



Baltic and International Maritime Council (BIMCO) Wreck Contracts



The International Group of P&I Clubs have been working with BIMCO and the International Salvage Union on a new edition of the Wreckstage contract. The initial discussions were triggered by talks on revising the ISU and IG Code of Practice for tendering for wreck removal. A driver for the review was also the increased detail in allocating bespoke risks for wreck removals, including the use of QRA (Qualitative Risk Assessment) in the contracting process for on some projects. However, there have also been a number of developments since the last version of the contract was published in 2010 including:

- Several very significant casualties, such as the “Costa Concordia”, the “Rena” and the “Golden Ray”;
- developments in technology;
- the widespread adoption of the Nairobi Convention; and
- an increase global consciousness of Environmental, Social and Governance (ESG) issues.

The aim of the new Wreckstage is that it can be used for both big and smaller projects without the significant amendments that have become commonplace when contracting on Wreckstage 2010. However, it is acknowledged that it is impossible to draft a detailed contract which is wholly appropriate for every single type of casualty. The new contracts aim to address this by refining those clauses that have commonly been amended. Under the new contract, there is a detailed risk allocation procedure that the parties can employ regardless of whether QRA is used or not. This encourages the parties to consider known and unknown risks in advance and facilitates negotiation of where those risks should fall. This is combined with a clearer procedure for resolution of disputes for those matters that do not go to plan.

The new Clause 4 provides for a risk allocation procedure whereby the contractor or company can agree to take on risks specifically set out in a risk allocation matrix (Annex V).

The clause is optional and parties must state whether it applies in Part 1 of the form. The risk allocation matrix at Annex V encourages the parties to consider, including through QRA, the risks associated with the wreck removal and to allocate those risks either to the contract or to the owner / insurer. The new Clause 5 replaces the former Clause 4 and governs management of all other change. Wholesale amendments have been made to the clause to improve the procedures for giving notice, consultation between the parties and agreement on changes to the lump sum payment. Where the parties are unable to agree within a defined period, then there is a clearer procedure for termination, expert evaluation (Clause 18) and/or arbitration and mediation (Clause 19).

Other key changes to the new Wreckstage form will include amendments to the boxes in Part I with improved linkage to Part II and revised Definitions. A more comprehensive code covering delays, and the liability and expert evaluation clauses have also seen changes. Notices clauses have been streamlined and the pollution clause reflects impact to the marine environment.

Negotiation of the contract is close to completion and it is hoped that the final version will be published in short order. The BIMCO Committee will then proceed to review Wreckhire and Wreckfixed.

