



## **Nairobi International Convention on The Removal of Wrecks (WRC 2007)**

### **Background**

Nairobi International Convention on The Removal of wrecks (WRC 2007) or the Wreck Removal Convention was adopted at an International Maritime Organization Diplomatic Conference in 2007 in Nairobi, Kenya. Problems caused by the increased number of abandoned wrecks, estimated at almost thirteen hundred worldwide, have become more acute. These abandoned wrecks may potentially be endangering other vessels and their crews and cause substantial damage to the marine and coastal environments. The Convention attempts to resolve all of these and other related issues by providing the first set of uniform international rules aimed at ensuring the prompt and effective removal of wrecks located beyond the territorial sea.

### **Concept**

According to Article 2, the objective of the Convention is to provide a legal basis for coastal State to remove wrecks which poses a hazard in the Convention area. Measures taken by the Affected State shall be proportionate to the hazard. 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.

### **Entry into Force:**

In accordance to the provisions of Article 18, the Convention shall entry 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, The Convention entered into force on 14 April 2015. There were 15 states party to the Convention when it entered into force and other states are continuing to ratify.

## **Main Features**

The Wreck Removal Convention consists of 21 Articles and an Annex.

**Application and scope.** Under Article 3, the Convention applies to the Exclusive Economic Zone (EEZ). States may extend the scope of the Convention to their own territory, including territorial sea. Incidents in their territorial waters will remain subject to domestic law and the provisions of the Convention will not apply.

**Reporting Wrecks.** According to Article 5 of the Convention, 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. The report 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.

**Determination of Hazard.** Criteria for determining the hazard posed by wrecks are stipulated under Article 6 of the Convention, 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.

**Liability.** Strict liability applies according to the provisions of the Convention, in which claimants do not need to show fault. Under Article 10 of the Convention, the registered owner of the ship is the liable party and is obliged to remove wreck which constitutes a hazard. The extent of liability includes costs of location, marking and removing a wreck which constitutes a hazard. The registered owner may be excluded from the liability if it can prove that the maritime casualty that caused

the wreck are damage resulting from act of war, damage wholly caused by deliberate act of a third party or by negligent maintenance of navigational aids, and claims for pollution damage arising under the Civil Liability Convention or the Bunkers Convention.

Compulsory insurance and certification. Article 12 of the Convention contains a compulsory insurance regime based upon the system which is familiar from other IMO Liability Conventions, including a requirement for state issued Certificates for vessels of 300 gt or more. All International Group P&I Clubs are able to issue “blue cards” which will enable members to obtain the Wreck Removal Convention Certificates which must be carried on board in order to comply with compulsory insurance requirements of the Convention. The Certificates must be issued by a State which is party to the Convention. The flag state will issue the Certificate if it is party to the Convention. If the flag state is not party to the Convention, owners will need to find a State party which is willing to issue Certificates for vessels not flying its flag. (HUF)

## **Convention on the Rights of Persons with Disabilities**

### **Background**

The making of the convention started when the non-compulsory “Standard Rules on the Equalisation of Opportunities for Persons with Disabilities” were adopted by the General Assembly in 1993. In 2000, leaders of five international disability NGOs issued a declaration, calling all governments to support a convention. One year after, General Assembly established an Ad Hic Committee, following the proposal from Mexico to consider proposals for a comprehensive and integral convention to promote and protect the rights and dignity of persons with disabilities, based on a holistic approach. In 2006, the text was adopted by United Nations General Assembly and opened for signature on 30 March 2007. As of July 2016, it has 160 signatories and 166 parties including European Union and 165 states. By this, the Convention became one of the most quickly supported human rights instruments in history, with strong support from all regional groups. 160 States have signed the Convention upon its opening in 2007 and 126 States ratified the Convention within its first five years.

### **Concept**

There are eight guiding principles in the Convention as mentioned in Article 3:

1. Respect for inherent dignity, individual autonomy including the freedom to make one’s own choices, and independence of persons
2. Non-discrimination
3. Full and effective participation and inclusion in society
4. Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity
5. Equality of opportunity
6. Accessibility
7. Equality between men and women
8. Respect for the evolving capacities of children with disabilities and

respect for the right of children with disabilities to preserve their identities

## **Main Features**

The purpose of the Convention defined in Article 1, that is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity.

Articles 2 and 3 provide definitions and general principles including communication, reasonable accommodation and universal design. Disability defines as “those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others”

The Convention defines “reasonable accommodation” to be “necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms”

Articles 4–32 define the rights of persons with disabilities and the obligations of states parties towards them

- Rights of person with disabilities

The specific rights mentioned in this Convention include the rights to accessibility including the information technology, the rights to live independently and be included in the community, to personal mobility, habilitation and rehabilitation, and to participation in political and public life, cultural life, recreation and sport.

- Obligation of State Parties

The parties of the Convention are obliged to raise awareness of the human rights of persons with disabilities and ensure access to roads, building, and information.

- Prevention to discrimination

Article 8 stresses the awareness raising to foster respect for the rights and dignity againsts discrimination :

1. To raise awareness throughout society, including at the family level, regarding persons with disabilities, and to foster respect for the rights and dignity of persons with disabilities.
2. To combat stereotypes, prejudices and harmful practices relating to persons with disabilities, including those based on sex and age, in all areas of life.
3. To promote awareness of the capacities and contributions of persons with disabilities.
4. Initiating and maintaining effective public awareness campaigns designed: (i) to nurture receptiveness to the rights of persons with disabilities. (ii) to promote positive perceptions and greater social awareness towards persons with disabilities. (iii) to promote recognition of the skills, merits and abilities of persons with disabilities, and of their contributions to workplace and the labour market.
5. Encouraging all organs of the mass media to portray persons with disabilities in a manner consistent with the purpose of the present Convention.
6. Promoting awareness-training programmes regarding persons with disabilities and the rights of persons with disabilities.

- Accessibility

Article 9 stresses that persons with disabilities should be able to live independently and participate fully in all aspects of life. State parties should take appropriate measures to ensure that persons with disabilities have access to these three main groups; physical accessibility, service accessibility, and accessibility to communication and information.

- Humanitarian Emergency and Situation of Risk

Based on Article 11, in accordance with their obligation under international law, state parties shall take all necessary measures to ensure the protection and safety of persons with disabilities in situation of armed conflict, humanitarian emergencies, and the occurrence of natural disaster.

- Recognition before the Law, Legal Capacity and Access to Justice

Article 12 of the convention affirms the equal recognition before the law and legal capacity of the persons with disabilities. Article 13 affirms the effective access to justice for persons with

disabilities by stating that the state parties shall exercise some obligations mentioned in this article.

- Right to Education and Right to Health

Article 24 mention that the persons with disabilities should be guaranteed the right to inclusive education at all levels, regardless of age, without discrimination and the basis of equal opportunity. Also, the persons with disabilities have the right to enjoyment of the highest attainable standard of health without discrimination on the basis of disability.

Some other important core provisions are the Protection to Integrity of the Person in Article 17, Respect for the Family in Article 23, Habilitation in Article 26, Work and employment in Article 27, Adequate standard of living and social protection in Article 28, and Right to vote in Article 29.

Articles 33-39 govern reporting and monitoring of the Convention by human rights institution and Committee on the Rights of Person with Disabilities

Articles 40-50 govern ratification, entry into force, and amendment of the Convention . Article 49 also requires that Convention be available in accessible formats. (MMJ)