

A Short Overview of
The Law of Marine Salvage

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I. Introduction

Savings ships – saving cargoes – saving lives – preventing environmental damage: all those are part of marine salvage, but there is more. The nature of the people who perform the work must be considered, and the law of marine salvage considers them all. It rewards them generously for displaying high professional standards of skill and integrity, and condemns them when their behavior falls short.

The law of marine salvage provides generous financial rewards for conduct on water that on land would result in no legal obligation for payment. A person may come upon a burning house, rescue the occupants and assist in rescuing the furnishings and extinguishing the fire, but no one incurs any legal obligation to him as a result of those services. However, if he assists in saving the lives of those on board a burning ship, and saving cargo or the ship itself, he will have a maritime lien against the property he has saved, and will be entitled to bring suit against that property or its owner to have a court determine how much of the salvaged values should be paid to him. The court will treat him generously, and he will not be condemned for accepting that generosity.

The law of marine salvage, by prompting efforts to rescue property exposed to marine peril, benefits society and commerce by protecting the

property interests of those who engage in risky maritime adventures. Modern salvage law, although fundamentally unchanged since the nineteenth century, has been reshaped to reflect the conversion from sail to power, the increased size and value of vessels and the increased value of cargoes, and the availability of and use by salvors of modern pumps, compressors, diving systems, high horsepower tugs¹ and electronic systems for locating objects of salvage and to aid in their rescue or recovery. In recent years, the law of salvage has been adapted to address public concerns for allocation of risks in the environmental arena.

II. Historical Development

The purpose behind the law of marine salvage is to promote the voluntary "relieving of property from an impending peril at sea or other navigable waters by those under no legal obligation to do so".² The law of salvage is part of the *jus gentium* – the law of nations. The idea that a salvor is entitled to a reward for saving imperiled property or recovering property from a loss at sea has been part of maritime law for many centuries.

Most authorities recognize ancient Rhodian law, going back some 3,000 years, as the source of the law of marine salvage. Under Rhodian law the salvor was awarded one-fifth of the property he salvaged from the wreck

¹ See, generally, B. Sheen, *Conventions on Salvage*, 57 Tul. L. Rev. 1387, 1390-94 (1983).

² *Hener v. United States*, 535 F. Supp. 350, 353 (S.D.N.Y. 1981).

of a seagoing vessel afloat or ashore, and one-third to one-half of any property rescued from the ocean floor. Rhodian law also provided for the punishment of those who would plunder a shipwreck, by requiring that they restore to the owners of the property four times what they had taken.

During the 2,000 years following the Rhodian origins of salvage law, as maritime commerce spread throughout the Mediterranean, so did the law of marine salvage. As the Greek influence on commerce in the Mediterranean decreased, the Roman influence increased, and Rome adopted the Rhodian maritime regulations. As commerce grew between Mediterranean and northern European seaports, the law of salvage spread further. By the thirteenth century the French "Laws of Oleron" provided the basis for salvage law later adopted into English maritime law, and thereafter into American maritime law.³

III. Pure Salvage/Contract Salvage

Marine salvage, the act of rescuing property in peril at sea and delivering it to a place of safety, is undertaken by salvors of opportunity and professional salvors alike in expectation of a generous reward. U.S. law distinguishes between pure salvage, where the salvor is a volunteer, and contract salvage, where the parties have entered into an agreement for the performance of the salvage operation.

³ See, generally, M. Norris, *The Law of Salvage*, 3A *Benedict on Admiralty* §§5-14 (7th Ed. Rev. 2006); *Columbus-America Discovery Group, Inc. v. The Unidentified Wrecked and Abandoned Sailing Vessel*, 1993 LEXIS 18482 at *29 (E.D. Va. 1993).

A. Pure Salvage

(1) The Elements of Salvage

The essential components of pure salvage are "1) a marine peril to the property to be rescued; 2) voluntary service not owed to the property as a matter of duty; and 3) success in saving the property or some portion of it from impending peril."⁴ A marine peril exists when the property that is subject to salvage is "at risk of loss, destruction, or deterioration".⁵ The peril need not be immediate or absolute, as long as it is reasonably apprehended.⁶ Voluntariness means that "the service was ... not rendered in pursuance of any duty owed to the owner or to the property".⁷ There can be no duty imposed by either statute or contract. Success is "essential to the claim [of salvage]; as if the property is not saved or if it perishes or, in the case of capture, if it is not retaken, no compensation can be allowed."⁸

(2) The Award

If those three threshold elements are met, the Court must determine the amount of the salvor's award. A salvor does not acquire title to the property. The title remains with the owner. "When property has been sunk at sea or lies wrecked near the shore the owner has not been divested of title by virtue of that fact. And neither does the salvor gain title by finding it. It is his obligation to bring the salvaged property before an admiralty court

⁴ *The Clarita and the Clara*, 90 U.S. 1, 16 (1874).

⁵ T.J. Schoenbaum, *Admiralty and Maritime Law, Practitioners Edition* (West Pub. Co. 1987).

⁶ *Fort Meyers Shell and Dredging Co.*, 404 F.2d 137, 139 (5th Cir. 1968).

⁷ *The Clarita and The Clara*, 90 U.S. at 17.

⁸ *The Blackwall*, 77 U.S. 1, 12 (1869).

. . . where the owner will be given an opportunity to come in and claim the property."⁹ Salvors save the property for the benefit of the owner with an expectation of receiving an appropriate salvage reward. The salvor may retain possession of the salvaged property until payment of the salvage reward is made or security given to secure the release of the property.¹⁰

A salvor acquires a maritime lien on the property saved, which aids him in securing his compensation for his voluntary salvage services.¹¹ A salvor armed with a lien on salvaged property can enforce the lien by proceeding against the property by a salvage suit *in rem*, or if he is able to get *in personam* jurisdiction over the party claiming an interest in the salvaged property, he may proceed *in personam*.

Changes in the law of salvage over the centuries have been largely directed at the methods for determining the size and distribution of salvage awards. From code to code the various *quantum formulae* changed, and eventually gave way to the subjective factors considered by modern admiralty courts. In the United States, the criteria for determining the size of the salvage award, at least up to the adoption of the 1989 Salvage Convention¹², were known as *The Blackwall Rules*, after an 1869 Supreme Court decision by that name.¹³ Those are:

⁹ M. Norris, *supra* at §150.

¹⁰ M. Norris, *supra* at §151.

¹¹ M. Norris, *supra* at §150.

¹² The International Convention on Salvage, 1989

¹³ *The Blackwall*, 77 U.S. (10 Wall.) 1, 14 (1869).

- (1) The labor expended by the salvors in rendering the salvage service;
- (2) The promptitude, skill, and energy displayed in rendering the service and saving the property;
- (3) The value of the property employed by the salvors in rendering the service, and the danger to which such property was exposed;
- (4) The risk incurred by the salvors in securing the property from the impending peril;
- (5) The value of the property saved; and
- (6) The degree of danger from which the property was rescued.¹⁴

The *Blackwall* Rules were set forth at a time when the primary concerns of a salvage operation were to protect and save the vessel and its cargo. Over the years, U.S. courts have in certain situations expanded this focus. For example, U.S. courts, in interpreting and weighing the factors that constitute a salvage award, have recognized the importance of professional salvors.

"[t]he skill that comes from long experience, joined with more powerful machinery, and devices specially adapted to the purpose in hand, are of more service to an imperiled vessel than is the aid which may be expected from a chance rescuer. To provide such skill, machinery, and appliances, and to keep them always ready for instant service, though they may be

¹⁴ *The Blackwall*, at 13-14.

called for but occasionally, is now regarded as a meritorious act calling for a liberal award."¹⁵

In addition, given the increasing importance of environmental considerations, U.S. Courts have enhanced the property salvage award to reward salvors for preventing pollution or other environmental harm.¹⁶ Salvage awards have also been enhanced where rescue of human life was given precedence over the salvage of property.¹⁷ In salvage of ancient or historical artifacts, preservation of the artifacts and of the wreck site are factors which have been considered in determining the size of the salvor's award.¹⁸

The criteria for a salvage award are also set out in Article 13 of the 1989 Salvage Convention. These mirror and expand upon the common law criteria. They include, amongst other factors, "the skill and efforts of the salvors in preventing or minimizing damage to the environment."¹⁹ The 1989 Salvage Convention, in Article 14, provides "Special Compensation" to the salvor when the value of property saved is insufficient to support a fair award, but his efforts have nonetheless benefited the environment. The 1989 Convention thereby reflects an evolutionary change resulting from modern environmental concerns.

¹⁵ *The Lamington*, 86 F. 675, 684 (2d Cir. 1898). *The Lamington*, 86 F. 675, 684 (2d Cir. 1898); See also, *Devine v. United Transportation Co.*, 1957 A.M.C. 175, 181 (W.D. Wash. 1956).

¹⁶ *Trico Marine v. Dow Chem.*, 809 F. Supp. 440, 1993 A.M.C. 1042 (E.D. La. 1992).

¹⁷ *Leader Marine, Lim. Procs. NEVERA*, 1982 A.M.C. 2068 (N.D. Cal. 1981); *EURYPLYLUS Lim. Procs.*, 1985 A.M.C. 1367, 583 F. Supp. 1322 (S.D.N.Y. 1984).

¹⁸ *Columbus-America v. Atl. Mut.*, 974 F.2d 450, 1995 A.M.C. 1985 (4th Cir. 1995).

¹⁹ 1989 Convention Art. 13 ¶1(b).

B. Contract Salvage

Salvors of opportunity and professional salvors alike may provide their services on "pure salvage" terms or pursuant to contract. In fact, however, it is more often the professional salvor who chooses to work pursuant to contract. There are many reasons for this choice, but the most obvious are to secure jurisdiction, usually in an arbitral forum, and to secure a means for obtaining security for his salvage lien without the expense and inconvenience of having to arrest the vessel and her cargo.

Contract salvage is performed pursuant to an agreement for salvage services entered into between the salvor and the owners of the imperiled property. The essential elements of a salvage contract are, in addition to those for contracts generally, that it be clear and definite that it is a contract to perform salvage, and explicit as to the compensation to be paid. The salvage contract may nonetheless be written on no cure - no pay terms, with the award to be determined as in common law salvage, or it may provide for payment on a lump sum or time and materials basis irrespective of the success or failure of the salvage effort.

A contract to perform a salvage operation may bar a salvor from recovering a salvage award.²⁰ However, the Supreme Court has declared that

"...it is not every agreement which will have the effect to diminish a claim for salvage compensation.

²⁰ *Flagship Marine Services v. Belcher Towing*, 966 F.2d 602 (11th Cir. 1992).

On the contrary, the rule is that nothing short of a contract to pay a given sum for the services to be rendered, or a binding engagement to pay at all events, whether successful or unsuccessful in the enterprise, will operate as a bar to a meritorious claim for salvage."²¹

Referring to *The CAMANCHE*, *supra*, the U.S. Court of Appeals for the Second Circuit held that only where the contract "...is shown to enclose the entire [salvage] undertaking will it be a bar to recovery."²² If the salvor voluntarily performs salvage services that are beyond the scope of the contract, he is entitled to an award in addition to whatever contractual compensation he receives.²³

IV. Low Order/High Order Salvage

U.S. courts consider all of the aforementioned criteria when determining whether the salvage service rendered was high order, thereby deserving a large, very generous award, or low order, thereby meriting a lesser, but still generous, award. When the risks are not great salvors are awarded a low order salvage award, which is usually some multiple of their hourly rate, plus an allowance for expenses.²⁴ In high order salvage, where the risks are serious, such multiples would not reliably supplant consideration of all of the factors listed in *The Blackwall* and in Article 13 of the 1989 Convention. Such cases require that the salvor's costs and

²¹ *The CAMANCHE*, 75 U.S. 448, 477 (1869).

²² *Lago Oil and Transport Co. v. U.S.*, 218 F.2d 631, 634 (2d Cir. 1955) (emphasis added).

²³ *Smit Americas Inc. v. The M/T MANTINIA*, 2003 AMC 1096 (D.P.R. 2003).

²⁴ See, *Bindon v. Jones*, 1986 A.M.C. 1403 (W.D. Wash. 1984) (salvors awarded four times their hourly rate plus an allowance for use of equipment, fuel, wear and tear and prejudgment interest).

equipment charges be just one of the several factors considered by the courts in fashioning a salvage award.²⁵

V. Life Salvage

Under common law, a life salvor has no claim against the person saved. Furthermore, a pure life salvor who saves life but not property has no right to compensation from the owner of a ship or its cargo.²⁶ The 1910 Salvage Convention²⁷ left it to each signatory nation to decide for itself whether its courts would reward life salvage. The 1910 Convention was implemented in U.S. law through the Salvage Act of 1912, in which the U.S. decided it would not allow life salvage except in those circumstances where property salvage also occurred. In those cases, life salvors would be entitled to share in the award earned by those who salvaged property.

Some argue that this rule treats the life salvor less generously than the salvor of property.²⁸ However, the rule has been modified by case law so that in certain situations life salvors may at least recover the costs they incurred in rendering the service. Where a passenger vessel responded to a medical call of a tanker which had no physician on board, and provided medical care to a seaman who was suffering from severe chest pains, the court held that the owner of the passenger vessel was entitled to recover

²⁵ See, e.g. *Margate Shipping Co. v. M/V Oleron*, 143 F.3d 976, 1988 AMC 2383 (5th Cir. 1998).

²⁶ *The EMBLEM*, 8 F. Cas. 611 (D. Me. 1840) (No. 4,434).

²⁷ Convention for the Unification of Certain Rules of Law Relating to Assistance and Salvage at Sea, Brussels 1910.

²⁸ S. Friedell, *Compensation and Reward for Saving Life at Sea*, 77 Mich. L. Rev. 1218 (1979).

from the tanker the reasonable value of the services rendered.²⁹ In *Leader Marine, Lim. Procs. NEVERA*,³⁰ the owner of a vessel answered a sinking vessel's distress call and rescued its entire crew. The Court held the owner of the rescue vessel was entitled to recover \$1,500 from the sinking vessel's owner to cover the expense incurred in diverting to effect the rescue, even though no property had been salvaged in the process. In *The EURYPLYLUS Lim. Procs.*,³¹ the time charterer was awarded diversion expenses on a *quasi contract* basis where the vessel diverted to transport injured seamen from a burning freighter to a hospital at the request of the freighter's owner.

VI. Liability Salvage

Liability salvage occurs when the salvor protects the owner of property, usually a vessel, from liability towards cargo, other vessels, or third parties. Liability salvage is "based on the concept that salvage rewards should reflect the value of the owner's assets preserved from liability claims, as well as the value of the recovered property."³²

In *Allseas Maritime v. MIMOSA*,³³ the Fifth Circuit Court of Appeals acknowledged the merits of liability salvage and indicated that it might apply it in the proper case. In that case, salvors had brought a rogue vessel under control preventing collisions with and damage to nearby oil production

²⁹ In *P. & O. Steam Nav. v. Overseal Oil*, 1977 A.M.C. 283 (1d Cir. 1977).

³⁰ 1982 A.M.C. 2068 (N.D. Cal. 1981).

³¹ 583 F. Supp. 1322, 1985 A.M.C. 1367 (S.D.N.Y. 1984).

³² *Protecting the Environment with Salvage Law: Risks, Rewards and the 1989 Salvage Convention*, 65 Wash. L. Rev. 639, 646 (1990).

³³ 820 F.2d 129 (5th Cir. 1987).

platforms. The *Allseas Maritime* Court declined to award liability salvage because it believed the shipowner was protected from third party claims by its right to limit its liability to the value of the vessel pursuant to the *1851 U.S. Shipowners Limitation Statute*,³⁴ and that value had already been considered in determining the traditional salvage award. It is implicit in that decision, however, that the Court would have awarded liability salvage had the threat of liability to third parties been tied to the risk of an oil spill, where the liability limits would have been much higher than the value of the vessel.

One United States Court interpreted the 1910 Salvage Convention to preclude liability salvage in situations to which the 1910 Convention applies.³⁵ However, that court relied upon proposals then being considered to amend the 1910 Salvage Convention by incorporating provisions to reward salvors for protecting the environment. The Court reasoned that if the 1910 Convention included liabilities prevented within the value of the property salvaged, there would have been no reason to "tinker with it" to create an incentive for salvors to prevent ecological harm. Although the 1989 Convention had not at the time of that decision been fully developed, the *Weststar* Court noted that the proponents had explicitly considered and rejected the concept of liability salvage when they chose to provide

³⁴ 46 U.S.C. §183 *et seq.*

³⁵ *Weststar Marine v. Herrema Marine*, 621 F.Supp. 1135, 1988 AMC 1122 (in decal 1988). This decision was followed by the United States District Court for the District of Alaska to deny liability salvage in *Hendriks v. Gordon Gill*, 737 F.Supp. 1099, 1989 AMC 1960 (D. Alaska, 1989).

enhanced awards (Article 13) or special compensation (Article 14) only for preventing or minimizing damage to the environment.³⁶ That keeps the decision from becoming out of date despite adoption by the U.S. of the more liberal view presented in the 1989 Convention. However, the *Weststar* decision is not necessarily in conflict with the *Mimosa* because the latter was decided on the principles of general maritime law which the *Weststar* court refused to address because of the 1910 Convention's application to salvage disputes between U.S. citizens and foreign interest, where the foreign interests are also from a signatory nation.³⁷ The *Weststar* Court noted, however, that it was aware of no provision in the general maritime laws of the United States that would have required a different result.³⁸

VII. Treasure Salvage

Improvements in technology have made broad area deep ocean searches possible, resulting in discovery of numerous wrecks containing substantial treasures. This has spawned developments in the law of salvage relating to such treasures. The first determination of the Court in these cases may be whether to apply the "law of salvage" at all.

Under the American "law of finds," if a sunken vessel or treasure has been abandoned by its owners, the salvor becomes the owner by right of the property. However, if ownership is claimed by another, the issue must be

³⁶ *Id.* at 1132.

³⁷ 1988 AMC 1125-28.

³⁸ *Id.* at 1128-29.

litigated. If the putative owner persuades the court there was no actual abandonment of property, then the salvor will be entitled only to a salvage award. In that case, however, the salvor may be rewarded based upon criteria in addition to those set forth in *The Blackwall*, or in Article 13 of the 1989 Convention. One criteria that has been added to determine the value of the salvage services is the salvor's efforts taken to preserve the archeological value of the wreck site and the recovered treasure by photography and other means.³⁹

The growth in treasure salvage has also given rise to the *Abandoned Shipwreck Act of 1987*,⁴⁰ which in essence grants the United States ownership rights of abandoned and embedded shipwrecks in its territorial seas, which the U.S. then turns over to the state in whose waters the wreck lies. International concerns have also been triggered by acts of treasure salvage, and there are currently in progress efforts to negotiate a treaty which would severely curtail the acts of salvors in recovering property which has archeological value.

VIII. Salvor's Negligence

The general rule is that a salvor must act in good faith and exercise reasonable skill and prudent seamanship.⁴¹ Acts of negligence by a salvor are ". . . perhaps viewed with a benevolent eye. . ."⁴² because of the policy

³⁹ *Columbus America, supra*, at 468.

⁴⁰ 43 U.S.C. §§2101-06 (1988).

⁴¹ *Basic Boats v. U.S.A.*, 1973 A.M.C. 524 (E.D. Va. 1972).

⁴² *Cape Race*, 1927 A.M.C. 628, 631 (2d Cir. 1927).

considerations involved in encouraging individuals to save life and property at sea. However, when the negligence of a salvor is proved, “. . . it entails responsibility, as does negligence in the performance of any other assumed or imposed duty.”⁴³

The consequences of negligent salvage will vary depending upon the type of damage caused. A salvor may forfeit his right to a salvage award altogether, or may receive a reduced award because he performed his salvage services in such a negligent manner that the salvaged property suffered further damage. The question of negligent salvage has been discussed in numerous cases as allegations of negligence against salvors “. . . are easy to make, hard to disprove, and obvious counters for the shipowner to throw into the game in his natural desire to pay as little salvage money as possible.”⁴⁴ The basic principle is that a salvor will not be held affirmatively liable for his negligence unless the salvaged property sustains an injury that is distinguishable from the peril from which it was being saved. ⁴⁵

Therefore, if the salvaged property suffers a distinguishable injury that was proximately caused by the negligence of the salvor, the salvor will be held liable. A finding of liability may result in a reduction or forfeiture of the salvor's recovery and, in some cases, an award of affirmative damages

⁴³ *Id.*

⁴⁴ Grant Gilmore and Charles L. Black, Jr., *The Law of Admiralty*, §8-7 (2d ed. 1975).

⁴⁵ *Shupe v. U.S.*, 1979 A.M.C. 2282, 2285 (C.D. Cal. 1979).

against the salvor.⁴⁶ The award of damages to the salvaged property is generally contingent upon the “. . . degree of culpability and lack of care shown by the salvor.”⁴⁷

A corresponding principle is that if the salvor’s misconduct prevents a successful salvage, affirmative damages generally will not be awarded against the salvor unless there is a finding of gross negligence or willful misconduct.⁴⁸ If a distressed vessel is damaged by the original peril to which it was exposed, such as a fire, a hard grounding or a stranding, the salvor is liable only for damages arising from his gross negligence or willful misconduct.⁴⁹ Gross negligence or willful misconduct on the part of the salvor would include the pilfering and looting of the salvaged property,⁵⁰ or the refusal of the salvor to render aid until the master of the distressed vessel agrees to pay what is regarded as an exorbitant amount.⁵¹ In *Padilla*, the salvors looted the burning vessel, actively misled the Coast Guard concerning conditions on the vessel, and consistently attempted to mislead the District Court as to the effect and extent of their services. The District Court ruled that because of these actions, the salvors forfeited the right to any award to which they otherwise might have been entitled. Therefore, even if the salvage is successful, misconduct may result in a forfeiture of an

⁴⁶ *Basic Boats v. U.S.A.*, 1973 A.M.C. at 526.

⁴⁷ *Id.*

⁴⁸ *Basic Boats v. U.S.A.*, 1973 A.M.C. at 525, *Chesapeake Bay Bridge & Tunnel Dist. v. Oil Screw Prince*, 298 F.Supp. 881, 1968 A.M.C. 1427, (E.D. Va. 1968).

⁴⁹ *DFDS Seacruises v. U.S.*, 1988 A.M.C. 1530, 1541 (S.D. Fla. 1987).

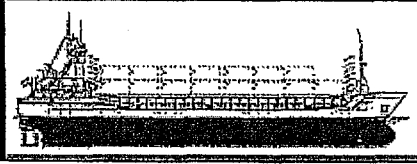
⁵⁰ *Padilla v. The Norseman*, 1967 A.M.C. 1531 (D.P.R. 1967).

⁵¹ *Higgins, Inc. v. M/V Tri-State*, 99 F. Supp. 694, 1951 A.M.C. 862 (S.D. Fla. 1951).

award and the assessment of damages against the salvor. If the salvage is unsuccessful, affirmative damages may still be assessed against the salvor as a result of his misconduct. Of course, no salvage award will be granted.

Conclusion

As with other areas of maritime law, the law of marine salvage is changing. This is in part because, as reflected in the 1989 Convention, the salvor's role in rescuing property in peril at sea is becoming subordinated to his role in preventing or mitigating environmental damage. Although improved safety has resulted in fewer opportunities for salvors to provide their services, the values saved and liabilities prevented are much greater than ever before, consequently providing basis for ample awards to those professional and other salvors who are available to serve. Salvors may also fund their operations in part through service to shipowners and operators in statutorily mandated capacities required for early response to casualties. Salvors may also, as noted above, engage in searching for, locating and salvaging vessels and goods lost long ago, but for which the technology for discovery and recovery have only recently become available.



International Convention on Salvage, 1989

(London, 28 April 1989)

THE STATES PARTIES TO THE PRESENT CONVENTION,

RECOGNIZING the desirability of determining by agreement uniform international rules regarding salvage operations,

NOTING that substantial developments, in particular the increased concern for the protection of the environment, have demonstrated the need to review the international rules presently contained in the Convention for the Unification of Certain Rules of Law relating to Assistance and Salvage at Sea, done at Brussels, 23 September 1910,

CONSCIOUS of the major contribution which efficient and timely salvage operations can make to the safety of vessels and other property in danger and to the protection of the environment,

CONVINCED of the need to ensure that adequate incentives are available to persons who undertake salvage operations in respect of vessels and other property in danger,

HAVE AGREED as follows:

CHAPTER I

GENERAL PROVISIONS

Article 1

Definitions

For the purpose of this Convention:

(a) "Salvage operation" means any act or activity undertaken to assist a vessel or any other property in danger in navigable waters or in any other waters whatsoever.

(b) "Vessel" means any ship or craft, or any structure capable of navigation.

(c) "Property" means any property not permanently and intentionally attached to the shoreline and includes freight at risk.

(d) "Damage to the environment" means substantial physical damage to human health or to marine life or resources in coastal or inland waters or areas adjacent thereto, caused by pollution, contamination, fire, explosion or similar major incidents.

(e) "Payment" means any reward, remuneration or compensation due under this Convention.

(f) "Organization" means the International Maritime Organization.

(g) "Secretary-General" means the Secretary-General of the Organization.

Article 2

Application of the Convention

This Convention shall apply whenever judicial or arbitral proceedings relating to matters dealt with in this Convention are brought in a State Party.

Article 3

Platforms and drilling units

This Convention shall not apply to fixed or floating platforms or to mobile offshore drilling units when such platforms or units are on location engaged in the exploration, exploitation or production of sea-bed mineral resources.

Article 4

State-owned vessels

1. Without prejudice to article 5, this Convention shall not apply to warships or other non-commercial vessels owned or operated by a State and entitled, at the time of salvage operations, to sovereign immunity under generally recognized principles of international law unless that State decides otherwise.

2. Where a State Party decides to apply the Convention to its warships or other vessels described in paragraph 1, it shall notify the Secretary-General thereof specifying the terms and conditions of such application.

Article 5

Salvage operations controlled by public authorities

1. This Convention shall not affect any provisions of national law or any international convention relating to salvage operations by or under the control of public authorities.
2. Nevertheless, salvors carrying out such salvage operations shall be entitled to avail themselves of the rights and remedies provided for in this Convention in respect of salvage operations.
3. The extent to which a public authority under a duty to perform salvage operations may avail itself of the rights and remedies provided for in this Convention shall be determined by the law of the State where such authority is situated.

Article 6

Salvage contracts

1. This Convention shall apply to any salvage operations save to the extent that a contract otherwise provides expressly or by implication.
2. The master shall have the authority to conclude contracts for salvage operations on behalf of the owner of the vessel. The master or the owner of the vessel shall have the authority to conclude such contracts on behalf of the owner of the property on board the vessel.
3. Nothing in this article shall affect the application of article 7 nor duties to prevent or minimize damage to the environment.

Article 7

Annulment and modification of contracts

A contract or any terms thereof may be annulled or modified if:

- (a) the contract has been entered into under undue influence or the influence of danger and its terms are inequitable; or
- (b) the payment under the contract is in an excessive degree too large or too small for the services actually rendered.

CHAPTER II

PERFORMANCE OF SALVAGE OPERATIONS

Article 8

Duties of the salvor and of the owner and master

1. The salvor shall owe a duty to the owner of the vessel or other property

in danger:

- (a) to carry out the salvage operations with due care;
- (b) in performing the duty specified in subparagraph (a), to exercise due care to prevent or minimize damage to the environment;
- (c) whenever circumstances reasonably require, to seek assistance from other salvors; and
- (d) to accept the intervention of other salvors when reasonably requested to do so by the owner or master of the vessel or other property in danger; provided however that the amount of his reward shall not be prejudiced should it be found that such a request was unreasonable.

2. The owner and master of the vessel or the owner of other property in danger shall owe a duty to the salvor:

- (a) to co-operate fully with him during the course of the salvage operations;
- (b) in so doing, to exercise due care to prevent or minimize damage to the environment; and
- (c) when the vessel or other property has been brought to a place of safety, to accept redelivery when reasonably requested by the salvor to do so.

Article 9

Rights of coastal States

Nothing in this Convention shall affect the right of the coastal State concerned to take measures in accordance with generally recognized principles of international law to protect its coastline or related interests from pollution or the threat of pollution following upon a maritime casualty or acts relating to such a casualty which may reasonably be expected to result in major harmful consequences, including the right of a coastal State to give directions in relation to salvage operations.

Article 10

Duty to render assistance

1. Every master is bound, so far as he can do so without serious danger to his vessel and persons thereon, to render assistance to any person in danger of being lost at sea.
2. The States Parties shall adopt the measures necessary to enforce the duty set out in paragraph 1.

3. The owner of the vessel shall incur no liability for a breach of the duty of the master under paragraph 1.

Article 11

Co-operation

A State Party shall, whenever regulating or deciding upon matters relating to salvage operations such as admittance to ports of vessels in distress or the provision of facilities to salvors, take into account the need for co-operation between salvors, other interested parties and public authorities in order to ensure the efficient and successful performance of salvage operations for the purpose of saving life or property in danger as well as preventing damage to the environment in general.

CHAPTER III

RIGHTS OF SALVORS

Article 12

Conditions for reward

1. Salvage operations which have had a useful result give right to a reward.
2. Except as otherwise provided, no payment is due under this Convention if the salvage operations have had no useful result.
3. This chapter shall apply, notwithstanding that the salvaged vessel and the vessel undertaking the salvage operations belong to the same owner.

Article 13

Criteria for fixing the reward

1. The reward shall be fixed with a view to encouraging salvage operations, taking into account the following criteria without regard to the order in which they are presented below:
 - (a) the salvaged value of the vessel and other property;
 - (b) the skill and efforts of the salvors in preventing or minimizing damage to the environment;
 - (c) the measure of success obtained by the salvor;
 - (d) the nature and degree of the danger;
 - (e) the skill and efforts of the salvors in salvaging the vessel, other property

and life;

(f) the time used and expenses and losses incurred by the salvors;

(g) the risk of liability and other risks run by the salvors or their equipment;

(h) the promptness of the services rendered;

(i) the availability and use of vessels or other equipment intended for salvage operations;

(j) the state of readiness and efficiency of the salvor's equipment and the value thereof.

2. Payment of a reward fixed according to paragraph 1 shall be made by all of the vessel and other property interests in proportion to their respective salvaged values. However, a State Party may in its national law provide that the payment of a reward has to be made by one of these interests, subject to a right of recourse of this interest against the other interests for their respective shares. Nothing in this article shall prevent any right of defence.

3. The rewards, exclusive of any interest and recoverable legal costs that may be payable thereon, shall not exceed the salvaged value of the vessel and other property.

Article 14

Special compensation

1. If the salvor has carried out salvage operations in respect of a vessel which by itself or its cargo threatened damage to the environment and has failed to earn a reward under article 13 at least equivalent to the special compensation assessable in accordance with this article, he shall be entitled to special compensation from the owner of that vessel equivalent to his expenses as herein defined.

2. If, in the circumstances set out in paragraph 1, the salvor by his salvage operations has prevented or minimized damage to the environment, the special compensation payable by the owner to the salvor under paragraph 1 may be increased up to a maximum of 30% of the expenses incurred by the salvor. However, the tribunal, if it deems it fair and just to do so and bearing in mind the relevant criteria set out in article 13, paragraph 1, may increase such special compensation further, but in no event shall the total increase be more than 100% of the expenses incurred by the salvor.

3. Salvor's expenses for the purpose of paragraphs 1 and 2 means the out-of-pocket expenses reasonably incurred by the salvor in the salvage operation and a fair rate for equipment and personnel actually and reasonably used in the salvage operation, taking into consideration the criteria set out in

article 13, paragraph 1(h), (i) and (j).

4. The total special compensation under this article shall be paid only if and to the extent that such compensation is greater than any reward recoverable by the salvor under article 13.

5. If the salvor has been negligent and has thereby failed to prevent or minimize damage to the environment, he may be deprived of the whole or part of any special compensation due under this article.

6. Nothing in this article shall affect any right of recourse on the part of the owner of the vessel.

Article 15

Apportionment between salvors

1. The apportionment of a reward under article 13 between salvors shall be made on the basis of the criteria contained in that article.

2. The apportionment between the owner, master and other persons in the service of each salving vessel shall be determined by the law of the flag of that vessel. If the salvage has not been carried out from a vessel, the apportionment shall be determined by the law governing the contract between the salvor and his servants.

Article 16

Salvage of persons

1. No remuneration is due from persons whose lives are saved, but nothing in this article shall affect the provisions of national law on this subject.

2. A salvor of human life, who has taken part in the services rendered on the occasion of the accident giving rise to salvage, is entitled to a fair share of the payment awarded to the salvor for salving the vessel or other property or preventing or minimizing damage to the environment.

Article 17

Services rendered under existing contracts

No payment is due under the provisions of this Convention unless the services rendered exceed what can be reasonably considered as due performance of a contract entered into before the danger arose.

Article 18

The effect of salvor's misconduct

A salvor may be deprived of the whole or part of the payment due under this Convention to the extent that the salvage operations have become necessary or more difficult because of fault or neglect on his part or if the salvor has been guilty of fraud or other dishonest conduct.

Article 19

Prohibition of salvage operations

Services rendered notwithstanding the express and reasonable prohibition of the owner or master of the vessel or the owner of any other property in danger which is not and has not been on board the vessel shall not give rise to payment under this Convention.

CHAPTER IV

CLAIMS AND ACTIONS

Article 20

Maritime lien

1. Nothing in this Convention shall affect the salvor's maritime lien under any international convention or national law.
2. The salvor may not enforce his maritime lien when satisfactory security for his claim, including interest and costs, has been duly tendered or provided.

Article 21

Duty to provide security

1. Upon the request of the salvor a person liable for a payment due under this Convention shall provide satisfactory security for the claim, including interest and costs of the salvor.
2. Without prejudice to paragraph 1, the owner of the salvaged vessel shall use his best endeavours to ensure that the owners of the cargo provide satisfactory security for the claims against them including interest and costs before the cargo is released.
3. The salvaged vessel and other property shall not, without the consent of the salvor, be removed from the port or place at which they first arrive after the completion of the salvage operations until satisfactory security has been put up for the salvor's claim against the relevant vessel or property.

Article 22

Interim payment

1. The tribunal having jurisdiction over the claim of the salvor may, by interim decision, order that the salvor shall be paid on account such amount as seems fair and just, and on such terms including terms as to security where appropriate, as may be fair and just according to the circumstances of the case.
2. In the event of an interim payment under this article the security provided under article 21 shall be reduced accordingly.

Article 23

Limitation of actions

1. Any action relating to payment under this Convention shall be time-barred if judicial or arbitral proceedings have not been instituted within a period of two years. The limitation period commences on the day on which the salvage operations are terminated.
2. The person against whom a claim is made at any time during the running of the limitation period extend that period by a declaration to the claimant. This period may in the like manner be further extended.
3. An action for indemnity by a person liable may be instituted even after the expiration of the limitation period provided for in the preceding paragraphs, if brought within the time allowed by the law of the State where proceedings are instituted.

Article 24

Interest

The right of the salvor to interest on any payment due under this Convention shall be determined according to the law of the State in which the tribunal seized of the case is situated.

Article 25

State-owned cargoes

Unless the State owner consents, no provision of this Convention shall be used as a basis for the seizure, arrest or detention by any legal process of, nor for any proceedings *in rem* against, non-commercial cargoes owned by a State and entitled, at the time of the salvage operations, to sovereign immunity under generally recognized principles of international law.

Article 26

Humanitarian cargoes

No provision of this Convention shall be used as a basis for the seizure, arrest or detention of humanitarian cargoes donated by a State, if such State has agreed to pay for salvage services rendered in respect of such humanitarian cargoes.

Article 27

Publication of arbitral awards

States Parties shall encourage, as far as possible and with the consent of the parties, the publication of arbitral awards made in salvage cases.

CHAPTER V

FINAL CLAUSES

Article 28

Signature, ratification, acceptance, approval and accession

1. This Convention shall be open for signature at the Headquarters of the Organization from 1 July 1989 to 30 June 1990 and shall thereafter remain open for accession.

2. States may express their consent to be bound by this Convention by:

(a) signature without reservation as to ratification, acceptance or approval; or

(b) signature subject to ratification, acceptance or approval, followed by ratification, acceptance of approval; or

(c) accession.

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

Article 29

Entry into force

1. This Convention shall enter into force one year after the date on which 15 States have expressed their consent to be bound by it.

2. For a State which expresses its consent to be bound by this Convention after the conditions for entry into force thereof have been met, such consent shall take effect one year after the date of expression of such

consent.

Article 30

Reservations

1. Any State may, at the time of signature, ratification, acceptance, approval or accession, reserve the right not to apply the provisions of this Convention:

(a) when the salvage operation takes place in inland waters and all vessels involved are of inland navigation;

(b) when the salvage operations take place in inland waters and no vessel is involved;

(c) when all interested parties are nationals of that State;

(d) when the property involved is maritime cultural property of prehistoric, archaeological or historic interest and is situated on the sea-bed.

2. Reservations made at the time of signature are subject to confirmation upon ratification, acceptance or approval.

3. Any State which has made a reservation to this Convention may withdraw it at any time by means of a notification addressed to the Secretary-General. Such withdrawal shall take effect on the date the notification is received. If the notification states that the withdrawal of a reservation is to take effect on a date specified therein, and such date is later than the date the notification is received by the Secretary-General, the withdrawal shall take effect on such later date.

Article 31

Denunciation

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

2. Denunciation shall be effected by the deposit of an instrument of denunciation 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, after the receipt of the instrument of denunciation by the Secretary-General.

Article 32

Revision and amendment

1. A conference for the purpose of revising or amending this Convention may be convened by the Organization.
2. The Secretary-General shall convene a conference of the States Parties to this Convention for revising or amending the Convention, at the request of eight States Parties, or one fourth of the States Parties, whichever is the higher figure.
3. 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 the Convention as amended.

Article 33

Depositary

1. This Convention shall be deposited with the Secretary-General.
2. The Secretary-General shall:
 - (a) inform all States which have signed this Convention or acceded thereto, and all Members of the Organization, 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 the entry into force of this Convention;
 - (iii) the deposit of any instrument of denunciation of this Convention together with the date on which it received and the date on which the denunciation takes effect;
 - (iv) any amendment adopted in conformity with article 32;
 - (v) the receipt of any reservation, declaration or notification made under this Convention;
 - (b) transmit certified true copies of this Convention to all States which have signed this Convention or acceded thereto.
3. As soon as this Convention enters into force, a certified true copy thereof shall be transmitted by the Depositary 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 34

Languages

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

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

DONE AT LONDON this twenty-eighth day of April one thousand nine hundred and eighty-nine.

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