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# **AN OVERVIEW ON SALVAGE: LEGAL FRAMEWORK, DUTIES, REWARDS AND ENVIRONMENTAL RESPONSIBILITY**

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## **ABSTRACT**

This article gives an overview of the concept of Salvage and the legal framework regulating it. Maritime salvage is a voluntary operation through which a vessel together with all its properties at peril is saved fully or partially by the salvor. Salvage operation carried out by a vessel is very risky and expensive and thus should be encouraged with proportionate award. The legal framework ensures that salvors are compensated for their successful recovery efforts, under "no cure, no pay" principle. The International Convention on Salvage, 1989 outlines salvage rewards, the rights of salvors, and environmental protection measures. Modern salvage law emphasizes minimizing environmental harm, especially in cases involving hazardous materials. Overall, salvage law aims to balance the interests of salvors, property owners, and environmental protection.

## **INTRODUCTION**

Ships frequently find themselves in need of assistance at sea due to various incidents that affect their safe navigation. The law and practice of salvage was very simple in olden times, but massive developments have occurred in recent years in this area. Brice defines salvage as a right in law, which arises under English law when a person, acting as a volunteer (i.e., without any pre-existing contractual or other legal duty) preserves or contributes to preserving at sea any vessel, cargo. According to the law of Salvage, the efforts of the salvor is not considered if the endeavour is unsuccessful and no reward is given. This is the legal reasoning behind the 'no cure-no pay' doctrine. The current legal framework on Salvage was first established in the 18<sup>th</sup> and 19<sup>th</sup> centuries by the decisions of the Admiralty Court in the UK. During this time, salvage was purely voluntary, rendered by ordinary ships that happened to be passing by the distressed ship and thus non-contractual. Thus, prior to the end of the nineteenth century, express salvage contracts were unknown.

## LEGAL FRAMEWORK

The law on salvage has its roots in maritime customs dating back to ancient civilizations, including the Romans, where salvage was based on the idea of rewarding those who saved property in danger at sea. During the middle ages, customs governed salvage rights in various port cities and maritime nations. These customs were often informal but recognized the importance of encouraging individuals to help in times of distress. In England, admiralty courts became the formal venues for resolving salvage disputes and it started to formalize salvage law which required salvors to claim their reward in court. Later, because of globalization, there arose a need for unification and elaboration of a uniform international approach in relation to cases of assistance and salvage. It was undertaken by Comité Maritime International, soon after it was founded in 1897. The discussion started at the International Conference of Brussels in 1905 and concluded in 1910. The 1910 Convention consists of 19 articles and it remained in operation for several decades outlasting a lot of changes in the technological and public policy landscapes. The necessity for a new institutional regime became critical, after the *Amoco Cadiz* major oil spill accident which paved the way to the new salvage convention.

Later, the International Convention on Salvage, 1989 was formally agreed upon in London and came into force on 1 July 1996. It consists of 34 articles divided into V Chapters. The 1989 Convention has been widely adopted, and it has shaped how maritime nations regulate salvage operations within their own jurisdictions. Under this Convention a new emphasis was placed on encouraging salvors to protect the marine environment through Article 1, 8, 12, 13 and 14, particularly in cases involving the threat of pollution. By virtue of Article 13(2), payment of the reward must be in proportion to the respective values of salvaged property and Article 13(3) states that the reward shall not exceed the value of the vessel and thus the value of the reward will be influenced by the value of the property salvaged.

## ELEMENTS OF SALVAGE

The principal elements of salvage are:

- RECOGNISED SUBJECT MATTER

Article 1(a) of the 1989 Convention defines salvage operations as including services rendered to vessels, or to any other property in danger. Property means any property not permanently and intentionally attached to the shoreline and includes freight at risk (Art 1(c)). Therefore the Convention does not apply to fixed or floating platforms or mobile offshore drilling units on a

location, engaged in the exploration, exploitation of seabed mineral resources (Art 3). And all merchandise being carried on the vessel could be subject to salvage except personal effects of the crew, master and passengers.

Pure life salvage did not exist prior to the 1989 Convention; instead, it was contingent upon whether property was salvaged. In the Admiralty Court, compensation for the simple salvage of life was not recoverable if no property was salvaged. Now, life salvage is dealt with by Art 16 of the 1989 Convention and thus saving life was included in salvage services. Thereby on the occasion of an accident giving rise to salvage, a salvor of human life is entitled to a fair share of the payment awarded to the salvor of property

- DANGER

Before, any ship or vessel at sea can be salvaged, the ship must be in danger and the danger must expose it to the possibility of damage. In the *Phantom*, Lord Lushington stated inter alia that – ‘it is not necessary that there should be absolute danger in order to constitute salvage services, it is sufficient if there is a state of difficulty, and reasonable apprehension’. According to Art 13(1)(b) of the 1989 Salvage Convention, ‘the skill and efforts of the salvors in preserving or minimising damage to the environment’ is one of the relevant factors in the assessment of the award. Also, Art 14 allows to salvors who prevent or minimise damage to the environment, a special compensation. Thus a salvor is entitled to a reward from the salvor (the owner of the vessel), if he successfully saves a maritime property and at the same time reduces the damage that would have been caused to a third party.

- VOLUNTARY SERVICE (VOLUNTARINESS)

Voluntariness in the law of salvage means salvage services rendered without any prior or preexisting contractual relationship between the parties. It also includes services not done in the line of official duty or for self-preservation. There is no limit to the class of persons that can be considered as volunteers. As long as the persons are recognised under law as volunteers and they provide salvage services, they are entitled to salvage remuneration. As per Art 17 of the 1989 Convention, no payment is due under the Convention unless the services rendered go beyond what can be reasonably considered as due performance of a contract made before the danger arose. So the general rule is that, in salvage operations, individuals who have entered into agreements with the ship owner prior to the occurring of danger are not recognised as salvors because of an already existing obligation or duty to protect and preserve the ship and cargo.



- **SUCCESS**

The most important element of a salvage operation is success. Traditionally, the salvor is not entitled to reward if a salvage operation is not successful, this principle is known as the 'No Cure – No Pay'. Thus, the principles of traditional salvage also did not provide for an award for environmental protection where no property was saved. This doctrine has caused a lot of difficulties to professional salvors, particularly because they receive no reward despite spending money and resources on the salvage operations, even when the salvage operation is unsuccessful. But this principle of 'No Cure No Pay' has been somewhat mitigated particularly in the area of environmental protection.

## **SALVAGE AGREEMENTS**

In olden times, Salvage was rendered by persons or ships using personal skill and efforts chancing their lives to rescue the maritime property from danger without any specific contract. Thus there was no obligation to continue the services and can withdraw from it anytime, yet claim a reward if his services contributed to successful saving of the property. By half of the 20th century, most of the salvage services are performed by professional salvors under a salvage agreement. With the development in technology and communication, professional salvors under contract have more facilities for salvage, with each party having rights and duties governing the relationship. Thus under salvage contract, there is a continuing obligation to save the ship by using his best endeavours to earn salvage reward. Under this contract, in recent years a concept of special compensation has also developed for the efforts made to prevent or minimize any damage to the environment, whether or not property is salvaged.

## **DUTIES OF SALVOR**

As mentioned earlier, a salvage operation is a service that is rendered voluntarily and as such there are no specific mandated duties that could be imposed on a salvor in the absence of a salvage contract between him and the owner of the vessel that is being salvaged under ordinary maritime law. The salvor can even discontinue the salvage service without incurring any liability. However, under the Lloyd's standard forms and the convention, there are a few obligations upon the salvor. Due care and best endeavors are the major duties that a salvor is expected to fulfil during a salvage operation. The LOF provide that the salvor should use his best endeavors to save the property and deliver it to either a place agreed or to a place of safety and while doing so, the salvor must ensure that his acts does not cause any more damage that could be prevented. This is applicable both to the salvaged property as well as the damage to the

environment. In the Indian context, the Merchant Shipping act, 1958 imposes a duty on the salvor to avoid pollution and mitigate environmental risks. The salvors also have a duty to cooperate with not only other salvors who are doing the salvage operation over the same vessel but must also cooperate with the maritime authorities and must adhere to the relevant regulations to ensure the safety and security of salvage operations. And in case if the salvage operation is with respect to a cargo that is dangerous or has the potential to create greater pollution if released then the salvor has a duty to inform the authorities about the same.

### **DUTIES AND OBLIGATIONS OF THE SALVED**

The salvage operations are done to save the property of another person thus, the owner and master of the vessel or the owner of other property in danger shall owe a duty to the salvor as per the provisions of the International Convention on Salvage, 1989. The salved has a duty to fully co-operate with the salvor during the course of the salvage operations. This also means that if the salvor requests the deployment of additional salvors during the salvage operations then the owner must fulfil the same. And in so doing, the salved also has a duty to exercise due care to minimize or prevent damage to the environment. When the salvor completes the salvage operation and the vessel or other property has been brought to a place of safety, the owner of the vessel must accept redelivery when reasonably requested by the salvor to do so.

### **SALVAGE AWARD AND SPECIAL COMPENSATION**

Salvage award is the amount that is payable to the salvor upon the complete or partial success of a salvage operation and the handover of the salved property. It is awarded in proportion to the value of the property salved. Thus, it follows that a salvage award can never exceed the value of the property salved. The salvage reward will be ascertained and fixed so that the future salvors would be encouraged to partake in them. Thus certain criteria are taken into account while ascertaining the salvage reward like the value of the vessel and other property, the skill and efforts of the salvor on preventing or minimizing damage to the environment, the measure of success obtained by the salvor, the nature and degree of the danger, the skill and effort of the salvors in salving the vessel, the property and life, the time used and losses and expenses incurred by the salvors, the risk of liability and other risks run by the salvors or their equipment, the promptness of the services rendered, the availability and use of vessels or other equipment intended for salvage operations and the state or readiness and efficiency of the salvor's equipment and the value thereof.

Special compensation given to the salvors is a way of compensating for the care that the salvors took while doing a salvage operation in such a manner so as to minimize or prevent the environmental pollution. Even if the salvage operation was a failure, the salvor shall be entitled to a special compensation from the owner that is equivalent to the expenses incurred by the salvor.

## CONCLUSION

The law of salvage underwent radical changes: it went from being a simple customary practice to a highly developed and codified system of rules under national and international regimes. The International Convention on Salvage, 1989, was perhaps the crowning glory of this legal development as it incorporated modern features such as environmental protection incentives and structured salvage agreements. These advances achieve a balance between the need to reward salvors' voluntary and skilled efforts and the requirement to minimize environmental impact, particularly during a period of increased ecological awareness. Salvage operations currently feature a delicate balance of ancient maritime principles and contemporary legal adjustments, with success, voluntariness, danger, and cooperation all considered vital components.

The rights and obligations of both salvors and salvaged parties are defined with all clarity under this law; it also states the criteria for awarding salvage and special compensations. The law thus ensures fairness and prepares the minds for potential emergencies in maritime. The framework, therefore, achieves more than mere incentive for rescue efforts. It helps in the protection of marine environments and economic interests, highlighting the need for salvage law in modern maritime practice.

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