

SPILLTECH 2022 GOA

THEME: CONSERVING ENVIRONMENT BY SUSTAINABLE USE
OF MARINE RESOURCES
SESSION 2: LEGAL AND CLAIMS

**MARINE DEBRIS/ MARINE LITTER -
CHALLENGES, CONFLICT AND
ALTERNATE DISPUTE RESOLUTION**

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UNDERSTANDING MARINE DEBRIS/ MARINE LITTER

- Primary Marine Resource – Marine Life
- What is Marine Debris?
- Types of Marine Debris:
 - Plastics / Micro Plastics
 - Derelict Fishing Gear
 - Abandoned and Derelict Vessels
- Extent of Marine Debris
- NOAA and Marine Debris Act 2006
- US Save Our Seas Act 2018, 2020
- NOAA Marine Debris Program



INSIGHT TO MARINE DEBRIS/ MARINE LITTER

- What is Marine Litter ?
- UNEP Report 2018. Single Use Plastics – A Road Map for Sustainability
- UN 2030 Sustainable Development Goal 14 on the Oceans - Life Below Water
- MARPOL Annexe 5 – Disposal of Garbage
- Focus on Micro Plastics – Effect on Food Chain
- Marine Litter in Wastes Dumped At Sea –
London Convention and Protocol - IMO
- GOI - D.G. Shipping Directive on Single Use Plastics
- Problems arising from Marine Litter



MARINE DEBRIS/ MARINE LITTER - THE CHALLENGES

- Marine Life is Sensitive And Paramount
- Domestic Sewage Ends Up in the Ocean
- Final Destination Remains Unknown
- Livelihood of Millions
- Abandoned Vessels
- Single Use Plastic to be Strictly Banned
- Decaying Process 400+ Years Upwards
- Healthy Food Supply for Humans
- Derelict Fishing Gear – Marking
- Wrecks



MARINE DEBRIS/ MARINE LITTER - CONFLICT

- **Fundamental Question** - Can We Live Without Plastic? Say 'No' To Plastics?
- **Prevention Better Than Cure** From Manufacture Process
- **Mariners Perspective** Abandoned Vessels and Wrecks
- **Pollution Matters In Contractual Salvage.** SCOPIC Clause And Role of SCR
- **Conflict** Arises due to Breach of Contract
- **Pollution/Accidents** During Wreck Removal
- **Ship Recycling/ Land Based Recycling Facilities/ 'Cradle To Grave'**

IMO Hongkong Convention - 2009

ALTERNATE DISPUTE RESOLUTION - STANDARD CONTRACTS



WRECKFIXED 2010
INTERNATIONAL WRECK REMOVAL
SERVICES AGREEMENT
(FIXED PRICE – “NO CURE, NO PAY”)
PART I

1. Place and Date of Agreement	
2. Contractor/Place of Business (Cl. 1)	3. Company/Place of Business (Cl. 1)
4. Vessel Specifications (Cl. 1, 2, 4)	
(i) Name	(ii) Flag
(iii) IMO Number	(iv) Place of Registry
(v) Length/Beam/Depth / /	(vi) Maximum Draft
(vii) GT/NT/DWT / /	(viii) Details and Nature of Cargo
(ix) P&I Club/insurer (Cl. 19(b))	(x) Any other Vessel details relevant to this Agreement
5. Condition of Vessel (Cl. 2, 4)	6. Position of Vessel and Condition of Worksite (Cl. 1, 2, 4)
7. Nature of Services (Cl. 1, 2, 4, 9(a))	8. Place of Delivery and/or Disposal of Vessel (Cl. 8(a), 8(b), 8(e))
(i) Nature of services: (ii) Compliance with orders of competent authorities (state party to obtain confirmation):	
9. Payments (Cl. 4, 9(a)) Fixed Price (in figures and words)	10. Payment Details (Cl. 9(c))
	(i) Currency (ii) Bank (iii) Address (iv) Account Number (v) Account Name
11. Time of Payment and Interest (state period within which sums must be received by the Contractor and rate of interest per month) (Cl. 9(e))	12. Cancellation Fee (Cl. 7(a))
13. Arbitration and Mediation (state Cl. 17(a), 17(b) or 17(c) of Cl. 17 as agreed; if 17(c) agreed, also state place of arbitration) (Cl. 17) (if not appropriately filled in, Clause 17(a) shall apply)	14. Number of Additional Clauses covering special provisions, if agreed

Sample copy

Signature (for and on behalf of the Contractor)

Signature (for and on behalf of the Company)

It is agreed that this Agreement shall be performed subject to the Terms and Conditions which consist of PART I, including Additional Clauses, if any agreed, and PART II, as well as Annex I (SCHEDULE OF PERSONNEL, CRAFT AND EQUIPMENT), Annex II (METHOD OF WORK AND ESTIMATED TIME SCHEDULE), and Annex III (CONTRACTOR'S DAILY REPORTS) or any other Annexes attached to this Agreement. In the event of a conflict of terms and conditions, the provisions of PART I including Additional Clauses, if any agreed, shall prevail over those of PART II to the extent of such conflict but no further. The undersigned warrant that they have full power and authority to sign this Agreement on behalf of the parties they represent.

ARBITRATION AND MEDIATION CLAUSE (AN EXAMPLE)

- Clause 17 -
 - (A) Agreement Governed By English Law**
 - Seat in London
 - Accordance with Arbitration Act 1996
 - Arbitrators- Sole/Tribunal/ Panel/ Appeal
 - Claim/Counterclaim/ LMAA Small Claim Procedure
 - (B) Agreement – Title 9 US Code**
 - (C) Law And Place Mutually Agreed**
 - (D) Mediation**
 - Process Finally Leads to the Award/ Settlement Agreement
 - Enforcement as per Jurisdiction



SALVAGE / WRECK REMOVAL CASE STUDIES

- | | |
|-----------------------------------------|---------------------------------------------------------------------------------------------|
| M.V. Ocean Blessing in Mangalore | - Arrived In 1993 for Demolition Purpose.
Turns Abandon Vessel |
| M.V. Cheng Le Men in Mangalore | - LOF/ Salvage/ Role of SCR |
| M.V. Nu Shi Nalini in Kochi | - Contractor /Sub Contractor (Mediation) |
| M.Barge Ibis in Mangalore | Successful Wreck Removal under Nairobi Convention
from Casualty until NOC from ADB /Port |
| M.V. Quing in Goa | - Successful Salvage Oil Pollution/ Refloatation/
Arbitration (ADR Adopted) |
| M.V. Princess Miral in Mangalore | - Sunk on 22 June 2022 with 8000 mts of Steel Coils and
Bunkers in Mangalore Port Waters |

THE WAY AHEAD

- **General Awareness** in Educational Institutions, Media and Society on Plastics
- **Education and Training of Ocean Users** (Industry Discharges, Fishing, Shipping, Dredging etc.)
- **Global Warming Challenge** as 'Citizen of The World'
- **Man Belongs to Nature** - Nature does not belong to Man
- **Always Be on the Right Side of the Law**
- The Lisbon Declaration of 2022 -

Our Ocean, Our Future, Our Responsibility



REFERENCES

- WWW.IMO.ORG ON MARINE LITTER/SDG/LONDON CONVENTION AND PROTOCOL
- WWW.BIMCO.ORG FOR WRECK FIXED 2010 (IMAGE)
- WWW.MARINEDEBRIS.NOAA.GOV ON MARINE DEBRIS
- WWW.DGSHIPPING.GOV.IN FOR CIRCULARS
- WWW.GARD.NO / STANDARD P & I CLUB /WWW.IIMS.ORG.UK – ROLE OF SCR IN SALVAGE
- SALVAGE CASE STUDY “QUING” – KANISHKA SALVAGE & UNDERWATER SERVICES PVT. LTD. GOA
- SALVAGE CASE STUDIES – MENEZES AND ASSOCIATES, MANGALORE
- IMAGES – CREATIVE COMMON LICENSES