastline or related interests from pollution following a maritime casualty.

The Intervention Convention provides that coastal states may take such measures as are necessary to prevent, mitigate or eliminate grave and imminent danger from pollution of the sea, which may reasonably be expected to result in major harmful consequences. Article 221 of the UNCLOS acknowledges the right of States, pursuant to international law, to take and enforce measures beyond the territorial sea, but does not explicitly require there to be a grave and imminent danger of pollution before a coastal state can intervene beyond the territorial sea, thus providing for a lower threshold. Since this kind of pollution is not covered under the Intervention Convention, it may now be well addressed by the Nairobi Convention on Wreck Removal.

There were up to now no explicit rules in international law that confer clearly on coastal States the right to undertake a wreck removal for purposes of ensuring only the safety of navigation. However states have rights in international law to protect their security and vital interests. Therefore there existed no bar to the conclusion of a convention on wreck removal in areas beyond the territorial sea.

#### *2.4 Limitation of liability/compulsory insurance*

As regards the issue of limitation of liability, in the Nairobi Convention on Wreck Removal the status quo is maintained as regards limitation of liability of the shipowner. Therefore shipowners should be enabled to continue to exercise existing rights to limit liability. It is the aim of the Convention not to change the present standards of liability-limits of the shipowner. That means that possible limitation issues have to be dealt with under the present limitation regimes dealing with wreck removal. That can be either regimes based on international conventions, such as the LLMC, or regimes based on national law (article 18 of the 1996 LLMC leaves scope for such national limits).

However, it should be noted that costs for wreck removal which fall within the definition of “preventive measures” of the CLC, Bunkers Convention or the HNS Convention continue to be applicable under those regimes if in force<sup>12</sup>.

Under the Convention shipowners will be required to maintain insurance to cover their liability in the same way as presently prescribed in the CLC, Bunkers Convention and HNS Convention<sup>13</sup>.

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<sup>12</sup> Cf. art. 11, Nairobi International Convention on the Removal of Wrecks, 2007.

<sup>13</sup> Cf. art. 12, Nairobi International Convention on the Removal of Wrecks, 2007.

### 3. Conclusion/ Practical experience

Maritime authorities in many countries have been faced with difficult legal problems concerning the removal of hazardous wrecks located beyond their territorial waters. The need for a the new Nairobi Convention on Wreck Removal may further be evidenced by the fact that e.g. the practical experience on the North Sea, shows that many vessels/platforms and/or their cargo sink outside territorial waters.

In such cases, in which vessels and/or cargoes form an obstacle or threat to commonly used shipping routes, removal operations are undertaken for which there is no general basis under national legislation. However, costs incurred by the State during such operations have to be recovered from the parties concerned by the usual legal means. As a result, the State is repeatedly engaged in lengthy legal proceedings to recover costs.

The State may also face claims for damages from the parties concerned or find itself in a state of uncertainty whether the parties concerned will take such action.

Since the rights, duties and liabilities relating to the elimination of hazards posed by wrecks beyond and in the territorial sea are now clarified in the Nairobi International Convention on the Removal of Wrecks, it will become more attractive for both authorities and industry to engage in salvage and wreck removal operations.

The new Convention is open for signature from 19 November 2007 until 18 November 2008 and, thereafter, will be open for ratification, accession or acceptance. It will enter into force twelve months following the date on which ten States have either signed it without reservation as to ratification, acceptance or approval or have deposited instruments of ratification, acceptance, approval or accession with the Secretary General<sup>14</sup>.

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<sup>14</sup> Cf. art. 18, Nairobi International Convention on the Removal of Wrecks, 2007.

**Document 2****NAIROBI INTERNATIONAL CONVENTION  
ON THE REMOVAL OF WRECKS, 2007****LINDA HOWLETT\*****Introduction**

When proposals for an international Wreck Removal Convention resurfaced at the IMO Legal Committee in 1994, it has to be said that the International Chamber of Shipping and the International Group of P&I Clubs were less than enthusiastic. There was a concern that a freestanding international convention providing for strict liability, compulsory insurance and direct action in relation to wrecks located beyond territorial waters would be a disproportionate response to what appeared to be a small problem. Industry was not aware of any wrecks outside territorial waters which had caused insurmountable difficulties for States. Moreover, there had been no case where a Club member of the International Group had failed to respond in respect of liability for wreck removal where that liability had been established under domestic law. There had been cases where other liability insurers had failed to respond but these appeared to be isolated instances, which did not justify international regulation.

ICS and the International Group were also concerned that the proposals marked a significant departure from the previous work of the IMO Legal Committee. The previous international conventions developed by the Legal Committee were intended primarily to ensure that private citizens as well as governments received prompt and adequate compensation following shipping incidents. The proposed Wreck Removal Convention was said to be necessary in order to extend the jurisdiction of coastal States in relation to wrecks located beyond their territorial waters. Inclusion of private law provisions in an instrument directed primarily at public law issues was unusual, and public authorities would be the sole claimants under the provisions proposed in the draft Wreck Removal Convention.

In its early submissions to the Legal Committee on the subject, the International Group maintained that there was no need for a Wreck Removal Convention because the costs of wreck removal operations required by domestic law are one of the risks covered by the standard P&I Club rules

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\* General Manager (Legal), International Chamber of Shipping.

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(essentially the contract of insurance between the Club and its member). Moreover, the IG maintained there was no need for unification of national laws on wreck removal because the lack of uniformity had not resulted in any problems in practice of which the Clubs were aware. However, in recognition that the geography of a few States was such that hazardous wrecks could occur in the waters beyond those States' territorial seas, the IG suggested that it might be both appropriate and expedient for States to agree a Protocol to the Intervention Convention to address the public law issues associated with those concerns. In addition, ICS suggested that an international wreck removal regime, if a compelling need for one was established, would be more useful if it also applied to hazardous wrecks located within territorial waters, and if it established a right and a duty for shipowners to remove hazardous wrecks by their own means or by the assistance of any salvor irrespective of flag. The nature of the cargo on board was one of the factors which States had proposed should be taken into account when determining whether a wreck was hazardous and should therefore be removed. This had led ICS to propose that cargo should contribute to the costs of wreck removal in such circumstances.

In subsequent submissions, when it became apparent that States were intent on introducing a freestanding regime with strict liability, compulsory insurance and direct action, ICS and the IG suggested an alternative system of compulsory insurance based on P&I Club certificates of entry. The alternative system would have reduced the administrative burden on States and Clubs associated with administering a CLC-type system of certification and would have avoided the "terrorism issue" which is common to all the IMO liability and compensation conventions, and has hampered implementation of the Athens Convention. ICS and the IG also voiced concern about the very wide definitions of some of the proposed Convention terms, and the limitation of liability provision proposed by States, which was modelled on a similar provision in the Bunkers Convention.

As can be seen from the final text of the Convention adopted in Nairobi, the industry's suggestions were not taken on board. When in force, the Convention will extend the jurisdiction of coastal States parties to wrecks located in their EEZ or equivalent areas and afford "Affected States" broad decision making powers, with the shipowner and his insurer liable to pay the costs.

### **Implications for the shipping industry**

It remains to be seen what the practical and economic implications for the shipping industry will be once the Convention has entered into force. Much will depend on the manner in which Affected States choose to exercise their decision making powers under the Convention. The broad definitions of

“Wreck”, “Hazard” and “Related Interests” together with the wide ranging criteria which should be taken into account when determining whether a wreck poses a hazard and must therefore be removed, will significantly enhance coastal States’ powers to intervene following maritime casualties. It is hoped that coastal States will be prepared to discuss such issues with shipowners and their insurers.

The broad definitions in the Convention may mean that practice will vary from State to State. State A might determine that a wreck located in its EEZ constitutes a hazard when a similar incident in State B’s EEZ might be left to the shipowner and his insurer to resolve without State intervention. Lack of uniform implementation of the Convention would no doubt be a cause for concern on the part of the industry. The “opt-in” clause also contributes to a potential lack of uniform implementation of the Convention by coastal States. Like CMI, ICS and the IG support uniformity of law and this can only be achieved by way of international regulation. ICS and the IG are therefore committed to international regulation of the shipping industry, specifically by IMO. It is crucial to the efficiency of world trade that the same regulations governing matters such as safety, environmental protection and liability apply to all ships in international trade and that the same laws apply in all jurisdictions which a ship may enter.

An important reason for concluding international treaties is to promote uniformity and certainty of law and therefore internationally agreed provisions should be applicable to the greatest extent possible. However, during the Legal Committee discussions, some States indicated that they would not be prepared to change their national laws, and a compromise was agreed whereby when ratifying the Convention, States can choose to apply certain provisions in their territorial waters. It is assumed that the attractions of the compulsory insurance and direct action provisions will provide a sufficient incentive for States to make use of this option, but the position is not ideal from the perspective of encouraging a uniform global liability regime for the removal of wrecks.

It should also be kept in mind that only certain provisions of the Convention will apply in a State’s territory when it elects to “opt-in”. One of the provisions which will not apply is Article 9(5), which provides that the Affected State may intervene after removal operations have commenced only to the extent necessary to ensure that the removal proceeds effectively in a manner that is consistent with considerations of safety and protection of the marine environment. The absence of this constraint on an Affected State’s right to intervene after wreck removal operations have commenced in its territorial waters could create uncertainty for parties to the wreck removal contract. The reasons for exclusion of this provision are not clear, other than that certain coastal States regarded it as a constraint on their sovereign rights.

Another source of concern for the industry is that the Convention

contains no certainty of limitation of liability. Article 10(2) provides that nothing in the Convention shall affect the right of the registered owner to limit liability under any applicable national or international regime. But the Convention itself does not establish a right to limit. The problem for shipowners of course is that some States might not be parties to the international limitation conventions or they may have made a reservation under such conventions in relation to wreck removal claims. Some States may have unlimited liability for wreck removal claims in their national law. ICS finds it quite inequitable that shipowners should be subject to strict liability for wreck removal without a corresponding right to limit that liability which is certain in law.

The right to limit has been a common feature of all the other IMO liability and compensation conventions and is regarded by some as the *quid pro quo* for strict liability. It might be said in response that the costs of wreck removal have historically not been great (although this may not necessarily be so in the future) but from the ICS perspective it is not a question of cost or insurance capacity. The Wreck Removal Convention has set an unfortunate precedent in this regard, particularly when the principle of limitation of liability is being challenged in some quarters.

A further concern for shipowners, insurers and States is the “terrorism issue”. When the Convention enters into force it will be necessary for shipowners to obtain State-approved certificates of insurance or other financial security in order to trade to and from Convention States. However, the International Group is not able to confirm whether it will provide “blue cards” because the Clubs do not provide cover to the full extent required to be certificated under the Convention due to the market war risk exclusions.

The large number of ships which will need to obtain certificates when the Convention enters into force must also be a concern for shipowners, insurers and States. The Convention provides in Article 12 that ships of 300gt and over will be required to obtain certificates, which is a very low tonnage threshold for the requirement when compared with the other IMO liability and compensation conventions and it will be necessary for the Clubs and States to have appropriate systems in place. In this respect the Conference adopted a Resolution proposing that work be started in the IMO Legal Committee on the development of a single consolidated State certificate that could be issued under the various IMO liability and compensation regimes, rather than separate State certificates under each regime, and this work has commenced.

### **The framework of IMO liability and compensation conventions**

One very positive result of the adoption of the Wreck Removal Convention is that it completes the framework of IMO liability and

compensation conventions. ICS and the IG applaud that achievement.

The challenge now of course is for each of the conventions to enter into force and to be implemented uniformly by States. The widespread ratification of the conventions is of crucial importance to all stakeholders, including States and potential claimants. But it is also very important in the context of upholding the unique role of IMO as regulator of the international shipping industry. ICS and the IG are constantly engaged in debates in other forums on regional and national proposals to regulate the international industry, particularly in Europe and in the United States. In response to the various regional and national proposals, we often point to the IMO instruments on essentially the same subjects only to be told that they are not in force. Our case for global regulation would be so much stronger if the IMO Conventions were in force widely throughout the world.

### **ICS ratification campaign**

At the beginning of 2007, ICS launched a concerted global campaign to stress the need for governments to ratify and implement conventions adopted by IMO. Our members, the national shipowners' associations, have emphasised to their governments that the smooth operation of a global maritime regulatory regime is impeded by failure or delay on the part of governments to ratify and implement the very instruments which they have agreed at IMO diplomatic conferences.

But there is only so much that industry can do. And it was particularly pleasing that one of the important Resolutions adopted by the Diplomatic Conference in Nairobi urged States to ensure as a matter of priority the entry into force of the HNS, Bunkers and Athens Conventions. The Bunkers Convention will enter into force on 21 November 2008.

With the successful conclusion of the Wreck Removal Convention it is hoped the IMO Legal Committee may be able to spend some time on identifying barriers to the entry into force of the various liability and compensation conventions and ways to overcome them. The process has started with work on a Protocol to the HNS Convention which it is hoped will pave the way for widespread ratification and entry into force of that important regime.

While active promotion of the Wreck Removal Convention is not a priority for ICS at this time, members have been encouraged to urge administrations that are considering ratification (a) to make use of the opt-in clause and (b) to confer with shipowners, their insurers and other States when exercising powers under the Convention, in the interests of global uniform implementation.

## **NAIROBI INTERNATIONAL CONVENTION ON THE REMOVAL OF WRECKS, 2007**

### Preamble

THE STATES PARTIES TO THE PRESENT CONVENTION,

CONSCIOUS of the fact that wrecks, if not removed, may pose a hazard to navigation or the marine environment,

CONVINCED of the need to adopt uniform international rules and procedures to ensure the prompt and effective removal of wrecks and payment of compensation for the costs therein involved,

NOTING that many wrecks may be located in States' territory, including the territorial sea,

RECOGNIZING the benefits to be gained through uniformity in legal regimes governing responsibility and liability for removal of hazardous wrecks,

BEARING IN MIND the importance of the United Nations Convention on the Law of the Sea, done at Montego Bay on 10 December 1982, and of the customary international law of the sea, and the consequent need to implement the present Convention in accordance with such provisions,

HAVE AGREED as follows:

### **Article 1**

#### **Definitions**

For the purposes of this Convention:

1 "Convention area" means the exclusive economic zone of a State Party, established in accordance with international law or, if a State Party has not established such a zone, an area beyond and adjacent to the territorial sea of that State determined by that State in accordance with international law and extending not more than 200 nautical miles from the baselines from which the breadth of its territorial sea is measured.

2 "Ship" means a seagoing vessel of any type whatsoever and includes hydrofoil boats, air-cushion vehicles, submersibles, floating craft and floating platforms, except when such platforms are on location engaged in the exploration, exploitation or production of seabed mineral resources.

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- 3 “Maritime casualty” means a collision of ships, stranding or other incident of navigation, or other occurrence on board a ship or external to it, resulting in material damage or imminent threat of material damage to a ship or its cargo.
- 4 “Wreck”, following upon a maritime casualty, means:
- (a) a sunken or stranded ship; or
  - (b) any part of a sunken or stranded ship, including any object that is or has been on board such a ship; or
  - (c) any object that is lost at sea from a ship and that is stranded, sunken or adrift at sea; or
  - (d) a ship that is about, or may reasonably be expected, to sink or to strand, where effective measures to assist the ship or any property in danger are not already being taken.
- 5 “Hazard” means any condition or threat that:
- (a) poses a danger or impediment to navigation; or
  - (b) may reasonably be expected to result in major harmful consequences to the marine environment, or damage to the coastline or related interests of one or more States.
- 6 “Related interests” means the interests of a coastal State directly affected or threatened by a wreck, such as:
- (a) maritime coastal, port and estuarine activities, including fisheries activities, constituting an essential means of livelihood of the persons concerned;
  - (b) tourist attractions and other economic interests of the area concerned;
  - (c) the health of the coastal population and the wellbeing of the area concerned, including conservation of marine living resources and of wildlife; and
  - (d) offshore and underwater infrastructure.
- 7 “Removal” means any form of prevention, mitigation or elimination of the hazard created by a wreck. “Remove”, “removed” and “removing” shall be construed accordingly.
- 8 “Registered owner” means the person or persons registered as the owner of the ship or, in the absence of registration, the person or persons owning the ship at the time of the maritime casualty. However, in the case of a ship owned by a State and operated by a company which in that State is registered as the operator of the ship, “registered owner” shall mean such company.

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9 “Operator of the ship” means the owner of the ship or any other organization or person such as the manager, or the bareboat charterer, who has assumed the responsibility for operation of the ship from the owner of the ship and who, on assuming such responsibility, has agreed to take over all duties and responsibilities established under the International Safety Management Code, as amended\*.

10 “Affected State” means the State in whose Convention area the wreck is located.

11 “State of the ship’s registry” means, in relation to a registered ship, the State of registration of the ship and, in relation to an unregistered ship, the State whose flag the ship is entitled to fly.

12 “Organization” means the International Maritime Organization.

13 “Secretary-General” means the Secretary-General of the Organization.

## **Article 2**

### **Objectives and general principles**

1 A State Party may take measures in accordance with this Convention in relation to the removal of a wreck which poses a hazard in the Convention area.

2 Measures taken by the Affected State in accordance with paragraph 1 shall be proportionate to the hazard.

3 Such measures shall not go beyond what is reasonably necessary to remove a wreck which poses a hazard and shall cease as soon as the wreck has been removed; they shall not unnecessarily interfere with the rights and interests of other States including the State of the ship’s registry, and of any person, physical or corporate, concerned.

4 The application of this Convention within the Convention area shall not entitle a State Party to claim or exercise sovereignty or sovereign rights over any part of the high seas.

5 States Parties shall endeavour to co-operate when the effects of a maritime casualty resulting in a wreck involve a State other than the Affected State.

## **Article 3**

### **Scope of application**

1 Except as otherwise provided in this Convention, this Convention shall apply to wrecks in the Convention area.

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\* Refer to the International Management Code for the Safe Operation of Ships and for Pollution Prevention, adopted by the Assembly of the International Maritime Organization by resolution A.741(18), as amended.

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2 A State Party may extend the application of this Convention to wrecks located within its territory, including the territorial sea, subject to article 4, paragraph 4. In that case, it shall notify the Secretary-General accordingly, at the time of expressing its consent to be bound by this Convention or at any time thereafter. When a State Party has made a notification to apply this Convention to wrecks located within its territory, including the territorial sea, this is without prejudice to the rights and obligations of that State to take measures in relation to wrecks located in its territory, including the territorial sea, other than locating, marking and removing them in accordance with this Convention. The provisions of articles 10, 11 and 12 of this Convention shall not apply to any measures so taken other than those referred to in articles 7, 8 and 9 of this Convention.

3 When a State Party has made a notification under paragraph 2, the “Convention area” of the Affected State shall include the territory, including the territorial sea, of that State Party.

4 A notification made under paragraph 2 above shall take effect for that State Party, if made before entry into force of this Convention for that State Party, upon entry into force. If notification is made after entry into force of this Convention for that State Party, it shall take effect six months after its receipt by the Secretary-General.

5 A State Party that has made a notification under paragraph 2 may withdraw it at any time by means of a notification of withdrawal to the Secretary-General. Such notification of withdrawal shall take effect six months after its receipt by the Secretary-General, unless the notification specifies a later date.

#### **Article 4**

##### **Exclusions**

1 This Convention shall not apply to measures taken under the International Convention relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969, as amended, or the Protocol relating to Intervention on the High Seas in Cases of Pollution by Substances other than Oil, 1973, as amended.

2 This Convention shall not apply to any warship or other ship owned or operated by a State and used, for the time being, only on Government non-commercial service, unless that State decides otherwise.

3 Where a State Party decides to apply this Convention to its warships or other ships as described in paragraph 2, it shall notify the Secretary-General, thereof, specifying the terms and conditions of such application.

4 (a) When a State Party has made a notification under article 3, paragraph 2, the following provisions of this Convention shall not apply in its

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territory, including the territorial sea:

- (i) Article 2, paragraph 4;
  - (ii) Article 9, paragraphs 1, 5, 7, 8, 9 and 10; and
  - (iii) Article 15.
- (b) Article 9, paragraph 4, insofar as it applies to the territory, including the territorial sea of a State Party, shall read:

Subject to the national law of the Affected State, the registered owner may contract with any salvor or other person to remove the wreck determined to constitute a hazard on behalf of the owner. Before such removal commences, the Affected State may lay down conditions for such removal only to the extent necessary to ensure that the removal proceeds in a manner that is consistent with considerations of safety and protection of the marine environment.

### **Article 5**

#### **Reporting wrecks**

1 A State Party shall require the master and the operator of a ship flying its flag to report to the Affected State without delay when that ship has been involved in a maritime casualty resulting in a wreck. To the extent that the reporting obligation under this article has been fulfilled either by the master or the operator of the ship, the other shall not be obliged to report.

2 Such reports shall provide the name and the principal place of business of the registered owner and all the relevant information necessary for the Affected State to determine whether the wreck poses a hazard in accordance with article 6, including:

- (a) the precise location of the wreck;
- (b) the type, size and construction of the wreck;
- (c) the nature of the damage to, and the condition of, the wreck;
- (d) the nature and quantity of the cargo, in particular any hazardous and noxious substances; and
- (e) the amount and types of oil, including bunker oil and lubricating oil, on board.

### **Article 6**

#### **Determination of hazard**

When determining whether a wreck poses a hazard, the following criteria should be taken into account by the Affected State:

- (a) the type, size and construction of the wreck;

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- (b) depth of the water in the area;
- (c) tidal range and currents in the area;
- (d) particularly sensitive sea areas identified and, as appropriate, designated in accordance with guidelines adopted by the Organization\*, or a clearly defined area of the exclusive economic zone where special mandatory measures have been adopted pursuant to article 211, paragraph 6, of the United Nations Convention on the Law of the Sea, 1982;
- (e) proximity of shipping routes or established traffic lanes;
- (f) traffic density and frequency;
- (g) type of traffic;
- (h) nature and quantity of the wreck's cargo, the amount and types of oil (such as bunker oil and lubricating oil) on board the wreck and, in particular, the damage likely to result should the cargo or oil be released into the marine environment;
- (i) vulnerability of port facilities;
- (j) prevailing meteorological and hydrographical conditions;
- (k) submarine topography of the area;
- (l) height of the wreck above or below the surface of the water at lowest astronomical tide;
- (m) acoustic and magnetic profiles of the wreck;
- (n) proximity of offshore installations, pipelines, telecommunications cables and similar structures; and
- (o) any other circumstances that might necessitate the removal of the wreck.

### **Article 7**

#### **Locating wrecks**

1 Upon becoming aware of a wreck, the Affected State shall use all practicable means, including the good offices of States and organizations, to warn mariners and the States concerned of the nature and location of the wreck as a matter of urgency.

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\* Refer to the revised Guidelines for the Identification and Designation of Particularly Sensitive Sea Areas, adopted by the Assembly of the International Maritime Organization by resolution A.982(24), as amended.

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2 If the Affected State has reason to believe that a wreck poses a hazard, it shall ensure that all practicable steps are taken to establish the precise location of the wreck.

### **Article 8**

#### **Marking of wrecks**

1 If the Affected State determines that a wreck constitutes a hazard, that State shall ensure that all reasonable steps are taken to mark the wreck.

2 In marking the wreck, all practicable steps shall be taken to ensure that the markings conform to the internationally accepted system of buoyage in use in the area where the wreck is located.

3 The Affected State shall promulgate the particulars of the marking of the wreck by use of all appropriate means, including the appropriate nautical publications.

### **Article 9**

#### **Measures to facilitate the removal of wrecks**

1 If the Affected State determines that a wreck constitutes a hazard, that State shall immediately:

- (a) inform the State of the ship's registry and the registered owner; and
- (b) proceed to consult the State of the ship's registry and other States affected by the wreck regarding measures to be taken in relation to the wreck.

2 The registered owner shall remove a wreck determined to constitute a hazard.

3 When a wreck has been determined to constitute a hazard, the registered owner, or other interested party, shall provide the competent authority of the Affected State with evidence of insurance or other financial security as required by article 12.

4 The registered owner may contract with any salvor or other person to remove the wreck determined to constitute a hazard on behalf of the owner. Before such removal commences, the Affected State may lay down conditions for such removal only to the extent necessary to ensure that the removal proceeds in a manner that is consistent with considerations of safety and protection of the marine environment.

5 When the removal referred to in paragraphs 2 and 4 has commenced, the Affected State may intervene in the removal only to the extent necessary to ensure that the removal proceeds effectively in a manner that is consistent with considerations of safety and protection of the marine environment.

6 The Affected State shall:

- (a) set a reasonable deadline within which the registered owner must remove the wreck, taking into account the nature of the hazard determined in accordance with article 6;
- (b) inform the registered owner in writing of the deadline it has set and specify that, if the registered owner does not remove the wreck within that deadline, it may remove the wreck at the registered owner's expense; and
- (c) inform the registered owner in writing that it intends to intervene immediately in circumstances where the hazard becomes particularly severe.

7 If the registered owner does not remove the wreck within the deadline set in accordance with paragraph 6(a), or the registered owner cannot be contacted, the Affected State may remove the wreck by the most practical and expeditious means available, consistent with considerations of safety and protection of the marine environment.

8 In circumstances where immediate action is required and the Affected State has informed the State of the ship's registry and the registered owner accordingly, it may remove the wreck by the most practical and expeditious means available, consistent with considerations of safety and protection of the marine environment.

9 States Parties shall take appropriate measures under their national law to ensure that their registered owners comply with paragraphs 2 and 3.

10 States Parties give their consent to the Affected State to act under paragraphs 4 to 8, where required.

11 The information referred to in this article shall be provided by the Affected State to the registered owner identified in the reports referred to in article 5, paragraph 2.

## **Article 10**

### **Liability of the owner**

1 Subject to article 11, the registered owner shall be liable for the costs of locating, marking and removing the wreck under articles 7, 8 and 9, respectively, unless the registered owner proves that the maritime casualty that caused the wreck:

- (a) resulted from an act of war, hostilities, civil war, insurrection, or a natural phenomenon of an exceptional, inevitable and irresistible character;
- (b) was wholly caused by an act or omission done with intent to cause damage by a third party; or

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(c) was wholly caused by the negligence or other wrongful act of any Government or other authority responsible for the maintenance of lights or other navigational aids in the exercise of that function.

2 Nothing in this Convention shall affect the right of the registered owner to limit liability under any applicable national or international regime, such as the Convention on Limitation of Liability for Maritime Claims, 1976, as amended.

3 No claim for the costs referred to in paragraph 1 may be made against the registered owner otherwise than in accordance with the provisions of this Convention. This is without prejudice to the rights and obligations of a State Party that has made a notification under article 3, paragraph 2, in relation to wrecks located in its territory, including the territorial sea, other than locating, marking and removing in accordance with this Convention.

4 Nothing in this article shall prejudice any right of recourse against third parties.

### **Article 11**

#### **Exceptions to liability**

1 The registered owner shall not be liable under this Convention for the costs mentioned in article 10, paragraph 1 if, and to the extent that, liability for such costs would be in conflict with:

- (a) the International Convention on Civil Liability for Oil Pollution Damage, 1969, as amended;
- (b) the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996, as amended;
- (c) the Convention on Third Party Liability in the Field of Nuclear Energy, 1960, as amended, or the Vienna Convention on Civil Liability for Nuclear Damage, 1963, as amended; or national law governing or prohibiting limitation of liability for nuclear damage; or
- (d) the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001, as amended;

provided that the relevant convention is applicable and in force.

2 To the extent that measures under this Convention are considered to be salvage under applicable national law or an international convention, such law or convention shall apply to questions of the remuneration or compensation payable to salvors to the exclusion of the rules of this Convention.

## Article 12

### Compulsory insurance or other financial security

1 The registered owner of a ship of 300 gross tonnage and above and flying the flag of a State Party shall be required to maintain insurance or other financial security, such as a guarantee of a bank or similar institution, to cover liability under this Convention in an amount equal to the limits of liability under the applicable national or international limitation regime, but in all cases not exceeding an amount calculated in accordance with article 6(1)(b) of the Convention on Limitation of Liability for Maritime Claims, 1976, as amended.

2 A certificate attesting that insurance or other financial security is in force in accordance with the provisions of this Convention shall be issued to each ship of 300 gross tonnage and above by the appropriate authority of the State of the ship's registry after determining that the requirements of paragraph 1 have been complied with. With respect to a ship registered in a State Party, such certificate shall be issued or certified by the appropriate authority of the State of the ship's registry; with respect to a ship not registered in a State Party it may be issued or certified by the appropriate authority of any State Party. This compulsory insurance certificate shall be in the form of the model set out in the annex to this Convention, and shall contain the following particulars:

- (a) name of the ship, distinctive number or letters and port of registry;
  - (b) gross tonnage of the ship;
  - (c) name and principal place of business of the registered owner;
  - (d) IMO ship identification number;
  - (e) type and duration of security;
  - (f) name and principal place of business of insurer or other person giving security and, where appropriate, place of business where the insurance or security is established; and
  - (g) period of validity of the certificate, which shall not be longer than the period of validity of the insurance or other security.
- 3 (a) A State Party may authorize either an institution or an organization recognized by it to issue the certificate referred to in paragraph 2. Such institution or organization shall inform that State of the issue of each certificate. In all cases, the State Party shall fully guarantee the completeness and accuracy of the certificate so issued and shall undertake to ensure the necessary arrangements to satisfy this obligation.

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- (b) A State Party shall notify the Secretary-General of:
- (i) the specific responsibilities and conditions of the authority delegated to an institution or organization recognized by it;
  - (ii) the withdrawal of such authority; and
  - (iii) the date from which such authority or withdrawal of such authority takes effect.

An authority delegated shall not take effect prior to three months from the date on which notification to that effect was given to the Secretary-General.

- (c) The institution or organization authorized to issue certificates in accordance with this paragraph shall, as a minimum, be authorized to withdraw these certificates if the conditions under which they have been issued are not maintained. In all cases the institution or organization shall report such withdrawal to the State on whose behalf the certificate was issued.

4 The certificate shall be in the official language or languages of the issuing State. If the language used is not English, French or Spanish, the text shall include a translation into one of these languages and, where the State so decides, the official language(s) of the State may be omitted.

5 The certificate shall be carried on board the ship and a copy shall be deposited with the authorities who keep the record of the ship's registry or, if the ship is not registered in a State Party, with the authorities issuing or certifying the certificate.

6 An insurance or other financial security shall not satisfy the requirements of this article if it can cease for reasons other than the expiry of the period of validity of the insurance or security specified in the certificate under paragraph 2 before three months have elapsed from the date on which notice of its termination is given to the authorities referred to in paragraph 5 unless the certificate has been surrendered to these authorities or a new certificate has been issued within the said period. The foregoing provisions shall similarly apply to any modification, which results in the insurance or security no longer satisfying the requirements of this article.

7 The State of the ship's registry shall, subject to the provisions of this article and having regard to any guidelines adopted by the Organization on the financial responsibility of the registered owners, determine the conditions of issue and validity of the certificate.

8 Nothing in this Convention shall be construed as preventing a State Party from relying on information obtained from other States or the Organization or other international organizations relating to the financial standing of

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providers of insurance or financial security for the purposes of this Convention. In such cases, the State Party relying on such information is not relieved of its responsibility as a State issuing the certificate required by paragraph 2.

9 Certificates issued and certified under the authority of a State Party shall be accepted by other States Parties for the purposes of this Convention and shall be regarded by other States Parties as having the same force as certificates issued or certified by them, even if issued or certified in respect of a ship not registered in a State Party. A State Party may at any time request consultation with the issuing or certifying State should it believe that the insurer or guarantor named in the certificate is not financially capable of meeting the obligations imposed by this Convention.

10 Any claim for costs arising under this Convention may be brought directly against the insurer or other person providing financial security for the registered owner's liability. In such a case the defendant may invoke the defences (other than the bankruptcy or winding up of the registered owner) that the registered owner would have been entitled to invoke, including limitation of liability under any applicable national or international regime. Furthermore, even if the registered owner is not entitled to limit liability, the defendant may limit liability to an amount equal to the amount of the insurance or other financial security required to be maintained in accordance with paragraph 1. Moreover, the defendant may invoke the defence that the maritime casualty was caused by the wilful misconduct of the registered owner, but the defendant shall not invoke any other defence which the defendant might have been entitled to invoke in proceedings brought by the registered owner against the defendant. The defendant shall in any event have the right to require the registered owner to be joined in the proceedings.

11 A State Party shall not permit any ship entitled to fly its flag to which this article applies to operate at any time unless a certificate has been issued under paragraphs 2 or 14.

12 Subject to the provisions of this article, each State Party shall ensure, under its national law, that insurance or other security to the extent required by paragraph 1 is in force in respect of any ship of 300 gross tonnage and above, wherever registered, entering or leaving a port in its territory, or arriving at or leaving from an offshore facility in its territorial sea.

13 Notwithstanding the provisions of paragraph 5, a State Party may notify the Secretary-General that, for the purposes of paragraph 12, ships are not required to carry on board or to produce the certificate required by paragraph 2, when entering or leaving a port in its territory, or arriving at or leaving from an offshore facility in its territorial sea, provided that the State Party which issues the certificate required by paragraph 2 has notified the Secretary-

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General that it maintains records in an electronic format, accessible to all States Parties, attesting the existence of the certificate and enabling States Parties to discharge their obligations under paragraph 12.

14 If insurance or other financial security is not maintained in respect of a ship owned by a State Party, the provisions of this article relating thereto shall not be applicable to such ship, but the ship shall carry a certificate issued by the appropriate authority of the State of registry, stating that it is owned by that State and that the ship's liability is covered within the limits prescribed in paragraph 1. Such a certificate shall follow as closely as possible the model prescribed by paragraph 2.

### **Article 13**

#### **Time limits**

Rights to recover costs under this Convention shall be extinguished unless an action is brought hereunder within three years from the date when the hazard has been determined in accordance with this Convention. However, in no case shall an action be brought after six years from the date of the maritime casualty that resulted in the wreck. Where the maritime casualty consists of a series of occurrences, the six-year period shall run from the date of the first occurrence.

### **Article 14**

#### **Amendment provisions**

1 At the request of not less than one-third of States Parties, a conference shall be convened by the Organization for the purpose of revising or amending this Convention.

2 Any consent to be bound by this Convention, expressed after the date of entry into force of an amendment to this Convention, shall be deemed to apply to this Convention, as amended.

### **Article 15**

#### **Settlement of disputes**

1 Where a dispute arises between two or more States Parties regarding the interpretation or application of this Convention, they shall seek to resolve their dispute, in the first instance, through negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements or other peaceful means of their choice.

2 If no settlement is possible within a reasonable period of time not exceeding twelve months after one State Party has notified another that a dispute exists between them, the provisions relating to the settlement of disputes set out in Part XV of the United Nations Convention on the Law of the Sea, 1982, shall apply *mutatis mutandis*, whether or not the States party to the dispute are also States

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Parties to the United Nations Convention on the Law of the Sea, 1982.

3 Any procedure chosen by a State Party to this Convention and to the United Nations Convention on the Law of the Sea, 1982, pursuant to Article 287 of the latter, shall apply to the settlement of disputes under this article, unless that State Party, when ratifying, accepting, approving or acceding to this Convention, or at any time thereafter, chooses another procedure pursuant to Article 287 for the purpose of the settlement of disputes arising out of this Convention.

4 A State Party to this Convention which is not a Party to the United Nations Convention on the Law of the Sea, 1982, when ratifying, accepting, approving or acceding to this Convention or at any time thereafter shall be free to choose, by means of a written declaration, one or more of the means set out in Article 287, paragraph 1, of the United Nations Convention on the Law of the Sea, 1982, for the purpose of settlement of disputes under this Article. Article 287 shall apply to such a declaration, as well as to any dispute to which such State is party, which is not covered by a declaration in force. For the purpose of conciliation and arbitration, in accordance with Annexes V and VII of the United Nations Convention on the Law of the Sea, 1982, such State shall be entitled to nominate conciliators and arbitrators to be included in the lists referred to in Annex V, Article 2, and Annex VII, Article 2, for the settlement of disputes arising out of this Convention.

5 A declaration made under paragraphs 3 and 4 shall be deposited with the Secretary-General, who shall transmit copies thereof to the States Parties.

### **Article 16**

#### **Relationship to other conventions and international agreements**

Nothing in this Convention shall prejudice the rights and obligations of any State under the United Nations Convention on the Law of the Sea, 1982, and under the customary international law of the sea.

### **Article 17**

#### **Signature, ratification, acceptance, approval and accession**

1 This Convention shall be open for signature at the Headquarters of the Organization from 19 November 2007 until 18 November 2008 and shall thereafter remain open for accession.

- (a) States may express their consent to be bound by this Convention by:
  - (i) signature without reservation as to ratification, acceptance or approval; or
  - (ii) signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval; or

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(iii) accession.

(b) Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General.

### **Article 18**

#### **Entry into force**

1 This Convention shall enter into force twelve months following the date on which ten States have either signed it without reservation as to ratification, acceptance or approval or have deposited instruments of ratification, acceptance, approval or accession with the Secretary-General.

2 For any State which ratifies, accepts, approves or accedes to this Convention after the conditions in paragraph 1 for entry into force have been met, this Convention shall enter into force three months following the date of deposit by such State of the appropriate instrument, but not before this Convention has entered into force in accordance with paragraph 1.

### **Article 19**

#### **Denunciation**

1 This Convention may be denounced by a State Party at any time after the expiry of one year following the date on which this Convention comes into force for that State.

2 Denunciation shall be effected by the deposit of an instrument to that effect with the Secretary-General.

3 A denunciation shall take effect one year, or such longer period as may be specified in the instrument of denunciation, following its receipt by the Secretary-General.

### **Article 20**

#### **Depositary**

1 This Convention shall be deposited with the Secretary General.

2 The Secretary-General shall:

(a) inform all States which have signed or acceded to this Convention of:

(i) each new signature or deposit of an instrument of ratification, acceptance, approval or accession, together with the date thereof;

(ii) the date of entry into force of this Convention;

(iii) the deposit of any instrument of denunciation of this Convention, together with the date of the deposit and the date on which the denunciation takes effect; and

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*Nairobi International Convention on the Removal of Wrecks, 2007*

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(iv) other declarations and notifications received pursuant to this Convention;

(b) transmit certified true copies of this Convention to all States that have signed or acceded to this Convention.

3 As soon as this Convention enters into force, a certified true copy of the text shall be transmitted by the Secretary-General to the Secretary-General of the United Nations, for registration and publication in accordance with Article 102 of the Charter of the United Nations.

### **Article 21**

#### **Languages**

This Convention is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.

DONE IN NAIROBI this eighteenth day of May two thousand and seven.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments for that purpose, have signed this Convention.

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*Wreck Removal Convention 2007*

## ANNEX

**CERTIFICATE OF INSURANCE OR OTHER FINANCIAL  
SECURITY IN RESPECT OF LIABILITY FOR THE REMOVAL  
OF WRECKS**

Issued in accordance with the provisions of article 12 of the Nairobi International Convention on the Removal of Wrecks, 2007

Name of Ship	Gross tonnage	Distinctive Number or letters	IMO Ship identification Number	Port of Registry	Name and full address of the principal place of business of the registered owner

This is to certify that there is in force, in respect of the above-named ship, a policy of insurance or other financial security satisfying the requirements of article 12 of the Nairobi International Convention on the Removal of Wrecks, 2007.

Type of Security .....

Duration of Security .....

Name and address of the insurer(s) and/or guarantor(s)

Name .....

Address .....

.....

This certificate is valid until .....

Issued or certified by the Government of .....

.....

(Full designation of the State)

OR

The following text should be used when a State Party avails itself of article 12, paragraph 3:

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The present certificate is issued under the authority of the Government of.....  
 (full designation of the State) by ..... (name of  
 institution or organization)

At .....  
 (Place)

On .....  
 (Date)

.....  
 (Signature and Title of issuing or certifying official)

**Explanatory Notes:**

- 1 If desired, the designation of the State may include a reference to the competent public authority of the country where the Certificate is issued.
- 2 If the total amount of security has been furnished by more than one source, the amount of each of them should be indicated.
- 3 If security is furnished in several forms, these should be enumerated.
- 4 The entry "Duration of Security" must stipulate the date on which such security takes effect.
- 5 The entry "Address" of the insurer(s) and/or guarantor(s) must indicate the principal place of business of the insurer(s) and/or guarantor(s). If appropriate, the place of business where the insurance or other security is established shall be indicated.

**RESOLUTION ON COMPULSORY INSURANCE  
CERTIFICATES UNDER EXISTING MARITIME  
LIABILITY CONVENTIONS, INCLUDING  
THE NAIROBI INTERNATIONAL CONVENTION  
ON THE REMOVAL OF WRECKS, 2007**

THE CONFERENCE,

HAVING ADOPTED the Nairobi International Convention on the Removal of Wrecks, 2007 (hereinafter referred to as “Convention”),

NOTING that the Convention requires that a compulsory insurance certificate attesting that insurance or other financial security is in force on the same basis as previously established IMO liability and compensation conventions,

MINDFUL that all existing liability and compensation conventions require that a compulsory insurance certificate attesting that insurance or other financial security in force, shall be issued in the form of the model set out in the specific annexes to these conventions,

RECOGNIZING the reduction of administrative costs and further facilitation as regards the issuing of all relevant compulsory insurance certificates by appropriate authorities in States Parties, if in future each and every ship could be provided with a single compulsory insurance certificate,

NOTING FURTHER the urgent priority to implement all the existing liability and compensation conventions,

1. URGES States to ensure, as a matter of priority, the entry into force of the International Convention on Liability and Compensation for Damage in connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996, the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001, and the Protocol to the Athens Convention Relating to the Carriage of Passengers and their Luggage by Sea, 2002;
2. INVITES the International Maritime Organization (IMO) and in particular the Legal Committee to develop a model for a single insurance certificate which may be issued by States Parties in respect of each and every ship under the relevant IMO liability and compensation conventions, including the Convention;
3. INVITES FURTHER IMO to follow the same procedure as that adopted

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*Resolution on Compulsory Insurance Certificates*

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in relation to the reciprocal recognition of certificates by States Parties to the 1969 and 1992 International Conventions on Civil Liability for Oil Pollution Damage.

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**RESOLUTION ON PROMOTION OF TECHNICAL  
CO-OPERATION AND ASSISTANCE**

THE CONFERENCE,

HAVING ADOPTED the Nairobi International Convention on the Removal of Wrecks, 2007 (hereinafter referred to as .the Convention.), concerning uniform international rules and procedures to ensure the prompt and effective removal of wrecks and payment of compensation for the costs therein involved,

RECOGNIZING the need for the development of appropriate legislation and the putting in place of appropriate infrastructure for the removal of wrecks which may pose a danger or impediment to navigation, or may reasonably be expected to result in major harmful consequences to the marine environment, or damage to the coastline or related interests of one or more States,

RECOGNIZING FURTHER that there may be limited infrastructure, facilities and training programmes for obtaining the experience required in assessing the hazard which a wreck may pose, particularly in developing countries,

BELIEVING that the promotion of technical co-operation at the international level will assist those States not yet having adequate expertise or facilities for providing training and experience to assess, put in place or enhance appropriate infrastructure and, in general, implement the measures required by the Convention,

EMPHASIZING, in this regard, the grave threat a wreck can pose to the safety of navigation and to the marine environment, or both, if not removed promptly and effectively,

1. URGES States Parties to the Convention, Member States of the International Maritime Organization (IMO), other appropriate organizations and the maritime industry to provide assistance, either directly or through IMO, to those States which require support in the consideration of adoption and in the implementation of the Convention;
2. INVITES the Secretary-General of IMO to make adequate provision in its Integrated Technical Co-operation Programme (ITCP) for advisory services related to the adoption and effective implementation of the

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Convention and, in particular, to address requests for assistance in assessing the safety and environmental hazards of wrecks and in developing appropriate national legislation;

3. INVITES States Parties to the Convention, Member States of IMO, other appropriate organizations and the maritime industry to provide financial and in-kind support to IMO for technical assistance activities related to the adoption and effective implementation of the Convention.