Wreck Removal Convention 2007

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A new international convention on wreck removal has been adopted in Kenya. The Nairobi International Convention on the Removal of Wrecks, 2007, will provide the legal basis for States to remove, or have removed, shipwrecks that may have the potential to adversely affect the safety of lives, goods and property at sea, as well as the marine environment.

The convention was adopted by a five-day Diplomatic Conference - held in the United Nations Office at Nairobi (UNON) under the auspices of the International Maritime Organization (IMO).

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 also includes an optional clause enabling States Parties to apply certain provisions to their territorial sea, including their territorial sea.

Although the incidence of marine casualties has decreased dramatically in recent years, mainly thanks to the work of IMO and the persistent efforts of Governments and industry to enhance safety in shipping operations, the number of abandoned wrecks, estimated at almost thirteen hundred worldwide, has reportedly increased and, as a result, the problems they cause to coastal States and shipping in general have, if anything, become more acute.

These problems are three-fold: first, and depending on its location, a wreck may constitute a hazard to navigation, potentially endangering other vessels and their crews; second, and of equal concern, depending on the nature of the cargo, is the potential for a wreck to cause substantial damage to the marine and coastal environments; and third, in an age where goods and services are becoming increasingly expensive, is the issue of the costs involved in the marking and removal of hazardous wrecks. The Convention attempts to resolve all of these and other, related, issues.

IMO Secretary-General Mitropoulos urged IMO Member States to ratify the Convention as soon as possible. “The work of IMO and its membership on this subject does not stop with the signing of the Final Act. Our efforts should turn immediately to the task of bringing the Convention into force at the earliest possible date and, thereafter, to promoting its uniform and effective implementation,” he said.

Convention details

The new Convention provides a sound legal basis for coastal States to remove, or have removed, from their coastlines, wrecks which pose a hazard to the safety of navigation or to the marine and coastal environments, or both. It will make shipowners financially liable and require them to take out insurance or provide other financial security to cover the costs of wreck removal. It will also provide States with a right of direct action against insurers.

Articles in the convention cover:

- reporting and locating ships and wrecks - covering the reporting of casualties to the nearest coastal State; warnings to mariners and coastal States about the wreck; and action by the coastal State to locate the ship or wreck;
- criteria for determining the hazard posed by wrecks, including depth of water above the wreck, proximity of shipping routes, traffic density and frequency, type of traffic and vulnerability of port facilities. Environmental criteria such as damage likely to result from the release into the marine environment of cargo or oil are also included;
- measures to facilitate the removal of wrecks, including rights and obligations to remove hazardous ships and wrecks - which sets out when the shipowner is responsible for removing the wreck and when a State may intervene;
- liability of the owner for the costs of locating, marking and removing ships and wrecks - the registered shipowner is required to maintain compulsory insurance or other financial security to cover liability under the convention; and
- settlement of disputes.

Entry into force criteria

The Convention will 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.

Compulsory Insurance Certificates

Among the resolutions adopted by the conference was a resolution on compulsory insurance certificates under existing maritime liability conventions, including the Nairobi International convention on the removal of wrecks, 2007 urging IMO Member States to ensure the entry into force of other liability and compensation conventions, namely the International Convention on Liability and Compensation for Damage in connection with the Carriage of Passengers and their Luggage by Sea, 1962, 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; and invites IMO, specifically 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 Nairobi International Convention on the Removal of Wrecks.