

**KPI Information Update IU-64-2014**  
**(The Wreck Removal Convention will enter force on 14 April 2015)**

The Nairobi International Convention on the Removal Wrecks will enter into force on 14 April 2015 following the set down, on 14 April 2014, of an instrument of ratification by Denmark, with the International Maritime Organization (IMO).

The Convention was adopted by a five-day Diplomatic Conference at the United Nations Office at Nairobi (UNON), Kenya, in 2007.

Among several provisions, the Convention will place financial responsibility for the removal of certain hazardous wrecks on ship-owners, making insurance, or some other form of financial security, compulsory.

Denmark became the 10th country to ratify the convention, thereby triggering its entry into force exactly 12 months later.

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 a country's territorial sea. The Convention also contains a clause that enables States Parties to 'opt in' to apply certain provisions to their territory, including their territorial sea.

The Convention will provide a sound legal basis for States to remove shipwrecks that may have the potential to affect adversely the safety of lives, goods and property at sea, as well as the marine and coastal environment. It will make ship-owners 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.

**A) 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 ship-owner 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 ship-owner is required to maintain compulsory insurance or other financial security to cover liability under the convention; and settlement of disputes.

**B) Problems:**

- ✓ First, and depending on its location, a wreck may constitute a hazard to

- navigation, potentially endangering other vessels and their crews;
- ✓ Depending on the nature of the cargo, is the potential for a wreck to cause substantial damage to the marine and coastal environments;
- ✓ 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;
- ✓ Most of the dangerous wrecks lie in shallow coastal waters, within the territorial sea, where coastal States have unrestricted rights to remove them, without engagement of the ship-owner. The convention attempts to resolve all of these and other, related, issues.



#### ► **Standard contracts for wreck removal:**

The International Salvage Union (ISU) has developed a series of standard contracts for the performance of wreck removal services. The latest editions of these contracts – WRECKFIXED, WRECKSTAGE and WRECKHIRE – were introduced in 1999. These forms provide a model for the negotiation of contracts which balance the interests of all parties involved in a wreck removal operation.

#### ► **Wreck Removal Code of Practice:**

The ISU and the International Group of P&I Clubs are parties to a Code of Practice for wreck removal/cargo recovery operations. The P&I (Protection & Indemnity) Clubs are responsible for ship-owners' third party liabilities, including wreck removal obligations and pollution-related claims. This Code, amongst other things, sets out formal procedures for tendering for wreck removal projects.