



# ISCO NEWSLETTER

The Newsletter of the International Spill Response Community  
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## ISCO & THE ISCO NEWSLETTER

The ISCO Newsletter is published weekly by the International Spill Control Organisation, a not-for-profit organisation supported by members in 45 countries. ISCO has Consultative Status at IMO, Observer Status at IOPC Funds and is dedicated to raising worldwide preparedness and co-operation in response to oil and chemical spills, promoting technical development and professional competency, and to providing a focus for making the knowledge and experience of spill control professionals available to IMO, UNEP, EC and other organisation.

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## International news

### PREVENTING ANOTHER DEEPWATER HORIZON SPILL –THE WELL CONTROL RULE: SAFER OR JUST MORE COSTLY



September 17 - The U.S. House Committee on Natural Resources has been told that the Obama administration's new well control regulations will result in a virtual moratorium on Gulf of Mexico offshore energy development and that they undermine safety rather than enhance it.

The House Committee on Natural Resources held an oversight hearing in New Orleans on the current state of offshore oil and gas activity in the Gulf of Mexico this week where the panel received testimony from Senator Bill Cassidy (R-LA), industry representatives and the U.S. Department of the Interior's (DOI) Bureau of Safety and Environmental Enforcement (BSEE).

The hearing focused on the impact of federal policies on energy development in the Gulf, including the DOI's proposed well control rule, and what actions can be taken to promote the responsible development of outer continental shelf (OCS) resources.

BSEE says the proposed rule is designed to improve equipment reliability, building upon enhanced industry standards for blowout preventers. The rule also includes reforms in well design, well control, casing, cementing, real-time well monitoring and subsea containment. It is the result of recommendations from various investigations into the Deepwater Horizon tragedy where the blowout preventer (BOP) buckled around the time a surge of natural gas from the well ignited, causing an explosion which killed 11 crew members. The blowout preventer punctured a pipe that led to about five million barrels of oil being released before the well was closed off 87 days later.

*The Maritime Executive* [Read more](#)

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and social issues. The event gathered delegates from different ministries and agencies as well as representatives from the Oil & Gas industry. The Department of Environmental Affairs of Gabon and the Ministry of Transport, Aviation and Shipping of the Congo hosted the exercise simultaneously. [Source: IMO]

## International news (continued)

### TRANS-BOUNDARY RESPONSE - CONGO AND GABON COMMUNICATION SKILLS PUT TO THE TEST



September 15 - A two-day bilateral exercise between the Congo and Gabon to test the lines of communication in case of a trans-boundary oil spill incident is concluding in Pointe-Noire, the Congo and Libreville, Gabon (14-15 September). The exercise, which was conducted in real-time with a prearranged script, simulated an oil spill incident impacting the Gabonese and Congolese coastlines. The objective was to identify gaps in oil spill contingency plans in both countries and help improve communication procedures between the two countries in the case of a real trans-boundary oil spill incident. The exercise also sought to encourage the sharing of technical information to better coordinate the response as well as to initiate discussions on topics such as mutual aid and allocation of resources.

This exercise was organised within the framework of the Global Initiative for West, Central and Southern Africa (GI WACAF Project), a partnership between IMO and IPIECA, the global oil and gas industry association for environmental

### MEETING OF THE MEDITERRANEAN NETWORK OF LAW ENFORCEMENT OFFICIALS RELATING TO MARPOL - 29 SEPTEMBER-1 OCTOBER (TOULON, FRANCE)

August 31 - The Regional Marine Pollution Emergency Response Centre for the Mediterranean Sea (REMPEC) is convening a Meeting of the Mediterranean Network of Law Enforcement Officials relating to MARPOL within the framework of the Barcelona Convention (MENELAS) in Toulon, France, from 29 September 2015 to 1 October 2015, which is partly financed by voluntary contributions from the Government of France and the Government of Malta and possibly others.

The principal objectives of the Meeting will be to present regional and international developments relevant to MENELAS, discuss various issues related to illicit ship pollution discharges, from collecting, recording and documenting evidence, to carrying out coordinated aerial surveillance operations as well as reporting. The Meeting will also be an opportunity to launch the MENELAS information system, share information on present cases of interest and discuss cooperation with other international and regional organisations. [Source: UNEP Mediterranean Action Plan]

## Incident reports from around the world (in chronological order)

### USA: COLORADO - CLEANUP CONTINUES AFTER VANDALISM CAUSES OIL SPILL

September 13 - Although cleanup has been underway for three days, the odor of spilled crude oil still marked the site Sunday of last week's vandalism of an oil well storage tank along Lindentree Road, east of Mineral City. Officials of Dart Oil Co. of Denver, Colorado, which co-owns the oil well site along with Buckeye Oil of Wooster, have told Tuscarawas County

Sheriff's deputies that about 60 barrels (3,300 gallons) of crude oil and brine were released when someone took a 3-inch valve off one of the two tanks at the site in Sandy Township. Marissa Lautzenheiser, coordinator of the Middle Tuscarawas River Watershed, who has been actively involved in the Huff Run Watershed habitat restoration project, is appalled that someone would deliberately commit such an act. *Times Reporter* [Read more](#)

## Incident reports from around the world (continued)

### EGYPT: OIL SPILL SPOTTED, CONTROLLED IN NORTHERN ASWAN



September 15 - Egypt's Ministry of Environment has controlled a 300-meters long oil spill in the Nile River in northern Aswan, Youm7 reported Monday.

In a Monday statement, the ministry announced that an oil spill estimated between 200 and 300 meters long and 7 to 10 meters wide. "The spill was surrounded so as not to be washed into other areas of the river; samples were taken from the water to make sure there is no pollution," the statement added. Inspection campaigns were held to examine a number of tourist barges to find out if the spill had originated from them. *The Cairo Post*

[Read more](#)

### UK: PUBLIC URGED TO AVOID PEMBROKE DOCK BEACHES AFTER OIL SLICK DISCOVERED

September 15 - The oil is thought to have come from land in Llanreath which has been designated as contaminated since the bombing of a large tank farm during the Second World War. It is understood the recent heavy rain overwhelmed the pollution defences at the site. *Milford & West Wales Mercury* [Read more](#) [Thanks to Walter Putman, Marine Pollution Control]

### PHILIPPINES: ANTIPOLLO CITY OIL SPILL CLEANUP COMPLETED

September 16 - The cleanup of the oil spill from the cement manufacturing plant in Antipollo City has been completed. In a letter dated September 14, the Philippine Coast Guard (PCG) said that the oil spill from the Solid Cement Corp. plant that flowed into the Tagbak River and affected areas has been completed. Aside from the PCG personnel, volunteer groups, local government units and Solid Cement Corp. employees have been tapped for the cleanup and recovery of bunker fuel oil (BFO) that leaked from a storage inside the plant. *Philstar.com* [Read more](#)

### MEXICO: MEXICO – TRAIN DERAILMENT LEADS TO PERSONNEL EVACUATION AND TANK RUPTURE

September 16 – Report received from JOIFF - Many Thanks to Steve at Shell for passing on some facts on this incident in Mexico in the state of Veracruz. Facts gathered from several news reports from reputable Mexican newspapers are -

- 90 car train, 4 cars derailed. Train transported diesel, ammonia, chlorine, EO and acrylic acid (nice mix, isn't it?)
- 3 cars exploded and one more caught fire. It seems that there was a leak of EO, but not clear if this is the car that exploded. But it seems like the EO prompted the evacuation.
- One report says 32 people evacuated, others just say "villagers were evacuated".
- No injuries.
- There was a precautionary "security fence" of 5 km. *AZDiario* [Read more](#)

### AUSTRALIA: AMSA ISSUES WARNING ON POISON CANISTERS

September 17 - The Australian Maritime Safety Authority warns of the potential dangers posed by toxic canisters that have been reported washing up on Australian beaches.

Since February 2012, emergency services have received reports from the public of small unlabelled canisters washing up along the coast in the Torres Strait, Queensland, New South Wales, South Australia and Tasmania. In the last few months reports have been received of canisters washing up in the Western Cape York region and in Yeppoon in Central Queensland.

The canisters contain a rat poison known as 'aluminium phosphide', a white to grey solid which is hazardous to humans. When the canister is opened, the powder reacts with moisture in the air to release phosphine gas, which is also highly toxic to humans.

The gas has a strong odour that can smell like garlic, rotting fish or urine, but it can quickly dull the sense of smell. Exposure can cause symptoms such as headaches, nausea, vomiting, difficulty breathing, dizziness, tightness of the chest, diarrhoea, fluid in the lungs, liver/kidney damage, and in severe cases death. The gas is also flammable and can spontaneously ignite causing burns or small explosions. *Green4Sea* [Read more](#)

### JERSEY: OIL SPILL 'THREATENS WILDLIFE'

September 17 - Wildlife is under threat after pollution was found in water at Grands Vaux, according to a Jersey vet. Ian Cox of New Era animal hospital warned owners to keep their animals out of the water after about a dozen ducks were found covered in oil.

Three ducks died at the hospital and it is likely the rest could be put down as they are not responding to treatment. The environment department have launched an investigation into the source of the spill. *BBC News* [Read more](#)



## FRANCE: THE CEDRE EXPERIMENTATION HALL REFURBISHED

September 14 - The repeated use of oil and chemicals as part of research projects performed in Cedre's experimentation hall had led to corrosion and deterioration of the infrastructures and equipment housed within this facility. Various operations were therefore recently carried out to renovate this hall: full refurbishment of the floor by laying a resin, creation of new water drainage culverts in the floor, installation of storage units, installation of an extractor above the work surface. The networks were altered and completed. The experimentation column, the key piece of equipment housed within the hall, was completely dismantled and its walls treated and passivated. When it was reassembled, the seals were replaced and new vertical rails were installed to facilitate the use of equipment such as observation video cameras. *Cedre Newsletter* [Read more](#)

## JAPAN: FUKUSHIMA DUMPS FIRST BATCH OF ONCE-RADIOACTIVE WATER IN SEA

September 14 - Japan's crippled Fukushima nuclear plant Monday began releasing previously contaminated water into the sea, but the man tasked with preventing another meltdown warned other highly radioactive fluid still stored on site could pose a major threat. Tokyo Electric Power Co (TEPCO), which operates the plant in eastern Japan, discharged 850 tons of formerly contaminated water it had extracted from the ground near the plant into the sea, saying a filtration process had now made it safe. *Discovery.com* [Read more](#) [Thanks to Walter Putman, Marine Pollution Control]

## KENYA: PIPELINE COMPANY TO FACILITATE RIVER CLEANSING CEREMONY AFTER OIL SPILL

September 18 - Kenya Pipeline Company has agreed to a request by elders to cleanse Thange River in Kibwezi Sub-County, Makueni County where its oil pipeline once burst and leaked oil earlier this year.

In a speech read on her behalf by the Chief Manager, Technical Services Elias Karumi Thursday, the KPC interim managing director Ms Flora Okoth said that the oil company has accepted the request by elders to fund a traditional cleansing ceremony on the seasonal river. *AllAfrica.com* [Read more](#)

## MALAYSIA: MARINE DEPT STEPS UP SURVEILLANCE AROUND COUNTRY'S WATER



*Photo; Marine Department personnel at the launching of the Primary Base Oil Spill Response in Kuantan. — Bernama photo*

September 15 - The Marine Department of Malaysia has increased surveillance around the waters of the country to avoid any accidents involving commercial vessels due to the haze.

In the meantime, Rossid congratulated the East Coast Marine office, as over the last five years, there had been no accidents involving major oil spills in the region.

He said however, the Marine Department would continue to improve its line of equipment, human resource and strategies to minimise losses and damages, in the event of an oil spill in the region. "So today, the Marine Department has upgraded equipment for oil spill cleanup from 'Secondary Base OPR' to 'Primary Base OPR' with a 400-metre long 'oil boom'." *Borneo Post* [Read more](#)

## NIGERIA: GROUP CONDEMNS 'FAKE' OIL SPILL CLEAN-UP CONTRACTS IN NIGER DELTA

September 14 - The Center for Peace and Environmental Justice (CEPEJ) has described the contracts from multi-national oil companies to leaders of oil-producing communities in the Niger Delta region to clean up spills in their domains as phoney.

National coordinator, CEPEJ, Sheriff Mulade, who called the contract award a "blanket," said the declaration was against the backdrop of accusations that some community leaders have been accepting phoney contracts from oil companies to clean up spills without due process. Mulade criticised local leaders for putting pecuniary gains above the wellbeing of their communities, not minding the devastating effects of spills on the environment.

He advised them to always ensure that the process for the award of such contracts follows due process in collaboration with the National Oil Spills Detection and Response Agency (NOSDRA) to guarantee clean-ups are carried out properly.

*Daily Independent* [Read more](#)

## NIGERIA: SPDC RAISES CONCERN OVER \$1BN Ogoni REMEDIATION PROGRAMME

September 15 - Shell Petroleum Development Company (SPDC) said it has taken serious measures to clean up Ogoni land in response to recommendation of the United Nations Environmental Programme (UNEP) calling for action for remediation of the environment.

The federal government in July 2006, had requested the UNEP to conduct a comprehensive assessment of the environmental and public health impacts of oil contamination in Ogoniland, Rivers State, together with options for remediation. *Leadership* [Read more](#)

## Other news reports from around the world (continued)

### USA: ALASKA - IN DUTCH HARBOR, NEW ORANGE BARGE A THE BEACON OF OIL-SPILL PREPAREDNESS



*Photo: The Resolve Ibis at its new long-term mooring site off Unalaska's Front Beach. KUCB/John Ryan photo.*

September 14 - The orange, boldly lettered barge is the most visible element of a private effort to improve shipping safety along the Great Circle route across the Pacific.

The tank barge can be used to store oil that's been offloaded, or lightered, from a ship in trouble, before the oil spills into the sea.

"They prevent a terrific amount of pollution by doing that," Magone said. "Once it spills into the environment, you don't get very much of it back, no matter what you do, especially in an environment like we have up here." *KUCB* [Read more](#)

### USA: ALASKA - BSEE PERSONNEL INSPECT OIL SPILL RESPONSE EQUIPMENT STAGED IN NORTHERN ALASKA

September 15 - Two members of the Bureau of Safety and Environmental Enforcement's (BSEE) Oil Spill Preparedness Division recently traveled to communities along the Arctic to verify and inspect oil spill response equipment staged to support ongoing oil exploration in the Chukchi Sea.

Along with several members of the Alaska DeBSEE-preparedness department of Environmental Conservation, the team traveled to Wainwright and Prudhoe Bay, to verify equipment preparedness and inspect required items in Shell's approved Chukchi and Beaufort Sea Regional Exploration Program Oil Spill Response Plans.

The equipment is owned and/or operated by Alaska Clean Seas, and Ukpeaġvik Iñupiat Corporation Arctic Response Services, two of Shell's oil spill removal organizations listed in the company's plans. The joint inspection team verified that the equipment was available and maintained as detailed in the plans, following inspections of specified equipment, maintenance records, and equipment operability. *Green4Sea* [Read more](#)

### USA: ALASKA - CREWS GET A LESSON IN OIL SPILL RESPONSE

September 17 - About 100 oil and gas workers attended a training session along the Beatton River Wednesday afternoon to learn what to do in the event of an oil spill.

No oil was actually spilled into the river, and nothing was put into the water to simulate oil, but it still served as a lesson for the "greenhorns" — as instructor Doug Gibson described the attendees — as they worked through the measures to follow were an actual spill to take place.

The session, put on by West Coast Spill Services, was one of about 22 spill response lessons the company puts on annually, according to Shannon Jarrell, WCSS's training and communications coordinator.

Spill response is important, she said, as a spill could cost oil companies \$1 million per kilometre of affected shoreline to clean up. *Alaska Highway News* [Read more](#)



### USA: HAWAII - 5 MILLION GALLON OIL PLUME BENEATH PEARL HARBOR

September 18 - For decades, leaks from Pearl Harbor's fuel tanks and other sources have been collecting beneath the ground near the naval base's Halawa gate.

Hawaii News Now has obtained records issued by the Navy that indicate that the subsurface oil plume there now contains more than 5 million gallons of fuel.

That's roughly half the volume of Alaska's Exxon Valdez spill in 1989 and nearly 200 times the size of last year's leak at the Navy's Red Hill underground fuel facility.

"This is the most egregious, the most harmful environmental issue there is," said environmental activist Carroll Cox. "Oil should not be in the ground, diesel should not be in the ground because they are contaminants."

The plume lies under a maze of utility lines, making access extremely difficult. Estimates for the clean up costs run in the tens of millions of dollars. *Hawaii News Now* [Read more](#) [Thanks to Don Johnston of ISCO Industry Partner, DG & Hazmat Group]

## Other news reports from around the world (continued)

### ZAMBIA: 'RIVERS OF ACID' IN ZAMBIAN VILLAGES



*Photo: A court case will decide if a copper mine has been polluting the water these women are carrying*

September 8 - Zambian villagers are taking a multinational copper mining firm to court in the UK, accusing it of poisoning their water. The BBC's Nomsa Maseko visited the area which has allegedly been polluted.

Dressed in colourful sarongs and t-shirts, the women of Hippo Pool village collect their water on the banks of the Kafue River on Zambia's copper belt.

As the sun sets and the weather starts to cool down, they carry the water in large buckets which they balance gracefully on their heads as they walk back home. It is water they will cook with, clean with, drink and irrigate farms. *BBC News* [Read more](#)

## Contributed article

### THE FUTURE OF LLOYDS OPEN FORM

**AN ARTICLE CONTRIBUTED BY MARK HODDINOTT,  
GENERAL MANAGER OF THE INTERNATIONAL SALVAGE UNION.**



**Lloyd's Open Form, the most commonly used salvage contract, has been in use for over 100 years. The International Salvage Union supports and promotes the use of this unique contract.**

#### Introduction

Those of us who have spent a significant period of our careers within the salvage industry cannot help but have great affection for Lloyd's Open Form. It is a unique, simple and highly successful contract that has stood the test of time for over a hundred years. This paper will examine the development of the Lloyd's Standard Form of Salvage Agreement, to give it its full title, and will consider whether it needs reviewing, and/or amending taking into consideration modern priorities.

#### Recent changes

The first version of LOF made its appearance in 1908. I have a copy in my office and it is interesting to note that many of the original terms have been retained today. The use of 'best endeavours', for example, and the concept of 'no cure – no pay'. The establishment of the reward was made by the salvor naming, within the contract, a lump sum or a percentage of the salvaged property, and the provision for security was included. There was the provision for arbitration and, of course, there is no mention of the environment.

I believe it is fair to say that LOF has been amended over time to reflect market changes and keep it fit for purpose. It has retained its notable properties in that it can be agreed swiftly with no time lost to contract negotiations; there is an onus on the salvor to use his 'best endeavours' and the reward is paid by all property interests in the venture in proportion to their value.

The first major change came with the introduction of LOF 80 following a series of high profile tanker casualties. LOF 80 introduced the first 'safety net' for cases involving laden, or partly laden, tankers and it was the first time the strict principle of 'no cure – no pay' was mitigated. It had limited use, however, as according to my research there were only four cases in the following ten years when the 'safety net' was successfully applied. There is little doubt, however, that the concept of the 'safety net' was taken forward into the construction of the 1989 Salvage Convention.

The 1989 Salvage Convention fundamentally changed the dynamics of marine salvage. The following year saw the introduction of LOF 90 which gave effect to Article 14 of the 1989 Salvage Convention. It could not incorporate the Convention entirely as parts of the Convention were in conflict with English law and LOF is an English law contract.

These conflicts were removed with the introduction of the UK 1994 Merchant Shipping (Salvage & Pollution) Act and LOF95 quickly followed which did, indeed, incorporate all aspects of the Salvage Convention.

The Salvage Convention finally entered into force on 14th July 1996. It was greeted warmly by the salvage, shipping and marine insurance industries but, in some aspects, I suggest it has been the catalyst for the decline in the use of LOF and some of the contract's current unpopularity.

#### Special Compensation

According to my research there were a total of 18 Article 14 claims of which 7 were appealed.

Article 14 was a safety net designed to allow the salvor to recover his costs, based on a fair rate, with an increment for protecting and minimising damage to the environment. Its continued use was seriously questioned following the 'Nagasaki Spirit' ruling on the term 'fair rate' in respect of personnel and equipment. The salvage and marine liability insurance industries put their heads together and came up with the Special Compensation P&I Club Clause, known as SCOPIC. In was, in my view, an excellent development and has successfully been in common use since 1st August 1999. It has almost replaced Article 14 as the method of special compensation in LOF although Article 14 is still available. To my knowledge there have not been any Article 14 claims since 2001.

LOF2000 incorporated an option to include the SCOPIC Clause as the method of special compensation, however, the option still exists for a salvor not to incorporate SCOPIC and to fall back on Article 14.

### Does LOF need reviewing and amending?

LOF is at a crossroads and, in my view, needs to be reviewed if it is to remain the "contract of choice" for emergency response services. Its continued decline is of great concern to salvors and property underwriters and I believe it not only needs reviewing but also needs to be promoted to the wider shipping and marine insurance industries. The ISU and Lloyd's have been in discussions regarding an educational programme for industry on the benefits of LOF. When agreed it will be a long term commitment on both parties to educate the industry on the benefits of LOF and improve its use.

Will educating industry be enough to improve the use of LOF? As previously stated, it is a fair comment that LOF has been amended to reflect market changes and keep it fit for purpose. I believe that in recent times it has fallen short in a couple of areas, the key one being the important area of protection of the environment. In the current edition of LOF, LOF2011, the only recognition of the environmental services carried out by the salvor is in Clause B, 'Environmental Protection - While performing the salvage services the Contractors shall also use their best endeavours to prevent or minimise damage to the environment.'

In my view the use of the words 'shall also' implies that environmental protection is a secondary priority to the saving of property. To a salvor this is absolutely correct because the salvor will usually earn an encouraging reward from saving property but is unlikely to do so from Article 14 or SCOPIC compensation payments which provide a 'safety net' only. However, priorities have changed which leads to my first argument on why LOF needs reviewing. Prior to the introduction of the 1989 Salvage Convention the priorities relating to a casualty were:

1. Safety of life
2. Saving of property
3. Protection of the environment

However, since the Salvage Convention became incorporated into LOF there has been a fundamental change in priorities to:

1. Safety of life
2. Protection of the environment
3. Saving of property

There is not a single LOF case nowadays that does not feature protection of the environment as the number one priority before the saving of property. The LOF process is well structured to make an award against property with its known values. However, unless the salvor puts together a detailed and compelling case it lacks any focus for a Lloyd's Arbitrator to make an award for the environmental services undertaken by the salvor. It is a matter of record that Lloyd's Arbitrators can separate out the environmental services from an Article 13 claim but they need the details on those services in order to do so.

ISU members are concerned that salvors are not properly recognised for the environmental services they undertake on an LOF contract. Further, with the current LOF and its associated processes, it is impossible for a satisfactory award for environmental services to be made. As it stands, under an Article 13 claim, property underwriters will pay for the environmental services not the liability underwriters. Therein lies a problem, for as long as this remains the case the reward for environmental services under LOF will never be clearly identified but will be lost amongst the award for the saving of property. It will also remain dependent upon there being a sufficient salvaged fund. It surprises me that property underwriters are not more vocal on this point, after all they are paying for action that benefits the liability insurer. With the protection of the environment being such a high priority there is a strong case for a review of Article 13 element of the LOF contract.

At this point I should refer to the Environmental Salvage concept, previously promoted by ISU, which proposed a change to the 1989 Salvage Convention with a new Article 14 based on an environmental award. The concept failed because it did not have the support of the wider shipping and marine insurance industries. It is paramount that any proposed change to LOF should have cross-industry support.

There is no clear answer, but the ISU will consider starting work this year to come up with a proposal that will satisfy all parties and, importantly, will not place an unreasonable burden on the liability insurers or appear to have the effect of an increase in LOF awards. I have been told by some liability insurers that we have SCOPIC therefore why do we seek recognition of environmental services? The simple answer is that environmental protection is now far more important than saving of property and the current LOF contract does not reflect this. In addition, SCOPIC is not based on any environmental criteria and is designed for use as a 'safety net' where there are insufficient salvaged funds for the salvor to receive a reasonable reward under Article 13 and also when the chance of a successful operation is limited. In cases where an Article 13 award is made, whether SCOPIC is invoked or not, it is becoming important to clearly recognise the contribution that environmental services have made to the protection of the

environment during the salvage services. I believe there is a business case for this in order for salvors to target their investments in areas which will give them satisfactory returns.

There is a second reason why I believe the current LOF needs reviewing and this relates to the cost of administering the LOF at the lower end of awards, in other words, where the legal and administrative costs are disproportionate to the award. We can all complain about high legal costs in whatever field we work in but the fact is that legal costs are set at the market rate. It is a commercial fact that if anyone sets their rates too high they will not get any business. Therefore I dismiss any suggestion that high legal costs are one reason that LOF is unpopular except, where I stated above, the legal and administrative costs are disproportionate to the award. For the sake of clarity I include the costs of expert witnesses when referring to legal costs.

An attempt was made a few years ago to address this problem with the introduction of the Fixed Cost Arbitration Procedure (FCAP) which can be used when parties to the LOF agree. FCAP can be used when security demands are below US\$1.5 million and, if used, FCAP caps 'party and party costs' at GBP £15,000 and also caps the Arbitrator's and Lloyd's costs. It is disappointing that FCAP has not been used on a single case and therefore can be regarded as a failure. It does remain a good concept and I suggest that consideration should be made to make it mandatory for low value cases.

### Salvors and contractual challenges

The principle that LOF awards should be encouraging to salvors is long established. It ensures that there is a viable, effective salvage industry that will invest for the future. However, with so few LOF cases and more salvage cases being undertaken on tariff-based contracts there is a serious threat to the viability of the traditional emergency response salvage industry.

I will mention a few of the causes why I believe that the salvage industry is facing contractual pressures and what the consequences will be for the shipping and marine insurance industries.

Under the International Convention on Civil Liability for Oil Pollution Damage 1992, there is a channelling provision (protecting salvors) by which claims are directed to the registered owner. However, IMO member governments rejected a similar provision when adopting the International Convention on Civil Liability for Bunker Oil Pollution Damage 2001 and this is a concern for salvors, as the removal of bunkers is the first priority in the majority of salvage operations. Indeed, I believe lack of immunity does not encourage swift response. It is correct that negligence should bear consequences, but not a strict liability in response to risky and expensive operations. Feeding a blame culture more interested in scapegoats than prevention conflicts with the very essence of salvage.

In 2012 the International Group of P&I Clubs sought to introduce a 'Bunker Removal Clause' into LOF. It gave the P&I Clubs the ability to invoke the Clause at their option, at which point the salvors switched to a tariff-based operation, based on SCOPIC rates, to remove the bunkers instead of remaining under Article 13 conditions. All other LOF conditions would have remained. It would have had the effect of reducing the Article 13 award, therefore was never going to be agreed by the ISU membership.

More recently at a meeting of the Lloyd's Salvage Group the property underwriters re-introduced a proposal for a Property Salvage Consultant (PSC) for LOF cases where SCOPIC had not been invoked. This proposal was first introduced in 2009 but had not been developed. The PSC would have a similar role to that of the SCR. In discussions with hull and cargo interests it became apparent that the main driver for the PSC proposal was the fact that property interests, particularly cargo, felt that they did not receive timely or sufficient information on the casualty and salvage operation. It is a fact that salvors have an obligation to submit a Daily Salvage Report to Lloyd's when under SCOPIC but no such obligation exists when SCOPIC is not invoked. Therefore, and in response to property interests' concerns, the ISU has requested its members to submit a Daily Salvage Report to Lloyd's when working under LOF when SCOPIC has not been invoked. Despite the fact that the submission is on a voluntary basis it is pleasing that Lloyd's reports that ISU members are complying and the information to property interests has improved considerably.

It has been brought to my attention from a couple of sources that there is a practice amongst some property insurers to 'cap' an LOF award when SCOPIC has not been invoked. This is achieved through a "side letter" which sets out the process for settlement of an Article 13 claim based on SCOPIC rates to which a multiplying factor is applied. I do not have specific details of the arrangement but understand that it can have the effect of capping the Article 13 reward by as much as 50% of its true worth. This is a worrying development and highlights several issues within the salvage industry:

Firstly, that the salvage industry has too much capacity leading to greater competition amongst salvors for LOF contracts.

Secondly, there is the accusation that the salvage industry is not investing in the equipment to successfully salvage the new generation of large vessels. It does not need a detailed explanation from me to understand that investment is difficult when salvors are not receiving the appropriate rewards that they are entitled to because rewards are being capped. How will innovation, development of new systems and equipment and techniques happen? At the recent annual ISU Associate Members' Day in London the salvors in the audience were asked who was investing in the equipment needed to salvage large container vessels. There was a show of two hands, which in one respect is encouraging, but in another a confirmation that few salvors are targeting investment for large vessel salvage.

Thirdly, if salvors do not receive encouraging and appropriate rewards then the industry will contract and there is evidence that this is already happening. I expect that the next 2-5 years will see the salvage industry go through significant change, both contracting and consolidating. Will this be a good thing for the shipping and marine insurance industries? In the short term I do not believe that it will be of too much concern, but longer term it will lead to fewer salvors, hence less choice, and could lead to slower response times brought about by a reduced geographical spread of salvage bases.

## Contributed article (continued)

### Summary

There is little doubt that stagnation in revenues from emergency response salvage is causing difficulties for salvors. This is being exacerbated by oversupply in the emergency response market.

A contraction in the emergency response market is inevitable through both consolidation and companies withdrawing from the market. A fall in LOF cases and a greater reliance on tariff-based salvage will fail to provide salvors with the funds required to invest in the equipment required for major casualties. It does not need a crystal ball to predict that this is a bad

development for ship owners and property insurers who will see an increase in claims for hull and cargo. And property values in individual cases, particularly container ships, have risen dramatically in the past decade and will continue to do so as more post-Panamax container ships enter service.

The LOF contract is at a crossroads and I believe a review of LOF is required to ensure its future use. The two main aspects are the recognition of the environmental services undertaken under an LOF and amendments to the FCAP system to make LOF cost-effective in low value and low award cases.

Having said that it is a fact that 78% of all LOF contracts are settled without recourse to arbitration, a very worthy statistic. Over the coming months we may have some clarity on what the market thinks about LOF and what it wants from the contract as we focus on our initiative with Lloyd's and other parties with strong interests in LOF. [Your editor thanks Mark and the ISU for this article]

## Publications

### ITOPF PUBLISHES ANNUAL REVIEW 2015

September 14 - In the latest edition of its Annual Review, ITOPF Chairman, Paddy Rodgers, reports on what has been a very productive year for the Federation.

Whilst keeping its strategic goals aimed at improving spill preparedness and response clearly in focus, ITOPF has maintained the flexibility to attend 22 new incidents and provide remote advice for a further 25 cases. Some of these incidents reflect known risks, such as those associated with weather patterns around the world or congestion in maritime regions like Asia and the Far East, but ITOPF is also "standing by" to deal with emerging risks, such as the logistical challenges of dealing with an incident involving one of the giant containerships.

Working in partnership with industry and government organisations has featured highly during the year. ITOPF has both led and supported a number of workshops and seminars alongside the International Group of P&I Clubs, IOPC Funds, and IMO in priority areas, particularly in India and China.

The team has also focused on outreach to children and students, and raising awareness of ITOPF's work amongst shipowners and the wider maritime community more generally. As Paddy Rodgers points out: "The organisation has an important role, whether working quietly and effectively in preparedness and response, or more dramatically in the midst of a catastrophe bringing the experience of years to bear in those critical hours and days." Download a copy of the [Annual Review](#) or request a hard copy from [Terry Goodchild](#).

## Links for recent issues of other publications (in alphabetical order)

<a href="#">AMSA Aboard</a>	News from the Australian Maritime Safety Authority	September 2015 issue
<a href="#">ASME EED EHS Newsletter</a>	News and commentary on HSE issues from George Holliday	Most recent issue
<a href="#">Bow Wave</a>	Sam Ignarski's Ezine on Marine & Transport Matters	Current issue
<a href="#">Cedre Newsletter</a>	News from Cedre in Brittany, France	July-August 2015
<a href="#">Celtic Biogenie enGlobe Newsletter</a>	Latest Remediation and related technology news	Spring 2015 issue
<a href="#">CROIERG Enews</a>	Canberra & Regions Oil Industry Emergency Response Group	Current issue
<a href="#">EMSA Newsletter</a>	News from the European Maritime Safety Agency	Sept. 2015 issue
<a href="#">Energy Institute eBulletin</a>	News from the Energy Institute	April 2015 issue
<a href="#">Environmental Technology Online</a>	Environmental Monitoring, Testing & Analysis	Sept. 2015 issue
<a href="#">IMO News Magazine</a>	News from the International Maritime Organization	No 2, 2015
<a href="#">IMO Publishing News</a>	New and forthcoming IMO publications	August 2015
<a href="#">Intertanko Weekly News</a>	International news for the oil tanker community	No 38 2015
<a href="#">IPIECA eNews</a>	Int'l Petroleum Industry Environmental Conservation Assoc'n	February 12 issue
<a href="#">JOIFF "The Catalyst"</a>	Int'l Organisation for Industrial Hazard Management	July 2015 issue
<a href="#">MOIG Newsletter</a>	News from the Mediterranean Oil Industry Group	Most recent Issue
<a href="#">NOAA update</a>	Oil spill response news from NOAA OR&R	April 2015
<a href="#">OCIMF Newsletter</a>	News from the Oil Companies International Marine Forum	August 2015 issue
<a href="#">Pollution Online Newsletter</a>	News for prevention & control professionals	Sept 16 issue
<a href="#">Sea Alarm Foundation Newsletter</a>	Oiled wildlife Preparedness and Response news from Sea Alarm	Spring 2015 issue
<a href="#">SAC News</a>	Oil spill related and other news from Alaska	August 17 issue 2015
<a href="#">Technology Innovation News Survey</a>	From US EPA - Contaminated site decontamination	July 16 - 31 2015
<a href="#">The Essential Hazmat News</a>	Alliance of Hazardous Materials Professionals	August 24 issue
<a href="#">Transport Canada Newsletter</a>	News and articles re transport of dangerous goods in Canada	Winter 2014 issue
<a href="#">USA EPA Tech Direct</a>	Remediation of contaminated soil and groundwater	Sept. 1 2015 issue
<a href="#">USA EPA Tech News &amp; Trends</a>	Contaminated site clean-up information	Spring 2015 issue
<a href="#">WMU Newsletter</a>	News from the World Maritime University	June 2015 issue

## Events

### WEBINAR INVITATION: THE IPIECA MARINE GEOSPATIAL BIBLIOGRAPHY

Join us for a webinar on Wednesday 14 October to learn about the Marine Geospatial Bibliography (MGB) and some of the key upgrades that have been made to the tool in 2015.

The MGB is a free knowledge sharing platform that centralises reports, papers and environmental research relevant to oil and gas activities in marine environments. Containing over 10,000 resources, the MGB makes such information easy to find, search and summarise, and each resource is geospatially referenced.

Drawing on feedback received from IPIECA members since the MGB's initial 2013 launch, and working with Island GIS, IPIECA has upgraded the MGB for 2015 to include the following key improvements:

- Technical updates, including integration of Google Maps and Maps Engine
- Sharpened design and navigation functions
- Increased accuracy of document locations
- Easier content uploading for registered users

The webinar will take place at both 9am (BST) and 3pm (BST) on Wednesday 14th October, to facilitate global participation. The content will be the same in both webinars, so you only need to sign up for one. To attend, please register at the following links.

- [Wednesday, 14 October, 09:00 \(BST\)](#)
- [Wednesday, 14 October, 15:00 \(BST\)](#)    IPIECA    [Read more](#)

## Company news

### MARKLEEN OIL SPILL TECHNOLOGY JOINS THE MEDITERRANEAN OIL INDUSTRY GROUP

September 1 - News received from MOIG – “The MOIG Management Committee Members is very delighted to announce that Markleen Oil Spill Technology has joined the MOIG.

The Markleen Group is a leading manufacturer of oil spill response equipment. They supply all-inclusive packages specially designed for their customers whether located on oil recovery vessels, oil spill response bases or at ports. They pride their selves on their highly qualified technical department and their state-of-the art production facilities in Norway, Sweden and Spain.

The company uses advanced engineering and modern manufacturing methods to provide the most efficient and competitive systems in the industry. Operator safety, fast deployment, easy operation and high quality are our prime focus. Their product portfolio includes near shore tailored packaged, offshore containment and recovery, temporary storage and response vessels and work boats.

Markleen directly employees 61 people globally in their operations and is proud to have ISO certification for ISO 9001, ISO 14001 and DNV OHSAS 18001. For further information on Markleen. You can visit the company's website on [www.markleen.com](http://www.markleen.com) “

### CORPORATE SOCIAL RESPONSIBILITY - HIGH ON AQUA-GUARD'S PRIORITY LIST:



Photos above: Left – Homes of Hope Project in Mexico; Right – Orphanage in Burma

Since 2003, Aqua-Guard's owners and staff have been involved in several endeavours to help create a just and sustainable world. Aqua-Guard's family feel that it is very important to help give back both to our immediate and global communities. Click below to see some projects we feel passionate about: <http://aquaguard.com/about/responsibility>

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