

### FEATURE - LOF EXPLORED

## Understanding SCOPIC - Who Pays What?

Payment for salvage is essentially a payment to salvors for a benefit they have conferred to property owners in salvaging property from danger. It has always been a principle of salvage that a salvor's reward cannot exceed the value of the property salvaged since, if owners of property have to pay more to a salvor than the property is worth, there would be no benefit conferred. The LOF contract follows this principle and is a No Cure No Pay contract. As such if an LOF salvor saves property with value, a reward will be payable by the owners of the property, albeit it will be limited to less than the value of the property saved. If no property is saved no reward would be payable.

The issue with the No Cure No Pay system is that there may be times when salvors are unwilling to engage in salvage operations where the prospects of saving property of value would be limited. This could have significant environmental consequences should certain 'unattractive' vessels be left unassisted. The SCOPIC clause, or to give it its full title, the Special Compensation P&I Club Clause, can be incorporated into the LOF contract and, if incorporated, can be invoked by the salvors at any stage during the salvage services. It is designed to ensure that salvors have a mechanism whereby they can receive at least a minimum reward for any services they render under the LOF contract and applies regardless of whether there is a threat to the environment. The compensation is based on a fixed tariff for every man, piece of equipment and craft employed in the service and a fixed uplift of 25%. To be able to be in a position to claim SCOPIC, the salvor must invoke the clause by written notice to the Shipowner. This can be done at any time during the services although any services rendered before the notice will not be remunerated under SCOPIC.

An LOF Salvage Contract may have SCOPIC incorporated but it may be that the salvors have no need to invoke it. In which case they will perform the service and their

reward will be assessed in the usual way, by reference to the International Salvage Convention 1989 Article 13 criteria. The criteria, which derive from salvage case law over the years, require consideration of what was salvaged, its value; the measure of success; the dangers facing the property; actions taken to prevent pollution; the time taken and any expenses incurred; the promptness of the services; the skill demonstrated, possible liabilities the salvors may incur in performing the operation and the experience of the salvors and their overall involvement, investment and commitment to salvage. The result Article 13 award is paid by the property owners/underwriters who have benefited from the service, pro-rata to salvaged values.

Where SCOPIC is invoked and the salvors, despite their best efforts, are unable to salvage any property they receive their SCOPIC expenses based on the tariff rates and uplift. These expenses will be paid by the vessel's P&I Club. Possibly the best example of this is the *MOL Comfort* casualty last year. SCOPIC was invoked, the casualty was lost, and the salvors received payment from the P&I Club for their SCOPIC expenses and uplift.

More often than not with SCOPIC cases, there is ultimately some property of value salvaged which is good for property underwriters since in years gone by these vessels may have been left unassisted and the property ultimately lost. Where some property of value has been salvaged, the resulting salvage service is assessed in two ways: by reference to the Article 13 criteria (above) and also by reference to the published SCOPIC tariff rates (plus 25% uplift). If the Article 13 award (payable by property underwriters) is less than the SCOPIC remuneration (payable by the P&I Clubs), the property underwriters will pay the Article 13 award in full. The balance of the SCOPIC expenses, after deducting the amount of Article 13 award, will be payable by the P&I Club. For example if the SCOPIC expenses are

USD2million but there is property salvaged and the resulting Article 13 award is USD1million, the property underwriters would pay the Article 13 award of USD1million and the balance of USD1million is payable by the P&I Club.

Where the Article 13 award exceeds the SCOPIC expenses, the full award is payable by the property underwriters and the P&I Club would not pay anything. In fact a penalty, being 25% of the difference between the Article 13 award and the SCOPIC expenses, is applied. For example if the Article 13 salvage award is USD2million and the SCOPIC expenses are USD1million, the salvors will actually receive USD1.75million (being the original Article 13 reward less the 25% penalty). This is to ensure SCOPIC is only invoked in appropriate cases, where there is a real risk of a limited or no award. LOF awards have historically been uplifted to reflect the No Cure No Pay terms and the risks the salvors take in contracting on these terms. If salvors invoke SCOPIC on every case, regardless of whether it is appropriate, the effect would be to change the LOF contract to a Non No Cure No Pay contract, and would inevitably lead to calls that the LOF awards should not be uplifted. At present, LOF Arbitrators are strictly forbidden by virtue of Clause D of the LOF contract, to allow the fact that SCOPIC has been invoked to influence their Article 13 award. It is therefore essential that the penalty remains to maintain the balance.

### NEW CASUALTIES



#### FWU FA 12 ▣

Fishing vessel, length 26m

**Date of Casualty** 24 March 2014 - late notification

**Voyage** n/a

**Cargo** Fish

**Type of Casualty** Sinking 405 nm south of Port Louis, Mauritius.

**Type of Claim** Total loss claim

#### Sumise Maru No.38/Kaisei Maru ▣

*Sumise Maru* No.38 - Bulk cement carrier, Built 1992, 1,730 dwt

*Kaisei Maru* - Chemical tanker, Built 2009, 1,868 dwt

**Date of Casualty** 26 March 2014

**Voyage** Osaka to Ako, Japan / Tokuyama to Himeji, Japan



**Cargo** In ballast / 1,000 m<sup>3</sup> of methanol

**Type of Casualty** Collision off Himeji, Japan leading to the sinking of the cement carrier three hours later. All crew members were rescued by the coastguard.

**Type of Claim** Collision damage claims, possible cargo claim

**P&I** n/a



#### Giant 1 ▣

Yacht, Built 1974, 740 dwt

**Date of Casualty** 26 March 2014

**Voyage** Moored at Velsen-Noord

**Cargo** n/a

**Type of Casualty** Cabin fire whilst moored.

**Type of Claim** Fire damage claim

#### Seari Queen ▣

Product tanker, Built 1988, 39,538 dwt

**Date of Casualty** 26 March 2014

**Voyage** Lome, Togo to Apapa-Lagos, Nigeria

**Cargo** Unknown

**Type of Casualty** Engine breakdown whilst in the Atlantic. The vessel was taken in tow to Pointe Noire by POSH's anchor handling tug *Terasea Hawk* which has been



operating from Pointe Noire since early February.

**Type of Claim** Possible General Average declaration



#### Pallas River ▣

General cargo with container capacity, Built 1991, 4,454 dwt

**Date of Casualty** 27 March 2014

**Voyage** Montrose, UK to Eikefet, Norway

**Cargo** Unknown

**Type of Casualty** Grounding on Marsteinboen. The vessel, which was en route to Eikefet to load a cargo of stone, sustained damage to her ballast tanks. She was refloated and towed into Bergen for inspection.

**Type of Claim** Hull damage claim, possible General Average declaration

#### Wu Xiang 66/Xin Wang 88

*Wu Xiang 66* - General cargo vessel, Build date unknown, 498 gt

*Xin Wang 88* - General cargo vessel, Build date unknown, 498 gt

**Date of Casualty** 27 March 2014

**Voyage** Unknown

**Cargo** Unknown / Containerised cargo

**Type of Casualty** Collision in thick fog in the mouth of the Yangtze River leading to the sinking of the *Xin Wang 88* and the loss of three crew members.

**Type of Claim** Collision damage claim, loss of life claims

**P&I** n/a



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## NEW CASUALTIES - Continued - edition (54)

### Schokland ▣

General cargo vessel, Built 2010, 3,300 dwt

**Date of Casualty** 27 March 2014

**Voyage** Cape Town, South Africa to Las Palmas, Canary Islands

**Cargo** General containerised cargo

**Type of Casualty** Engine breakdown after departing Cape Town. The vessel was towed back to Cape Town by the Smit Salvage tug *Smit Amandla*.

**Type of Claim** Possible General Average declaration

### Sichem Amethyst ▣

Chemical tanker, Built 2006, 8,817 dwt

**Date of Casualty** 28 March 2014

**Voyage** Fos, France to Tarragona, Spain

**Cargo** In ballast

**Type of Casualty** Fire in the superstructure whilst at anchor in Tarragona anchorage, Spain. Tugs and helicopters were engaged, the fire was extinguished and the vessel towed into port and berthed.

**Type of Claim** Fire damage claim



### Munzur ▣

General cargo vessel, Built 2008, 3,331 dwt

**Date of Casualty** 27 March 2014

**Voyage** Maraxiokk, Malta to Teignmouth, UK

**Cargo** Unknown

**Type of Casualty** Grounding on Shaldon Beach at the mouth of the river Teign. During the initial refloating operations, the vessel came free only to ground again when the bow swung across the beach. The vessel was finally refloated and towed into Teignmouth six hours later.

**Type of Claim** Possible hull damage and salvage type claim

### Sunleaf Grace

Bulk Carrier, Built 2011, 61,683 dwt

**Date of Casualty** to be advised

**Voyage** Maputo, Mozambique to Singapore

**Cargo** Unknown

**Type of Casualty** Grounding off Maputo. Worldwide professional salvors Smit Salvage were engaged to provide



assistance to the bulk carrier under the terms of a Lloyd's Open Form of Salvage contract.

**Type of Claim** Possible hull damage and LOF Salvage claim

### Santa Elena/MT-32

*Santa Elena* - General cargo vessel, Built 1972, 3,286 dwt

*MT-32* - Tanker, no other details

**Date of Casualty** 29 March 2014

**Voyage** Hereke, Turkey to Temryuk, Russia /

**Cargo** Unknown

**Type of Casualty** Collision during barthing manoeuvres causing significant damage to the tanker.

**Type of Claim** Collision damage claim  
P&I n/a

### CN Jumbos/Anton Topic

*CN Jumbos* - Bulk carrier, Built 1995, 27,321 dwt

*Anton Topic* - Bulk carrier, Built 1996, 45,496 dwt

**Date of Casualty** 30 March 2014

**Voyage** Laem Chabang, Thailand to Angrek, Indonesia / Ko Sichang, Thailand to Pasir Gudang, Malaysia

**Cargo** Unknown

**Type of Casualty** Collision near Ko Rin island, off the coast of Phuket. The *CN Jumbo* was holed and she sustained water ingress leading to the vessel

developing a 5° starboard list. The *Anton Topic* suffered damage to her port side bow, but no water ingress was reported.

**Type of Claim** Collision damage claim

**P&I** Steamship Mutual / Gard



### MCT Altair ▣

Combined chemical and oil tanker, Built 1999, 19,996 dwt

**Date of Casualty** 30 March 2014

**Voyage** Klaipeda, Lithuania to Batumi, Georgia

**Cargo** Dangerous goods

**Type of Casualty** Grounding on the Kiel Canal near Levensau Bridge. The vessel was refloated by local tugs and towed into Kiel for inspection.

**Type of Claim** Possible hull damage claim

### Taranto

General cargo with container capacity, Built 1995, 3,005 dwt

**Date of Casualty** 31 March 2014

**Voyage** Tees, UK to Foynes, Ireland

**Cargo** 2,790 m/t of potash

**Type of Casualty** Mechanical breakdown. The vessel was towed into Falmouth by the tug *Vulcan 2* where repairs will be effected.

**Type of Claim** Possible General Average declaration

### KM Journey/Lambelu

*KM Journey* - Fully cellular containership, Built 1995, 3,393 dwt

*Lambelu* - Cruise ship, Built 1997, 3,685 dwt

**Date of Casualty** 1 April 2014

**Voyage** Tanjung Perak, to Lembar, Indonesia / to Tanjung Perak, Indonesia

**Cargo** General containerised cargo / n/a

**Type of Casualty** Collision at Tanjung Perak Port in Surabaya, East Java. The hull of the *KM Journey* was breached and the containership subsequently sank. Her crew of 17 were safely evacuated. Local fishermen have been recovering floating containers lost from the vessel.

**Type of Claim** Collision damage claim, possible wreck removal requirements

**P&I** n/a

### Mar de Marin/Baltic Breeze ▣

*Mar de Marin* - Fishing vessel, Built 1989, 185 gt

*Baltic Breeze* - Vehicle carrier, Built 1983, 12,466 dwt

**Date of Casualty** 1 April 2014

**Voyage** n/a / Gibraltar to Vigo,

**Cargo** n/a / In ballast

**Type of Casualty** Collision in the estuary of the river Vigo, leading to the sinking of the *Mar de Marin*. Three crew members are confirmed dead with another two missing. The car carrier was heading to Vigo to load a consignment of Citroën vehicles which are manufactured in Vigo.

**Type of Claim** Collision damage and loss of life claims

**P&I** n/a / Swedish Club



## CASUALTY FOLLOW-UP

**Harbour Feature** - edition 4 - the US states of New Hampshire and Maine are reported to have reached a settlement with the vessel's P&I Club and recovered some USD1.3million to cover the damage to the Sarah Mildred Long Bridge, which connect Portsmouth and Kittery, the following the incident in April 2013 when the vessel broke free of its mooring lines and struck the bridge.

**LNZ Ariel** - edition 51 - the tug De Zhou rendezvoused with the LNZ Ariel on 26 March and towed the engine troubled vessel some 306 nm to Ponta da Madeira, Brazil where she remains.

**Fei He** - edition - the COSCO's owned ship, which was in a collision with the Lime Galaxy off Jurong on 29 January 2014, has been sold demolition for USD6,484,140.

## LOF NEWS

During the first quarter of 2014 there have been a total of 12 LOF Salvage Contracts reported to Lloyd's Salvage Arbitration Branch. This figure is a little down compared to the first quarters of 2012 and 2013 with 14 and 15 LOF contracts respectively were agreed. The LOF contracts to date are detailed below. Of the 12 contracts, two have SCOPIC invoked, namely the *Yusuf Cepnioglu* and the *John 1*.

Date	Vessel	Salvor
03/01/2014	C Ladybug	Multiraship Salvage BV
06/01/2014	Cassiopaea Star	Tsavliris Salvage BV
11/01/2014	Ligari	Tsavliris Salvage (International) Ltd
26/01/2014	Fidelity I	Five Oceans Salvage
01/02/2014	Cape Elise	Tsavliris Salvage (International) Ltd
20/02/2014	Rapallo	Tsavliris Salvage (International) Ltd
08/03/2014	Patriarch (Tug) and barge	Titan
08/03/2014	Yusuf Cepnioglu - SCOPIC	Alexander G Tsavliris & Sons Maritime Co
09/03/2014	My Love	Megalohari- Hwellenic tugs Towage-Salvage
15/03/2014	John 1 - SCOPIC	Svitzer Salvage BV & Solar Salvage
17/03/2014	Lmz Ariel	Tsavliris Salvage (International) Ltd
	TBA Sunleaf Grace	Smit Salvage