

Avv. Guglielmo CAMERA



Introduce
e modera

Studio Legale Camera Vernetti

GUGLIELMO CAMERA



“No matter how big the sea may be,
sometimes two ships meet”
(English proverb)

Le collisioni in mare: le fonti

- Codice della Navigazione: artt. 482 - 488 Cod. Nav.
- Convenzione di Bruxelles del 23 Settembre 1910 per l'unificazione di alcune regole in materia di urto fra navi
- Convenzione di Bruxelles del 10 maggio 1952 per l'unificazione di alcune regole della giurisdizione in materia di urto fra navi
- Convenzione di Londra del 20 Ottobre 1972 sul regolamento internazionale per prevenire gli abbordi in mare
- Convenzione di Bruxelles del 10 maggio 1952 per l'unificazione di alcune regole del sequestro conservativo delle navi di mare

Le collisioni in mare: la fattispecie

- “...where a collision occurs between sea-going vessels or between sea-going vessels and vessels of inland navigation...” (art. 1 Conv. Brux del 1910)
- *“vessel” includes every description of water craft, including non-displacement craft, WIG craft and seaplanes, used or capable of being used as a means of transportation on water* (Colreg 72).
- Danni da spostamento di acqua o causa analoga (art. 488 Cod. Nav.)

Le collisioni in mare: questioni sottese

- Lo scambio di garanzie
- La raccolta degli elementi probatori
- La giurisdizione
- L'apporzioneamento della responsabilità

Le collisioni in mare: le garanzie

- P&I /C&M/PROFESSIONAL GUARANTORS
- “... *in consideration of your releasing and/or refraining from arresting [or re-arresting at any time hereafter] or otherwise detaining...we hereby undertake to pay you on demand such sum or sums as may be due to you from the owners of the ["BBB"] in respect of your said claim...either by agreement between the parties or by final unappealable judgment of the English Courts ”* (ASG1)

Le collisioni in mare: le garanzie

01/03/11

ADMIRALTY SOLICITORS GROUP - STANDARD WORDINGS

ASG 1

Admiralty Solicitors Group

ASG COLLISION UNDERTAKING

To: The owners of the ["AAA"]

c/o Messrs. [X & Co.]

["AAA "] - Collision with ["BBB"] [Date]

IN CONSIDERATION of your releasing and/or refraining from arresting **[or re-arresting at any time hereafter]** or otherwise detaining the ["BBB"] or any other vessel or property in the same or associated ownership, management, possession or control for the purpose of obtaining security in respect of your claim arising out of the above collision we hereby undertake to pay you on demand such sum or sums as may be due to you from the owners of the ["BBB"] in respect of your said claim either by agreement between the parties or by final **unappealable** judgment of the English Courts **provided** always that our liability hereunder inclusive of interest and costs shall not exceed the sum of **[figures and words]**.

This undertaking shall be governed by English law and any dispute arising hereunder shall be submitted to the exclusive jurisdiction of the English Courts.

Signed

Dated this [] day of [] 20[]

Le collisioni in mare: l'istruttoria

- crew statements
- deck and engine log books scrap + fair)
- working charts/ECDIS

Le collisioni in mare: l'istruttoria

VDR

- Position, date, time using GPS
- Speed log – Speed through water or speed over ground
- Radar* – As displayed or AIS data if no off-the-shelf converter available for the Radar video
- ECDIS* – A screen capture every 15 seconds and a list of navigational charts in use every 10 minutes or when a chart change occurs
- Audio from the bridge, including bridge wings
- VHF radio communications
- Main alarms* – All IMO mandatory alarms
- Rudder* – Order and feedback response
- Engine/Propeller* – Order and feedback response
- Thrusters* – Status, direction, amount of thrust % or RPM
- Anemometer and weather vane* – Wind speed and direction



Le collisioni in mare: giurisdizione

- Conv. Bruxelles del 1952 (art. 1)
- Arrest 1952 (art. 7, d)
- Legge 218/95, art. 3
- Reg. CE 44/2001 (art.2, art.5)
- Reg. CE 1215/2012 (art.4, art. 6 (2))
- I criteri:
 - Luogo dell'urto
 - Foro del convenuto
 - Foro del sequestro
 - Scelta delle parti (CJA)

Le collisioni in mare: giurisdizione

01/03/11

ADMIRALTY SOLICITORS GROUP - STANDARD WORDINGS

ASG 2

Admiralty Solicitors Group

ASG COLLISION JURISDICTION AGREEMENT

["AAA"] Collision with ["BBB"] [Date]

IT IS HEREBY AGREED between the owners of the above vessels as follows:-

- A. The claim of each party, including the question of limitation of liability, shall be determined exclusively by the English Courts in accordance with English law and practice.
- B. The undersigned will accept service of the other party's proceedings (including any limitation proceedings) on behalf of their respective clients/principals.
- C. Each party will provide security in respect of the other's claim in a form reasonably satisfactory to the other. **[Each party agrees to waive its right to apply to arrest or re-arrest to obtain further security under the Civil Procedure Rules 1998 Part 61.6]**
- D. The owners of the ["AAA"] hereby warrant that the registered owners of the ["AAA"] at the time of the collision were **[insert owners name]** of **[insert owners registered address]** and that the ["AAA"] was not demise chartered out at such time.
- E. The owners of the ["BBB"] hereby warrant that the registered owners of the ["BBB"] at the time of the collision were **[insert owners name]** of **[insert owners registered address]** and that the ["BBB"] was not demise chartered out at such time.
- F. This agreement shall be governed by English law and any dispute arising hereunder shall be submitted to the exclusive jurisdiction of the English Courts.

Signed

Solicitors

Signed

Solicitors

For and on behalf of the owners of ["AAA"] For and on behalf of the owners of ["BBB"]

Dated this [] day of [] 20[].

Le collisioni in mare: la responsabilità

Art. 482-484 Cod. Nav.

Art. 2-4 Conv. Bruxelles del 1910

- URTO FORTUITO O IMPOSSIBILE ACCERTARE LA CAUSA (482-2)
- URTO PER COLPA UNILATERALE (483-3)
- URTO PER COLPA COMUNE (484-4)

Le collisioni in mare: le COLREG 72

- parte **A**: responsabilità, e le definizioni generali;
- parte **B**: le regole di governo e di manovra;
- parte **C**: tratta i fanali ed i segnali
- parte **D**: tratta i segnali luminosi e sonori

Le collisioni in mare: le COLREG 72

- Reg. 5: servizio di vedetta
- Reg. 6: velocità di sicurezza
- Reg. 7: rischio di abbordaggio
- Reg. 8: manovra per evitare l'abbordaggio
- Reg. 13: nave che raggiunge l'altra
- Reg. 14: situazione di rotte opposte
- Reg. 15/16/17: situazione di rotte incrociate
- Reg. 18: responsabilità tra navi

Le collisioni in mare

...E LE UNITA' DA
DIPORTO?