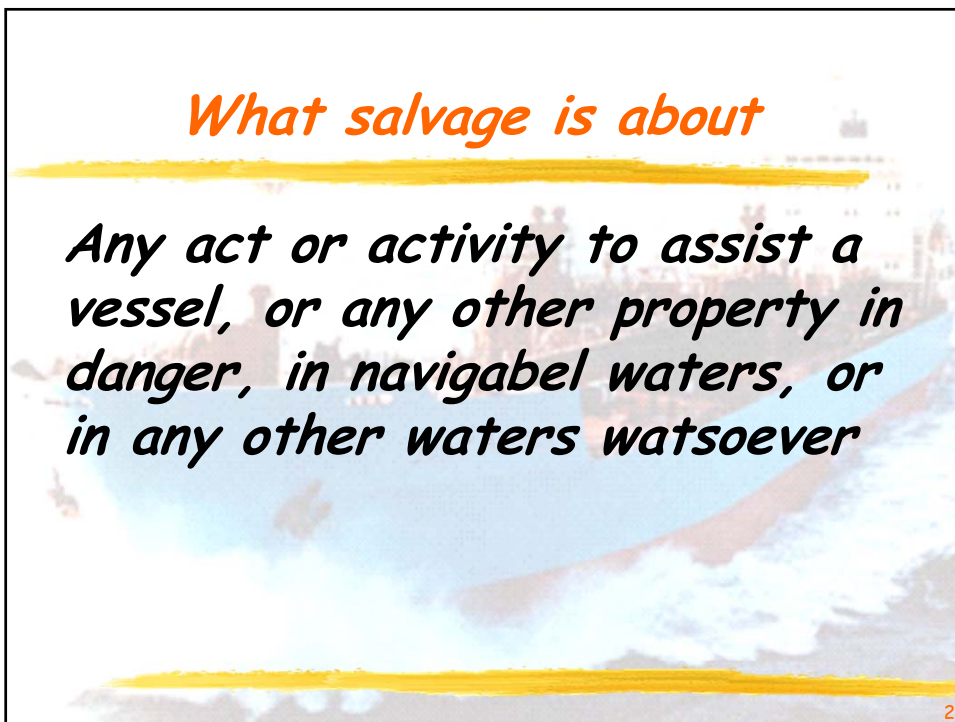


The Law of Salvage

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What salvage is about

Any act or activity to assist a vessel, or any other property in danger, in navigabel waters, or in any other waters watsoever



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Intended purposes

- *Counter plundering*
- *Incentive*
 - *Ship*
 - *Persons*
 - *Environment*

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This has influenced the rules on

- *The reward*
- *No reward without success*
- *Agreement not necessary*

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An overview of salvage

- *Interest or property subject to salvage*
- *Conditions for reward*
 - *Danger*
 - *Voluntariness*
 - *Useful result*
 - *Result-based reward*
 - *No cure - No pay*
- *Salvage under contract*

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Quite unique to maritime law

- *Airplanes*
Act No. 101/1993 § 12-8
- *Fishery equipment*
Act No. 37/2008 § 29
-
- *Negotiorum gestio*
- *Wreck act, 1893*
- *Lost property Act, 1955*
- *Pollution Act, 1981*

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The legal background

- *1910 Brussels Convention for the Unification of Certain Rules with Respect to Assistance and Salvage at Sea*
- *Amoco Cadiz*
- *International Convention On Salvage 1989*
- *Lloyd's Open Form (LOF) 2000*

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Common salvage operations and services

- Stranding and grounding
- Sinking
- Rescue towage
- ---
- Refloating
- Pumping, raising and repair
- Hook up and tow in
- Surveys
- Fire fighting
- Cargo/equipment recovery
- Wreck removal
- Standing by
- Prevention of third party damage

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Interests subject to salvage, § 441

- *Vessels*
- *Mobile drilling units, § 507*
- *Cargo*
- *Other property*
- *No Salvage alone of*
 - *Persons, § 445(2)*
 - *Liability*
 - *Loss of time*

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In danger, foundered or wrecked, § 441

- *Foundered or wrecked*
- *Types of danger*
 - *Total loss*
 - *Extensive damage*
 - *Assistance contrasted*
- *Degree of danger*
 - *Severe peril of the sea*
 - *Actual danger as opposed to perceived danger*
 - *Loran ND 1996.238*
 - *Los 102 ND 1999.269*
 - *Norsk Viking ND 2004.383*

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Voluntariness, § 450

- *Coastguard*
- *Crew*
- *Pilot*
- *Tug*
- *Other public authorities*

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Master's veto, § 450(2)

- *First come, first serve*
- *Rationale for veto*
- *Problem of delay*
- *Duties of the involved, § 444*

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Useful result, § 445

- *No cure no pay-principle*
- *Reward cannot exceed the saved value*
- *What is success?*
 - *Out of danger sufficient?*

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Assessment of the reward

- *Aim to encouraging salvage efforts*
- *Criteria, 446*
- *Without regard to the order of the criteria*
- *Reduction, § 450*
- *PIOPIC*

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Damage to the environment treated outside the principle

- *Special compensation, § 449*
- *Unsuccessful efforts:
Expenses*
- *Successful efforts:
Expenses + 30 to 100 percent*

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Special compensation

- *The vessel must threaten to damage the environment*
- *Damage means substantial physical damage to human health or to marine life or resources*
- *Causes only from certain pollutants*

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Problems

- *What constitute expenses?*
- *Can profit be included?*
- *How to measure success?*
- *How to assess the uplift (+30-100 %)?*
- *Insurers exposed to "unmonitored" risks*

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The solution to the problems

- *SCOPIC-clause into the salvage contract*
- *Special compensation scheme not applicable*

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SCOPIC-clause

- *Main advantages compared to art. 14 of the salvage convention*
- *No threat of damage to the environment required*
- *Geographical scope*
- *A fixed uplift (25%) not linked to success*
- *Agreed tariff rates for tugs personnel and equipment*
- *Firm agreement on security*
- *P&I clubs' and property underwriters' rights to be represented during the salvage operation*

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Salvage under contract

- *Agreement that there is a danger*
- *Fixed rate*
- *Pure salvage*
- *No cure no pay*
- *A salvage contract can be modified and annulled, § 443*

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Towage contrasted

- *Agreed price*
 - *Daily hourly rate (BIMCO Towhire)*
 - *Lump sum (BIMCO Towcon)*
- *Usually no claim for salvage compensation*

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Special salvage operations § 442(2)

- *Salvage operations by sister vessels*
- *Salvage operations by public authorities*

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Apportionment

- *Apportionment between independent salvors, § 448*
- *Apportionment between owner, master and crew, § 451*
- *Apportionment between owner and time charterer, §§ 386 and 392*
- *Risk distribution in carriage of goods, §§ 275 and 278*

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General Average-

- *Allowed in YAR 1994 Rule VI, cf. § 447*
- *Outside YAR 2004*
- *Subsequent debate*

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MARINE Insurance

- ***NMIP § 4-8***
- ***CICG § 39***

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Maritime lien and limitation

- ***Maritime lien, §§ 51 and 61***
- ***Limitation, § 173***
- ***IOPCF Claims Manual, 2007, #3.1.15***

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