



P.Z. br. 113

HRVATSKI SABOR

KLASA: 022-03/17-01/45

URBROJ: 65-17-02

Zagreb, 16. ožujka 2017.

**ZASTUPNICAMA I ZASTUPNICIMA
HRVATSKOGA SABORA**

**PREDSJEDNICAMA I PREDSJEDNICIMA
RADNIH TIJELA**

Na temelju članaka 178. i 192. Poslovnika Hrvatskoga sabora u prilogu upućujem *Prijedlog zakona o potvrđivanju Međunarodne konvencije iz Nairobija o uklanjanju podrtna iz 2007. godine, s Konačnim prijedlogom zakona*, koji je predsjedniku Hrvatskoga sabora dostavila Vlada Republike Hrvatske, aktom od 16. ožujka 2017. godine uz prijedlog da se sukladno članku 204. Poslovnika Hrvatskoga sabora predloženi Zakon donese po hitnom postupku.

Za svoje predstavnike, koji će u njezino ime sudjelovati u radu Hrvatskoga sabora i njegovih radnih tijela, Vlada je odredila Olega Butkovića, ministra mora, prometa i infrastrukture, mr. sc. Maju Markovčić Kostelac i Tomislava Mihotića, državne tajnike u Ministarstvu mora, prometa i infrastrukture, te mr. sc. Juru Šarića, pomoćnika ministra mora, prometa i infrastrukture.

PREDSJEDNIK


Božo Petrov



VLADA REPUBLIKE HRVATSKE

Klasa: 022-03/17-11/11

Urbroj: 50301-25/10-17-2

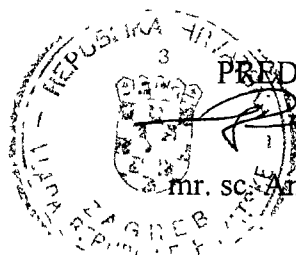

Zagreb, 16. ožujka 2017.

PREDSJEDNIKU HRVATSKOGA SABORA

Predmet: Prijedlog zakona o potvrđivanju Međunarodne konvencije iz Nairobija o uklanjanju podrtna iz 2007. godine, s Konačnim prijedlogom zakona

Na temelju članka 85. Ustava Republike Hrvatske (Narodne novine, br. 85/10 – pročišćeni tekst i 5/14 – Odluka Ustavnog suda Republike Hrvatske) i članaka 172. i 204. Poslovnika Hrvatskoga sabora (Narodne novine, br. 81/13 i 113/16), Vlada Republike Hrvatske podnosi Prijedlog zakona o potvrđivanju Međunarodne konvencije iz Nairobija o uklanjanju podrtna iz 2007. godine, s Konačnim prijedlogom zakona za hitni postupak.

Za svoje predstavnike, koji će u njezino ime sudjelovati u radu Hrvatskoga sabora i njegovih radnih tijela, Vlada je odredila Olega Butkovića, ministra mora, prometa i infrastrukture, mr. sc. Maju Markovčić Kostelac i Tomislava Mihotića, državne tajnike u Ministarstvu mora, prometa i infrastrukture, te mr. sc. Juru Šarića, pomoćnika ministra mora, prometa i infrastrukture.

 **PREDSJEDNIK**

mr. sc. Andrej Plenković

**PRIJEDLOG ZAKONA O POTVRĐIVANJU MEĐUNARODNE KONVENCIJE IZ
NAIROBIJA O UKLANJANJU PODRTINA IZ 2007. GODINE,
S KONAČNIM PRIJEDLOGOM ZAKONA**

PRIJEDLOG ZAKONA O POTVRĐIVANJU MEĐUNARODNE KONVENCIJE IZ NAIROBIJA O UKLANJANJU PODRTINA IZ 2007. GODINE

I. USTAVNA OSNOVA ZA DONOŠENJE ZAKONA

Ustavna osnova za donošenje Zakona o potvrđivanju Međunarodne konvencije iz Nairobija o uklanjanju podrtina iz 2007. godine sadržana je u članku 140. stavku 1. Ustava Republike Hrvatske (Narodne novine, br. 85/10 – pročišćeni tekst i 5/14 – Odluka Ustavnog suda Republike Hrvatske).

II. OCJENA STANJA I CILJ KOJI SE DONOŠENJEM ZAKONA ŽELI POSTIĆI

U Nairobiju se je od 14. do 18. svibnja 2007. godine, pod okriljem Međunarodne pomorske organizacije, održala Međunarodna konferencija o uklanjanju podrtina rezultirajući donošenjem Međunarodne konvencije iz Nairobija o uklanjanju podrtina iz 2007. godine (u daljnjem tekstu: Konvencija). Ista predstavlja međunarodni instrument kojim se propisuju unificirana pravila o lociranju, označavanju i uklanjanju podrtina koje mogu predstavljati iznimnu opasnost za sigurnost plovidbe i morski okoliš i čija sanacija često iziskuje veliki financijski trošak. Radi pokrića takvih troškova, Konvencija predviđa obvezno osiguranje ili drugo financijsko jamstvo, kao što je garancija banke ili druge relevantne institucije, za sve upisane vlasnike plovila bruto tonaže 300 i više. Obzirom da su države stranke u skladu s ovom Konvencijom ovlaštene izdavati svjedodžbe o postojanju takvog osiguranja, i hrvatska bi nadležna tijela, po stupanju na snagu Konvencije, mogla izdavati takve svjedodžbe. Odredbama Glave VI. Pomorskog zakonika (Narodne novine, br. 181/04, 76/07, 146/08, 61/11, 56/13 i 26/15) uređena su pitanja vađenja i uklanjanja podrtina i potonulih stvari, te su propisana pravila koja se primjenjuju na podrtine koje se nalaze u teritorijalnom moru, unutarnjim morskim vodama, zaštićenom ekološko – ribolovnom pojasu ili u epikontinentalnom pojasu Republike Hrvatske. Navedene odredbe Pomorskog zakonika velikim dijelom su već usklađene s Konvencijom. Ovim se Zakonom Konvencija potvrđuje s ciljem da ista postane dijelom unutarnjeg pravnog poretka Republike Hrvatske kako bi, između ostalog, hrvatska nadležna tijela mogla izdavati svjedodžbe o postojanju osiguranja u skladu s Konvencijom što je važno za poslovanje hrvatskih brodara u međunarodnoj plovidbi. Ujedno, ovim Zakonom se proširuje primjena Konvencije i izvan „konvencijskog područja“ – na teritorijalno more Republike Hrvatske, a o čemu će Republika Hrvatska prilikom polaganja svoje isprave o pristupu priopćiti izjavu vezanu uz članak 3. stavak 2. Konvencije.

III. OSNOVNA PITANJA KOJA SE PREDLAŽU UREDITI ZAKONOM

Ovim Zakonom potvrđuje se Konvencija, kako bi njezine odredbe, u smislu članka 141. Ustava Republike Hrvatske (Narodne novine, br. 85/10 – pročišćeni tekst i 5/14 – Odluka Ustavnog suda Republike Hrvatske) postale dijelom unutarnjeg pravnog poretka Republike Hrvatske. Ovim se Zakonom naročito želi osigurati primjena odredaba Konvencije koje se tiču osiguranja troškova brzog i učinkovitog uklanjanja podrtina, radi kojih pokrića troškova Konvencija predviđa obvezno osiguranje ili drugo financijsko jamstvo, kao što je garancija banke ili druge relevantne institucije, za sve upisane vlasnike plovila bruto tonaže 300 i više; i ovlaštenja država stranaka Konvencije da izdaju svjedodžbe o postojanju takvoga osiguranja, a koje bi, po stupanju na snagu Konvencije mogle izdavati i hrvatska nadležna

tijela. Zakonom se također proširuje primjena Konvencije na teritorijalno more Republike Hrvatske o čemu će Republika Hrvatska prilikom polaganja isprave o pristupu kod depozitara priopćiti izjavu vezanu uz članak 3. stavak 2. Konvencije. Radi svega navedenog, objavljuje se i tekst Konvencije, u izvorniku na engleskom i u prijevodu na hrvatski jezik, utvrđuje sadržaj izjave koju će Republika Hrvatska priopćiti prilikom polaganja isprave o pristupu te se određuje način objave i stupanje na snagu Konvencije u odnosu na Republiku Hrvatsku.

IV. OCJENA I IZVORI SREDSTAVA ZA PROVOĐENJE ZAKONA

Za provedbu ovog Zakona nije potrebno osigurati dodatna financijska sredstva iz državnog proračuna Republike Hrvatske.

V. PRIJEDLOG ZA DONOŠENJE ZAKONA PO HITNOM POSTUPKU

Temelj za donošenje ovoga Zakona po hitnom postupku nalazi se u članku 204. Poslovnika Hrvatskoga sabora (Narodne novine, br. 81/13 i 113/16), sukladno kojem se zakon može donijeti po hitnom postupku ukoliko isto zahijevaju osobito opravdani razlozi.

S obzirom na prirodu postupka potvrđivanja međunarodnih ugovora, kojim država i formalno izražava spremnost da bude vezana već sklopljenim međunarodnim ugovorom, kao i na činjenicu da se u ovoj fazi ne mogu vršiti izmjene i dopune teksta međunarodnog ugovora, predlaže se donošenje Zakona po hitnom postupku, objedinjavajući prvo i drugo čitanje.

**KONAČNI PRIJEDLOG ZAKONA O POTVRĐIVANJU
MEĐUNARODNE KONVENCIJE IZ NAIROBIJA O UKLANJANJU
PODRTINA IZ 2007. GODINE**

Članak 1.

Potvrđuje se Međunarodna konvencija iz Nairobija o uklanjanju podrtina iz 2007. godine usvojena u Nairobiju 18. svibnja 2007. godine, u izvorniku na arapskom, kineskom, engleskom, francuskom, ruskom i španjolskom jeziku.

Članak 2.

Tekst Konvencije iz članka 1. ovoga Zakona, u izvorniku na engleskom jeziku i u prijevodu na hrvatski jezik, glasi:

**MEĐUNARODNA KONVENCIJA IZ NAIROBIJA O UKLANJANJU
PODRTINA IZ 2007. GODINE**

DRŽAVE STRANKE OVE KONVENCIJE,

SVJESNE činjenice da podrtine, ukoliko se ne uklone, mogu predstavljati opasnost za plovidbu ili morski okoliš,

UVJERENE da je potrebno usvojiti ujednačena međunarodna pravila i postupke radi osiguranja brzog i učinkovitog uklanjanja podrtina i plaćanja naknada troškova takvog uklanjanja,

NAPOMINJUĆI da se mnoge podrtine nalaze na državnom području države, uključujući teritorijalno more,

PREPOZNAJUĆI koristi koje se mogu steći ujednačavanjem pravnih sustava kojima se reguliraju odgovornosti i obveze za uklanjanje opasnih podrtina,

IMAJUĆI NA UMU važnost Konvencije Ujedinjenih naroda o pravu mora, sastavljene u Montego Bayju 10. prosinca 1982. godine, i običajnog međunarodnog prava mora te potrebu za provedbom ove Konvencije u skladu s njihovim odredbama,

SPORAZUMJELE su se kako slijedi:

Članak 1.

Definicije

Za potrebe ove Konvencije:

1. "Konvencijsko područje" znači isključivi gospodarski pojas države stranke, koji je uspostavljen u skladu s međunarodnim pravom ili, ako država stranka nije uspostavila takav pojas, područje izvan ili odmah uz teritorijalno more te države, koje je ta država odredila u skladu s međunarodnim pravom i koje se prostire do 200 nautičkih milja od polaznih crta od kojih se mjeri širina njenog teritorijalnog mora.
2. "Brod" znači brod za pomorsku plovidbu bilo koje vrste, a uključuje hidroglisere, aeroglisere, podvodna plovila, plutajuće pomorske objekte i plutajuće platforme, osim kada su te platforme postavljene na lokaciji predviđenoj za istraživanje, gospodarsko iskorištavanje ili proizvodnju mineralnih resursa s morskog dna.
3. "Pomorska nesreća" znači sudar brodova, nasukanje broda ili druga plovidbena nezgoda ili drugi događaj na brodu ili izvan njega koji je uzrokovao materijalnu štetu ili neposrednu opasnost od materijalne štete broda ili njegovog tereta.
4. "Podrtina", kao posljedica pomorske nesreće, znači:
 - (a) potonuli ili nasukani brod; ili
 - (b) bilo koji dio potonulog ili nasukanog broda, uključujući bilo koji predmet koji

se nalazi ili se nalazio na takvom brodu; ili

- (c) bilo koji predmet koji je s broda koji je nasukan, potonuo ili pluta morem izgubljen u moru; ili
- (d) brod za koji je očito da će uskoro potonuti ili se nasukati ili za kojeg se opravdano može očekivati da će uskoro potonuti ili se nasukati, pri čemu se još nisu počele poduzimati učinkovite mjere spašavanja broda ili bilo koje imovine koja je u opasnosti.

5. "Opasnost" znači bilo koja okolnost ili prijetnja:

- (a) koja predstavlja ugrozu ili smetnju za plovidbu; ili
- (b) za koju se opravdano može očekivati da će rezultirati velikim štetnim posljedicama za morski okoliš ili oštećenjem obale ili povezanim interesima jedne ili više država.

6. "Povezani interesi" znači interesi obalne države na koje podršina izravno utječe ili koje podršina izravno ugrožava, kao što su:

- (a) pomorske priobalne aktivnosti, aktivnosti u lukama i estuarijima, uključujući ribarske aktivnosti, koje predstavljaju temeljni način osiguranja sredstava za život osobama koje se njima bave,
- (b) turističke atrakcije i drugi gospodarski interesi predmetnog područja;
- (c) zdravlje priobalnog stanovništva i dobrobit predmetnog područja, uključujući očuvanje živog morskog bogatstva i životinjskog svijeta; i
- (d) odobalna i podvodna infrastruktura.

7. "Uklanjanje" znači bilo koji oblik sprečavanja, ublažavanja ili otklanjanja opasnosti koje je stvorila podršina. "Ukloniti", "uklonjeno" i "uklanjanje" potrebno je tumačiti sukladno tome.

8. "Upisani vlasnik" znači osoba ili osobe koje su upisane kao vlasnici broda ili, u nedostatku upisa, osoba ili osobe koje su vlasnici broda u vrijeme pomorske nesreće. Međutim, kada je brod u vlasništvu države i njime upravlja društvo koje je u toj državi upisano kao brodar, "upisani vlasnik" znači takvo društvo.

9. "Brodar" je vlasnik broda ili bilo koja druga organizacija ili osoba, kao što je poslovođa ili zakupoprimalac broda, koja je od vlasnika broda preuzela odgovornost za upravljanje brodom i koja je, preuzimanjem te odgovornosti, preuzela sve obveze i odgovornosti utvrđene Međunarodnim pravilnikom o upravljanju sigurnošću, kako je izmijenjen i dopunjen.

10. "Ugrožena država" znači država na čijem se konvencijskom području podršina nalazi.

11. "Država upisa broda" znači, u odnosu na upisani brod, država u kojoj je brod upisan i, u odnosu na neupisani brod, državu čiju zastavu brod ima pravo vijati.

12. "Organizacija" znači Međunarodna pomorska organizacija.
13. "Glavni tajnik" znači glavni tajnik Organizacije.

Članak 2.

Ciljevi i opća načela

1. Država stranka može, u skladu s ovom Konvencijom, poduzimati mjere za uklanjanje podrtine koja predstavlja opasnost za konvencijsko područje.
2. Mjere koje ugrožena država poduzme u skladu sa stavkom 1. moraju biti u razmjeru s opasnošću.
3. Takve mjere ne smiju nadilaziti ono što je razumno nužno za uklanjanje podrtine koja predstavlja opasnost i obustavljaju se čim se podrtina ukloni; one ne smiju nepotrebno ometati prava i interese drugih država, uključujući državu upisa broda, niti bilo kojih zainteresiranih osoba, fizičkih ili pravnih.
4. Primjena ove Konvencije unutar konvencijskog područja ne daje državi stranci pravo da zahtijeva ili ostvaruju suverenost ili suverena prava nad bilo kojim dijelom otvorenog mora.
5. Države stranke nastoje surađivati kada posljedice pomorske nesreće u kojoj je nastala podrtina uključuju i državu koja nije ugrožena država.

Članak 3.

Područje primjene

1. Osim ako u ovoj Konvencijom nije predviđeno drukčije, ova se Konvencija primjenjuje na podrtine koje se nalaze na konvencijskom području.
2. Država stranka može proširiti primjenu ove Konvencije na podrtine koje se nalaze na njezinom državnom području, uključujući teritorijalno more, podložno članku 4. stavku 4. U tom slučaju o tome obavješćuje glavnog tajnika, u trenutku izražavanja svog pristanka da bude vezana ovom Konvencijom ili u bilo kojem trenutku nakon toga. Kada je država stranka glavnog tajnika obavijestila da ovu Konvenciju primjenjuje na podrtine koje se nalaze na njezinom državnom području, uključujući teritorijalno more, to ne utječe na prava i obveze te države u poduzimanju mjera u vezi s podrtinama koje se nalaze na njezinom državnom području, uključujući teritorijalno more, a koje nisu njihovo lociranje, označavanje i uklanjanje podrtina sukladno ovoj Konvenciji. Odredbe članaka 10., 11. i 12. ove Konvencije ne primjenjuju se ni na jednu od tako poduzetih mjera, osim onih navedenih u člancima 7., 8. i 9. ove Konvencije.
3. Kada je država stranka uputila obavijest prema stavku 2., "konvencijsko područje" ugrožene države uključuje i državno područje, uključujući i teritorijalno more, te države stranke.
4. Obavijest dostavljena prema gornjem stavku 2. proizvodi učinak za tu državu stranku, ako je dostavljena prije stupanja na snagu ove Konvencije za tu državu stranku, nakon stupanja na snagu. Ako je obavijest dostavljena nakon stupanja na snagu ove Konvencije za tu

državu stranku, ona proizvodi učinak šest mjeseci nakon što je zaprimi glavni tajnik.

5. Država stranka koja je dostavila obavijest prema stavku 2. može ju povući u bilo kojem trenutku dostavom obavijesti o povlačenju glavnom tajniku. Takva obavijest o povlačenju proizvodi učinak šest mjeseci nakon što je primi glavni tajnik, osim ako je u obavijesti naveden kasniji datum.

Članak 4.

Izuzeca

1. Ova se Konvencija ne primjenjuje na mjere poduzete prema Međunarodnoj konvenciji o intervenciji na otvorenom moru u slučaju nezgode koja uzrokuje ili bi mogla uzrokovati onečišćenje naftom iz 1969., kako je izmijenjena i dopunjena, ili prema Protokolu o intervenciji na otvorenom moru u slučaju onečišćenja drugim tvarima koje nisu nafta iz 1973., kako je izmijenjen i dopunjen.

2. Ova se Konvencija ne primjenjuje ni na jedan ratni ili drugi brod koji je u vlasništvu države ili država njime upravlja i kojeg iskorištava u razmatranom razdoblju isključivo za negospodarske djelatnosti vlade, osim ako ta država ne odluči drukčije.

3. Ako odluči primjenjivati ovu Konvenciju na svoje ratne ili druge brodove kako je opisano u stavku 2., država stranka obavješćuje glavnog tajnika i točno navodi uvjete takve primjene.

4. (a) Kada država stranka dostavi obavijest prema članku 3. stavku 2., na njezinom se državnom području, uključujući teritorijalno more, ne primjenjuju sljedeće odredbe ove Konvencije:

- (i) članak 2. stavak 4.;
- (ii) članak 9. stavci 1., 5., 7., 8., 9. i 10.; i
- (iii) članak 15.

(b) Ako se primjenjuje na državno područje, uključujući teritorijalno more države stranke, članak 9. stavak 4. glasi kako slijedi:

Podložno nacionalnom pravu ugrožene države, upisani vlasnik može sklopiti ugovor s bilo kojim spašavateljem ili drugom osobom da u ime vlasnika ukloni podrtinu za koju je utvrđeno da predstavlja opasnost. Prije nego takvo uklanjanje započne, ugrožena država može propisati uvjete uklanjanja, ali samo u mjeri u kojoj je potrebno osigurati da se uklanjanje provodi na način koji je siguran i kojim se štiti morski okoliš.

Članak 5.

Prijavljivanje podrtina

1. Država stranka zahtijeva da zapovjednik i brodar broda čiju zastavu ima pravo vijati bez odgađanja izvijeste ugroženu državu kada je brod sudjelovao u pomorskoj nesreći u kojoj je nastala podrtina. U mjeri u kojoj je jedan od njih, zapovjednik ili brodar, ispunio obvezu

izvješćivanja prema ovome članku, drugi je oslobođen te obveze.

2. Takva izvješća sadrže ime i glavno mjesto poslovanja upisanog vlasnika i ostale relevantne podatke potrebne da bi ugrožena država mogla utvrditi predstavlja li podrtina opasnost u skladu s člankom 6., uključujući:

- (a) točan položaj podrtine;
- (b) vrstu, veličinu i građu podrtine;
- (c) prirodu štete i stanje podrtine;
- (d) prirodu i količinu tereta, posebno bilo kojih opasnih i štetnih tvari; i
- (e) količinu i vrstu ulja na brodu, uključujući pogonsko ulje i ulje za podmazivanje.

Članak 6.

Utvrđivanje opasnosti

Prilikom utvrđivanja predstavlja li podrtina opasnost, ugrožena država trebala bi uzeti u obzir sljedeće kriterije:

- (a) vrstu, veličinu i građu podrtine;
- (b) dubinu vode na tom području;
- (c) amplitudu morskih mijena i morske struje na tom području;
- (d) posebno osjetljiva morska područja ustanovljena i primjereno određena u skladu sa smjernicama koje je usvojila Organizacija ili jasno definirano područje isključivog gospodarskog pojasa na kojem su usvojene posebne obvezne mjere prema članku 211. stavku 6. Konvencije Ujedinjenih naroda o pravu mora iz 1982;
- (e) blizinu brodskih ruta ili uspostavljenih separacijskih zona;
- (f) gustoću i frekvenciju prometa;
- (g) vrstu prometa;
- (h) prirodu i količinu tereta na podrtini, količinu i vrstu ulja (kao što su pogonsko ulje i ulje za podmazivanje) na podrtini i, posebno, moguću štetu u slučaju ispuštanja tereta ili ulja u morski okoliš;
- (i) izloženost lučkih objekata;
- (j) prevladavajuće meteorološke i hidrografske uvjete;
- (k) topografiju podmorja u tom području;
- (l) visinu podrtine iznad ili ispod površine vode pri najnižoj razini živih morskih mijena;
- (m) akustičke i magnetske osobine podrtine;

- (n) blizinu odobalnih instalacija, cjevovoda, telekomunikacijskih kabela i sličnih struktura; i
- (o) bilo koje druge okolnosti koje bi mogle zahtijevati uklanjanje podrtine.

Članak 7.

Lociranje podrtina

1. Nakon što sazna za postojanje podrtine, ugrožena država upotrebljava sve moguće načine, uključujući dobre usluge država i organizacija, za hitno upozoravanje pomoraca i zainteresiranih država o prirodi i položaju podrtine.
2. Ako ima razloga vjerovati da podrtina predstavlja opasnost, ugrožena država osigurava poduzimanje svih mogućih mjera radi utvrđivanja točnog položaja podrtine.

Članak 8.

Označavanje podrtina

1. Ako ugrožena država utvrdi da podrtina predstavlja opasnost, ta država osigurava poduzimanje svih razumnih mjera kako bi se podrtina označila.
2. Prilikom označavanja podrtine potrebno je poduzeti svaku moguću mjeru kako bi označavanje bilo u skladu s međunarodno prihvaćenim sustavom balisaže koji se primjenjuje na području gdje se podrtina nalazi.
3. Ugrožena država objavljuje pojedinosti označavanja podrtine, koristeći sva prikladna sredstva, uključujući odgovarajuće nautičke publikacije.

Članak 9.

Mjere za olakšavanje uklanjanja podrtina

1. Ako ugrožena država utvrdi da podrtina predstavlja opasnost, ta država odmah:
 - (a) obavješćuje državu upisa broda i upisanog vlasnika; i
 - (b) savjetuje se s državom upisa broda i ostalim državama koje su ugrožene podrtinom o mjerama koje je potrebno poduzeti u vezi s podrtinom.
2. Upisani vlasnik uklanja podrtinu za koju se utvrdi da predstavlja opasnost.
3. Kada se utvrdi da podrtina predstavlja opasnost, upisani vlasnik ili druga zainteresirana strana pruža nadležnom tijelu ugrožene države dokaze o osiguranju ili drugom financijskom jamstvu kako zahtjeva članak 12.
4. Upisani vlasnik može sklopiti ugovor s bilo kojim spašavateljem ili drugom osobom da u ime vlasnika ukloni podrtinu za koju je utvrđeno da predstavlja opasnost. Prije nego takvo uklanjanje započne, ugrožena država može odrediti uvjete za takvo uklanjanje samo u mjeri u kojoj je potrebno osigurati da se uklanjanje provodi na način koji je siguran i kojim se štiti morski okoliš.

5. Kada je uklanjanje navedeno u stavcima 2. i 4. započelo, ugrožena država može intervenirati u uklanjanje samo u mjeri u kojoj je potrebno osigurati da se uklanjanje doista provodi na način koji je siguran i kojim se štiti morski okoliš.

6. Ugrožena država:

- (a) određuje razuman rok u kojem je upisani vlasnik dužan ukloniti podrtinu, uzimajući u obzir prirodu opasnosti utvrđenu u skladu s člankom 6.;
- (b) pisanim putem obavješćuje upisanog vlasnika o roku koji je odredila uz naglasak da on može ukloniti podrtinu na trošak upisanog vlasnika, ukoliko on to ne učini u navedenom roku; i
- (c) pisanim putem obavješćuje upisanog vlasnika da namjerava odmah intervenirati u slučajevima kada opasnost postane osobito ozbiljna.

7. Ako upisani vlasnik ne ukloni podrtinu u roku određenom u skladu sa stavkom 6. točkom (a), ili je nemoguće stupiti u vezu s njime, ugrožena država može ukloniti podrtinu na najučinkovitiji i najbrži mogući način, vodeći pritom računa o sigurnosti i zaštiti morskog okoliša.

8. U slučajevima koji zahtijevaju hitno djelovanje, o čemu je ugrožena država obavijestila državu upisa broda i upisanog vlasnika, ona može ukloniti podrtinu na najučinkovitiji i najbrži mogući način, vodeći pritom računa o sigurnosti i zaštiti morskog okoliša.

9. Države stranke poduzimaju odgovarajuće mjere prema svojem nacionalnom pravu kako bi osigurale da njihovi upisani vlasnici udovolje odredbama stavaka 2. i 3.

10. Države stranke daju pristanak ugroženoj državi da postupa prema stavcima 4. do 8., kada se to zahtijeva.

11. Ugrožena država pruža informacije iz ovoga članka upisanom vlasniku čiji se podaci nalaze u izvješćima navedenim u članku 5. stavku 2.

Članak 10.

Odgovornost vlasnika

1. Podložno članku 11., upisani vlasnik odgovara za troškove lociranja, označavanja i uklanjanja podrtine izvršenima sukladno člancima 7., 8. i 9., ukoliko ne dokaže da je pomorska nesreća u kojoj je nastala podrtina:

- (a) posljedica rata, neprijateljskog čina, građanskog rata, pobune ili iznimne, neizbježne i nesavladive prirodne pojave;
- (b) u cijelosti prouzročena radnjom ili propustom treće osobe učinjenima u namjeri da se prouzroči šteta; ili
- (c) u cijelosti prouzročena nepažnjom ili drugom štetnom radnjom bilo koje vlade ili drugog tijela odgovornog za održavanje svjetala ili drugih sredstava za

pomoć plovidbi u obavljanju te funkcije.

2. Ništa u ovoj Konvenciji ne utječe na pravo upisanog vlasnika na ograničenje odgovornosti prema bilo kojem primjenjivom nacionalnom ili međunarodnom propisu kao što je Konvencija o ograničenju odgovornosti za pomorske tražbine iz 1976., kako je izmijenjena i dopunjena.

3. Protiv upisanog vlasnika ne može se podnijeti zahtjev za naknadu troškova iz stavka 1. ako nije u skladu s odredbama ove Konvencije. To ne utječe na prava i obveze države stranke koja je dostavila obavijest prema članku 3. stavku 2. u vezi s podrtinama smještenim na njezinom državnom području, uključujući teritorijalno more, a koje nisu lociranje, obilježavanje i uklanjanje podrtina u skladu s ovom Konvencijom.

4. Ništa u ovom članku ne utječe na bilo koje pravo regresa prema trećim stranama.

Članak 11.

Izuzeci od odgovornosti

1. Upisani vlasnik ne odgovara prema ovoj Konvenciji za troškove spomenute u članku 10. stavku 1., ako je, i u opsegu u kojem je, odgovornost za takve troškove u suprotnosti s:

- (a) Međunarodnom konvencijom o građanskoj odgovornosti za štetu uzrokovanom onečišćenjem naftom iz 1969., kako je izmijenjena i dopunjena;
- (b) Međunarodnom konvencijom o odgovornosti i naknadi štete u vezi prijevoza opasnih i štetnih tvari morem iz 1996., kako je izmijenjena i dopunjena;
- (c) Konvencijom o odgovornosti prema trećima na području nuklearne energije iz 1960., kako je izmijenjena i dopunjena, ili Bečkom konvencijom o građanskoj odgovornosti za nuklearnu štetu iz 1963., kako je izmijenjena i dopunjena, ili s nacionalnim pravom koje uređuje ili zabranjuje ograničenje odgovornosti za nuklearnu štetu; ili
- (d) Međunarodnom konvencijom o građanskoj odgovornosti za štetu zbog onečišćenja pogonskim uljem iz 2001., kako je izmijenjena i dopunjena;

pod uvjetom da je odgovarajuća konvencija primjenjiva i na snazi.

2. U opsegu u kojem se mjere iz ove Konvencije smatraju spašavanjem prema primjenjivom nacionalnom pravu ili nekoj međunarodnoj konvenciji, to se pravo ili konvencija primjenjuju u slučaju nagrade ili naknade spašavateljima, a izuzimaju se odredbe ove Konvencije

Članak 12.

Obvezno osiguranje ili drugo financijsko jamstvo

1. Upisani vlasnik broda bruto tonaže 300 i više koji ima pravo vijati zastavu države stranke dužan je imati osiguranje ili drugo financijsko jamstvo, kao što je garancija banke ili slične institucije, radi pokrića odgovornosti prema ovoj Konvenciji u iznosu koji odgovara

granicama odgovornosti utvrđenima prema primjenjivim nacionalnim ili međunarodnim propisima o ograničenju, ali ni u kojem slučaju ne prelazi iznos obračunat prema članku 6. stavku 1. točke (b) Konvencije o ograničenju odgovornosti za pomorske tražbine iz 1976., kako je izmijenjena i dopunjena.

2. Nakon što utvrdi da je udovoljeno zahtjevima iz stavka 1., odgovarajuće tijelo države upisa broda izdaje svakom brodu bruto tonaže 300 i više svjedodžbu kojom se potvrđuje da su osiguranje ili drugo financijsko jamstvo na snazi prema odredbama ove Konvencije. Za brod upisan u državi stranci takvu svjedodžbu izdaje ili ovjerava odgovarajuće tijelo države upisa broda; za brod koji nije upisan u državi stranci takvu svjedodžbu može izdati ili ovjeriti odgovarajuće tijelo bilo koje države stranke. Ova svjedodžba o obveznom osiguranju sastavljena je prema predlošku koji se nalazi u prilogu ovoj Konvenciji i mora sadržati sljedeće podatke:

- (a) ime broda, broj ili slova za prepoznavanje i luku upisa;
- (b) bruto tonažu broda;
- (c) ime i glavno mjesto poslovanja upisanog vlasnika;
- (d) IMO identifikacijski broj broda;
- (e) vrstu i trajanje jamstva;
- (f) ime i glavno poslovno sjedište osiguratelja ili druge osobe koja daje jamstvo i, u odgovarajućem slučaju, poslovno sjedište u kojem je osiguranje ili jamstvo zaključeno; i
- (g) rok važenja svjedodžbe, koji ne može biti dulji od roka važenja osiguranja ili drugog jamstva.

3. (a) Država stranka može ovlastiti ili instituciju ili organizaciju koju je priznala za izdavanje svjedodžbi iz stavka 2. Ta institucija ili organizacija obavješćuje dotičnu državu o izdavanju svake svjedodžbe. U svim slučajevima država stranka u cijelosti jamči za potpunost i točnost tako izdane svjedodžbe i obvezuje se osigurati preduvjete za ispunjenje te obveze.

- (b) Država stranka obavješćuje glavnog tajnika o:
 - (i) posebnim dužnostima i uvjetima iz ovlaštenja danog priznatoj instituciji ili organizaciji;
 - (ii) povlačenju tog ovlaštenja; i
 - (iii) datumu na koji ovlaštenje ili povlačenje tog ovlaštenja stupa na snagu.

Dano ovlaštenje ne proizvodi učinak prije nego što proteknu tri mjeseca od datuma na koji je glavni tajnik obaviješten o takvom ovlaštenju.

- (c) Institucija ili organizacija ovlaštena za izdavanje svjedodžbi u skladu s ovim stavkom ovlaštena je, najmanje, za povlačenje tih svjedodžbi ako se ne poštuju

uvjeti pod kojima su izdane. U svakom slučaju institucija ili organizacija izvješćuje o takvom povlačenju državu u čije ime je svjedodžbu izdala.

4. Svjedodžba je na službenom jeziku ili jezicima države koja je izdaje. Ako upotrijebljeni jezik nije engleski, francuski ili španjolski, tekst uključuje prijevod na jedan od tih jezika, a ako država tako odluči, njezin službeni jezik ili jezici mogu se izostaviti.

5. Svjedodžba se nalazi na brodu, a preslika se polaže kod tijela koje vodi upisnik u koji je brod upisan ili, ako brod nije upisan u državi stranci, kod tijela koje je izdalo ili ovjerilo svjedodžbu.

6. Osiguranje ili drugo financijsko jamstvo ne udovoljava zahtjevima ovoga članka ako može prestati iz razloga koji nije istek roka važenja osiguranja ili jamstva navedenog u svjedodžbi iz stavka 2. prije nego što proteknu tri mjeseca od datuma na koji je tijelu iz stavka 5. upućena obavijest o njegovu prestanku, osim ako je svjedodžba vraćena tom tijelu ili je izdana nova svjedodžba u navedenom razdoblju. Prethodne se odredbe na isti način primjenjuju na svaku izmjenu uslijed koje osiguranje ili drugo jamstvo više ne udovoljava zahtjevima ovoga članka.

7. Država upisa broda, podložno odredbama ovoga članka i uzimajući u obzir smjernice o financijskoj odgovornosti upisanih vlasnika koje donese Organizacija, određuje uvjete izdavanja i važenja svjedodžbe.

8. Ništa u ovoj Konvenciji ne smije se tumačiti kao sprečavanje države stranke da se pouzda u podatke dobivene od drugih država, Organizacije ili drugih međunarodnih organizacija u vezi s financijskim položajem davatelja osiguranja ili financijskog jamstva za potrebe ove Konvencije. U takvim slučajevima, država stranka koja se pouzda u takve podatke nije oslobođena svoje odgovornosti kao država izdavanja svjedodžbe koja se zahtijeva stavkom 2.

9. Svjedodžbe izdane i ovjerene u jednoj državi stranci druge države stranke priznaju za potrebe ove Konvencije i smatraju ih jednako vrijednima kao i svjedodžbe koje su one same izdale ili ovjerile, čak i kada su izdane ili ovjerene za brod koji nije upisan u državi stranci. Država stranka može u svakom trenutku zatražiti konzultacije s državom koja je izdala ili ovjerila svjedodžbu ako smatra da osiguratelj ili jamac imenovan u svjedodžbi nije financijski sposoban ispuniti obveze koje nalaže Konvencija.

10. Svaka tužba za naknadu troškova prema ovoj Konvenciji može se podnijeti izravno protiv osiguratelja ili druge osobe koja daje financijsko jamstvo koje pokriva odgovornost upisanog vlasnika. U takvom slučaju tuženik se može pozvati na pravna sredstva obrane koja pripadaju upisanom vlasniku (osim stečaja ili likvidacije upisanog vlasnika), uključujući ograničenje odgovornosti prema bilo kojem primjenjivom nacionalnom ili međunarodnom propisu. Nadalje, čak i kada upisani vlasnik nema pravo na ograničenje odgovornosti, tuženik može ograničiti svoju odgovornost do iznosa jednakog iznosu osiguranja ili drugog financijskog jamstva koje se zahtijeva u skladu sa stavkom 1. Osim toga, tuženik se u svrhu obrane može pozvati na činjenicu da je pomorska nesreća posljedica namjernog protupravnog ponašanja upisanog vlasnika, ali se ne može koristiti drugim sredstvima obrane na koja bi se mogao pozvati u postupku koji bi protiv njega pokrenuo upisani vlasnik. Tuženik u svakom slučaju ima pravo zahtijevati da upisani vlasnik sudjeluje u postupku.

11. Država stranka brodu koji ima pravo vijati njenu zastavu i na koji se primjenjuju odredbe ovoga članka ne dopušta obavljanje plovidbe ni u koje vrijeme ako mu nije izdana

svjedodžba na temelju stavaka 2. ili 14.

12. Podložno odredbama ovoga članka, svaka država stranka osigurava, na temelju svojeg nacionalnog prava, da osiguranje ili drugo jamstvo pokriva, u mjeri određenoj stavkom 1., svaki brod bruto tonaže 300 i više, bez obzira gdje je upisan, koji uplovljava u luku na području države stranke ili isplovljava iz nje, odnosno stiže na odobalni objekt u njezinom teritorijalnom moru ili ga napušta.

13. Bez obzira na odredbe stavka 5., država stranka može obavijestiti glavnog tajnika da se, za potrebe stavka 12., svjedodžba iz stavka 2. ne mora nalaziti na brodu niti ju je brod dužan predočiti kada uplovljava u luku na njezinom području ili isplovljava iz nje, odnosno stiže na odobalni objekt u njezinom teritorijalnom moru ili ga napušta, pod uvjetom da je država stranka koja izdaje svjedodžbu iz stavka 2. obavijestila glavnog tajnika da čuva podatke u elektroničkom obliku, dostupne svim državama strankama, koji potvrđuju postojanje svjedodžbe i omogućuju državama strankama da ispune svoje obveze iz stavka 12.

14. Ako brod koji je u vlasništvu države stranke nije pokriven osiguranjem ili drugim financijskim jamstvom, na njega se ne primjenjuju odgovarajuće odredbe ovoga članka, ali se na njemu mora nalaziti svjedodžba koju je izdalo nadležno tijelo države upisa broda kojom se potvrđuje da je brod u vlasništvu te države i da je njegova odgovornost pokrivena u granicama određenima u stavku 1. Takva svjedodžba u najvećoj mogućoj mjeri odgovara predlošku propisanome u stavku 2.

Članak 13.

Zastara

Pravo na naknadu troškova prema ovoj Konvenciji prestaje ako se ne podigne tužba prema odredbama ove Konvencije u roku od tri godine od datuma na koji je utvrđena opasnost u skladu s ovom Konvencijom. Međutim, tužba se ni u kojem slučaju ne može podići nakon što protekne šest godina od datuma pomorske nesreće u kojoj je nastala podrtina. Ako se pomorska nesreća sastoji od niza događaja, rok od šest godina počinje teći od datuma nastupa prvoga događaja.

Članak 14.

Odredbe o izmjenama i dopunama

1. Na zahtjev najmanje jedne trećine država stranaka, Organizacija saziva konferenciju radi revizije ili izmjena i dopuna ove Konvencije.

2. Svaki pristanak na obvezivanje ovom Konvencijom izražen nakon datuma stupanja na snagu izmjena i dopune ove Konvencije, smatra se da se primjenjuje na ovu Konvenciju kako je izmijenjena i dopunjena.

Članak 15.

Rješavanje sporova

1. Kada spor nastane između dviju ili više država stranaka o tumačenju ili primjeni ove Konvencije, one nastoje, u prvom redu, riješiti svoj spor pregovorima, istragom,

posredovanjem, mirenjem, arbitražom, sudskom nagodbom, upućivanjem na regionalne agencije ili dogovore ili drugim mirnim sredstvima po vlastitom izboru.

2. Ako rješenje spora nije moguće u razumnom roku, koji ne prelazi dvanaest mjeseci nakon što jedna država stranka obavijesti drugu o međusobnom sporu, primjenjuju se, *mutatis mutandis*, odredbe o rješavanju sporova navedene u dijelu XV. Konvencije Ujedinjenih naroda o pravu mora iz 1982., bez obzira na to jesu li države koje su stranke u sporu također države stranke Konvencije Ujedinjenih naroda o pravu mora iz 1982.

3. Svaki postupak koji izabere država stranka ove Konvencije i Konvencije Ujedinjenih naroda o pravu mora iz 1982., prema članku 287. potonje, primjenjuje se na rješavanje sporova iz ovoga članka, osim ako ta država stranka, kada ratificira, prihvaća ili odobrava ovu Konvenciju ili joj pristupa, ili u bilo kojem trenutku nakon toga, odabere drugi postupak prema članku 287. za potrebe rješavanja sporova proizašlih iz ove Konvencije.

4. Država stranka ove Konvencije koja nije stranka Konvencije Ujedinjenih naroda o pravu mora iz 1982. može, kada ratificira, prihvaća ili odobrava ovu Konvenciju ili joj pristupa, ili u bilo koje vrijeme nakon toga, pisanom izjavom izabrati jedno ili više sredstava navedenih u članku 287. stavku 1. Konvencije Ujedinjenih naroda o pravu mora iz 1982. za potrebe rješavanja sporova prema ovome članku. Članak 287. primjenjuje se na takvu izjavu, kao i na svaki spor u kojem je ta država stranka, a koji nije obuhvaćen važećom izjavom. Za potrebe mirenja i arbitraže, u skladu s Prilozima V. i VII. Konvencije Ujedinjenih naroda o pravu mora iz 1982., takva država ima pravo imenovati miritelje i arbitre koji se dodaju popisu navedenom u Prilogu V. članku 2. i Prilogu VII. članku 2. za potrebe rješavanja sporova proizašlih iz ove Konvencije.

5. Izjava dana prema stavcima 3. i 4. polaže se kod glavnog tajnika, koji njezine preslike dostavlja državama strankama.

Članak 16.

Odnos prema drugim konvencijama i međunarodnim ugovorima

Ništa u ovoj Konvenciji ne dovodi u pitanje prava i obveze bilo koje države prema Konvenciji Ujedinjenih naroda o pravu mora iz 1982. i prema običajnom međunarodnom pravu mora.

Članak 17.

Potpisivanje, ratifikacija, prihvata, odobrenje i pristup

1. Ova je Konvencija otvorena za potpisivanje u sjedištu Organizacije od 19. studenoga 2007. do 18. studenoga 2008., a zatim ostaje otvorena za pristup.

- (a) Države mogu izraziti pristanak da budu vezane ovom Konvencijom:
 - (i) potpisivanjem bez rezerve ratifikacije, prihvata ili odobrenja; ili
 - (ii) potpisivanjem uz rezervu ratifikacije, prihvata ili odobrenja, nakon čega slijedi ratifikacija, prihvata ili odobrenje; ili

- (iii) pristupom.
- (b) Ratifikacija, prihvata, odobrenje ili pristup obavljaju se polaganjem isprave s takvim učinkom kod glavnog tajnika.

Članak 18.

Stupanje na snagu

1. Ova Konvencija stupa na snagu dvanaest mjeseci od datuma na koji ju je deset država ili potpisalo bez rezerve ratifikacije, prihvata ili odobrenja ili je kod glavnog tajnika položilo isprave o ratifikaciji, prihvatu, odobrenju ili pristupu.
2. Za svaku državu koja ratificira, prihvati ili odobri ovu Konvenciju ili joj pristupi nakon što su ispunjeni uvjeti za stupanje na snagu iz stavka 1., ova Konvencija stupa na snagu tri mjeseca od datuma na koji je ta država položila odgovarajuću ispravu, ali ne prije nego što je Konvencija stupila na snagu u skladu sa stavkom 1.

Članak 19.

Otkazivanje

1. Država stranka može otkazati ovu Konvenciju u bilo koje vrijeme nakon proteka jedne godine od datuma stupanja ove Konvencije na snagu za tu državu.
2. Otkazivanje se obavlja polaganjem isprave s takvim učinkom kod glavnoga tajnika.
3. Otkazivanje proizvodi učinak nakon godine dana, ili duljeg razdoblja koje može biti navedeno u ispravi o otkazivanju, od kada ga je glavni tajnik primio.

Članak 20.

Depozitar

1. Ova se Konvencija polaže kod glavnoga tajnika.
2. Glavni tajnik:
 - (a) obavješćuje sve države koje su potpisale ovu Konvenciju ili su joj pristupile o:
 - (i) svakom novom potpisu ili polaganju isprave o ratifikaciji, prihvatu, odobrenju ili pristupu, zajedno s njihovim datumom;
 - (ii) datumu stupanja na snagu ove Konvencije;
 - (iii) polaganju bilo koje isprave o otkazivanju ove Konvencije zajedno s datumom njezinog polaganja i datumom na koji otkazivanje stupa na snagu; i
 - (iv) drugim izjavama i obavijestima primljenima prema ovoj Konvenciji;

- (b) dostavlja ovjerene preslike ove Konvencije svim državama koje su potpisale ovu Konvenciju ili su joj pristupile.

3. Čim ova Konvencija stupi na snagu, glavni tajnik dostavlja ovjerenu presliku teksta glavnom tajniku Ujedinjenih naroda radi registracije i objavljivanja u skladu s člankom 102. Povelje Ujedinjenih naroda.

Članak 21.

Jezici

Ova je Konvencija sastavljena u jednom izvorniku na arapskom, kineskom, engleskom, francuskom, ruskom i španjolskom jeziku, pri čemu je svaki tekst jednako vjerodostojan.

SASTAVLJENO U NAIROBIJU osamnaestog dana svibnja dvije tisuće i sedme.

U POTVRDU TOGA niže potpisani, propisno ovlašteni za tu svrhu od svojih vlada, potpisali su ovu Konvenciju.

PRILOG

**SVJEDODŽBA O OSIGURANJU ILI DRUGOM FINANCIJSKOM JAMSTVU U
VEZI S ODGOVORNOŠĆU ZA UKLANJANJE PODRTINA**

Izdaje se u skladu s odredbama članka 12. Međunarodne konvencije o uklanjanju podrtina iz
Nairobija iz 2007.

Ime broda	Bruto tonaža	Broj ili slova za raspoznavanj	IMO identifikacijski broj broda	Luka upisa	Ime i puna adresa glavnog mjesta poslovanja upisanog

Ovime se potvrđuje da je za naprijed navedeni brod na snazi polica osiguranja ili drugo financijsko jamstvo koje udovoljava zahtjevima članka 12. Međunarodne konvencije o uklanjanju podrtina iz Nairobija iz 2007.

Vrsta jamstva.....

Trajanje jamstva.....

Ime i adresa osiguratelja i/ili jam(a)ca

Ime.....

Adresa.....

.....

Ova svjedodžba vrijedi do.....

Izdaje ili ovjerava Vlada.....

.....

(puni naziv države)

ILI

Sljedeći tekst koristi se kad država stranka primjenjuje članak 12. stavak 3.:

Ovu svjedodžbu, prema ovlaštenju Vlade.....

(puni naziv države), izdaje.....(naziv institucije ili organizacije).

U.....

(Mjesto)

Dana.....

(Datum)

.....
(Potpis i funkcija službenika koji izdaje ili ovjerava Svjedodžbu)

Objašnjenja:

- 1 Po želji, u sklopu naziva države može se navesti i nadležno javno tijelo zemlje u kojoj se svjedodžba izdaje.
- 2 Ako je ukupni iznos jamstva pribavljen iz više od jednog izvora, potrebno je navesti iznos iz svakog pojedinog izvora.
- 3 Ako je jamstvo pribavljeno u više oblika, potrebno ih je nabrojiti.
- 4 Unosom "Trajanje jamstva" mora biti određen datum na koji takvo jamstvo stupa na snagu.
- 5 U unosu "Adresa" osiguratelja i/ili jam(a)ca mora biti navedeno glavno mjesto poslovanja osiguratelja i/ili jam(a)ca. Ako je primjenjivo, navodi se mjesto u kojem je osiguranje ili drugo jamstvo zaključeno.

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

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.

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
- (b) any object that is lost at sea from a ship and that is stranded, sunken or adrift at sea; or
- (c) 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.

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.

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 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;
- (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.

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
- (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.
- (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 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-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 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
 - (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
 - (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.

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:

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.

Članak 3.

Prilikom polaganja svoje isprave o pristupu, Republika Hrvatska će na Konvenciju iz članka 1. ovoga Zakona priopćiti sljedeću izjavu:

IZJAVA
vezana uz članak 3. stavak 2. Konvencije

U skladu s člankom 3. stavkom 2. Konvencije Republika Hrvatska izjavljuje da će primjenjivati Konvenciju u odnosu na podrtine koje se nalaze unutar državnog područja Republike Hrvatske, uključujući teritorijalno more.

Članak 4.

Provedba ovoga Zakona u djelokrugu je središnjeg tijela državne uprave nadležnog za poslove pomorstva.

Članak 5.

Na dan stupanja na snagu ovoga Zakona, Konvencija iz članka 1. ovoga Zakona nije na snazi u odnosu na Republiku Hrvatsku te će se podaci o njezinom stupanju na snagu objaviti sukladno odredbi članka 30. stavka 3. Zakona o sklapanju i izvršavanju međunarodnih ugovora (Narodne novine, broj 28/96).

Članak 6.

Ovaj Zakon stupa na snagu osmoga dana od dana objave u Narodnim novinama.

O B R A Z L O Ź E N J E

Člankom 1.

Konačnog prijedloga zakona potvrđuje se Konvencija. Temeljem odredbi članka 140. Ustava Republike Hrvatske i članka 18. Zakona o sklapanju i izvršavanju međunarodnih ugovora (Narodne novine, broj 28/96), iskazuje se formalni pristanak Republike Hrvatske da bude vezana Konvencijom, na temelju čega će ovaj pristanak biti iskazan i na međunarodnoj razini.

U članku 2.

Konačnog prijedloga zakona sadržan je tekst Konvencije u izvorniku na engleskom jeziku i u prijevodu na hrvatski jezik.

U članku 3.

Konačnog prijedloga zakona propisuje se sadržaj izjave koju će Republika Hrvatska priopćiti prilikom polaganja svoje isprave o pristupu Konvenciji iz članka 1. ovoga Zakona, vezane uz članak 3. stavak 2. Konvencije.

U članku 4.

Konačnog prijedloga zakona propisuje se da je provedba ovog Zakona u djelokrugu središnjeg tijela nadležnog za poslove pomorstva.

U članku 5.

Konačnog prijedloga zakona navodi se da na dan stupanja na snagu ovog Zakona, Konvencija iz članka 1. ovoga Zakona nije na snazi u odnosu na Republiku Hrvatsku te će se podaci o njezinom stupanju na snagu objaviti sukladno odredbi članka 30. stavka 3. Zakona o sklapanju i izvršavanju međunarodnih ugovora (Narodne novine, broj 28/96).

U članku 6.

Konačnog prijedloga zakona utvrđuje se stupanje na snagu Zakona.

Prilog – Preslika teksta Međunarodne konvencije u izvorniku na engleskom jeziku

اتفاقية نيروبي الدولية لإزالة الحطام لعام 2007

2007 年内罗毕国际残骸清除公约

NAIROBI INTERNATIONAL CONVENTION ON THE REMOVAL OF WRECKS, 2007

CONVENTION INTERNATIONALE DE NAIROBI SUR L'ENLÈVEMENT DES
ÉPAVES, 2007

НАЙРОБИЙСКАЯ МЕЖДУНАРОДНАЯ КОНВЕНЦИЯ ОБ УДАЛЕНИИ
ЗАТОНУВШИХ СУДОВ 2007 ГОДА

CONVENIO INTERNACIONAL DE NAIROBI SOBRE LA REMOCIÓN DE RESTOS
DE NAUFRAGIO, 2007

NAIROBI INTERNATIONAL CONVENTION ON THE REMOVAL OF WRECKS, 2007

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.

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.

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.
- 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 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;
- (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.
- 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
- (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.
- (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 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-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 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
 - (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
 - (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.

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:

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.

نسخة صادقة مصدقة من اتفاقية نيروبي الدولية لإزالة الحطام لعام 2007 ، التي صدرت في نيروبي في 18 أيار/مايو 2007 ، وأودع نصها الأصلي لدى الأمين العام للمنظمة البحرية الدولية .

此件系公历二零零七年五月十八日订于内罗毕的《2007年内罗毕国际残骸清除公约》的核证无误副本，其原件由国际海事组织秘书长保存。

CERTIFIED TRUE COPY of the Nairobi International Convention on the Removal of Wrecks, 2007, done in Nairobi on 18 May 2007, the original text of which is deposited with the Secretary-General of the International Maritime Organization.

COPIE CERTIFIÉE CONFORME de la Convention internationale de Nairobi sur l'enlèvement des épaves, 2007, faite à Nairobi le 18 mai 2007, dont le texte original est déposé auprès du Secrétaire général de l'Organisation maritime internationale.

ЗАВЕРЕННАЯ КОПИЯ Найробийской международной конвенции об удалении затонувших судов 2007 года, принятой в Найроби 18 мая 2007 года, подлинный текст которой сдан на хранение Генеральному секретарю Международной морской организации.

COPIA AUTÉNTICA CERTIFICADA del Convenio internacional de Nairobi sobre la remoción de restos de naufragio, 2007, hecho en Nairobi el 18 de mayo de 2007, cuyo original se ha depositado ante el Secretario General de la Organización Marítima Internacional.

عن الأمين العام للمنظمة البحرية الدولية :

国际海事组织秘书长代表:

For the Secretary-General of the International Maritime Organization:

Pour le Secrétaire général de l'Organisation maritime internationale :

За Генерального секретаря Международной морской организации:

Por el Secretario General de la Organización Marítima Internacional:

لندن ،

伦敦，

London,

Londres,

Лондон,

Londres,

13th November 2007.