

THE CASE FOR LLOYDS OPEN FORM SALVAGE CONTRACT

A short article by Mark Hoddinott, General Manager, ISU



Mark Hoddinott is General Manager of the International Salvage Union (ISU), the sole representative body for the international marine salvage industry. Based in London, He provides the day-to-day link between the marine salvage industry and the marine insurance and shipping markets. The ISU works closely with other shipping industry organisations, for example, the International Chamber of Shipping, the International Group of P&I Clubs and the International Union of Marine Insurers. ISU also has consultative status at the International Maritime Organisation. Mark's experience is founded on shipping and marine salvage and he is a Master Mariner with command experience.

International shipping is vital to world trade. And while there have been great improvements in ship and operational safety, casualties continue to occur and can never be completely eradicated. That is why there is a continuing and vital role for commercial marine salvors who are often the only ones standing between a casualty and an environmental catastrophe.

Salvage is governed by the 1989 Salvage Convention and is conducted under many kinds of contract. Traditionally the Lloyd's Open Form (LOF) salvage contract – which has been in existence for more than 100 years – has been the most commonly used emergency response contract. A key principle is that the salvor undertakes to use his “best endeavours” to save the ship and cargo and to prevent pollution. The job is done at the salvor's risk and he will only be paid if the job is successful.

However, it is of concern to the International Salvage Union (ISU), and others, that LOF is not used as much today as in the past. ISU believes that LOF has great benefits: it is clear and simple, enabling rapid intervention largely because there is no need to negotiate terms “upfront.” And in an evolving casualty situation speed of intervention is often critical. It can mean the difference between success and failure with the associated loss of property and an increased risk of pollution.

The integrity of LOF is assured by Lloyd's, a world scale insurance market with considerable resources. And there is a clear dispute resolution process using Lloyd's Arbitrators. ISU firmly believes it is a fair contract allowing a salvage award based on well-established criteria including the value of the property saved, taking account of the circumstances. The great majority of cases are settled amicably. And using other commercial terms can, in some cases, be more costly for owners and insurers than LOF.

There are various ideas in the shipping market as to why the use of LOF has reduced. ISU thinks it is, in part, due to a lack of knowledge about the contract and its benefits. It also suffers from a number of myths that have come to be accepted, such as it being a contract which favours the salvor. If that were the case why would so many cases be settled without dispute?

ISU, and Lloyd's, want to communicate better the benefits of LOF. We want to help shipowners and insurers - particularly property underwriters – understand LOF and recognise its key place in the conduct of marine salvage. We know there are other commercial ways of doing salvage where speed of response is not an important factor and of course we accept that. But, for emergency response, LOF is still the best way to encourage commercial salvors to save life, protect the environment and save valuable property and ISU commends its continued use and wants to see a resurgence in its use when the circumstances are right.
