

Postgraduate Certificate in Marine Salvage Operations

Legal Framework for Marine Salvage

Legal Framework for Marine Salvage: Key Terms and Vocabulary

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In the Postgraduate Certificate in Marine Salvage Operations, students will encounter a variety of legal terms and concepts that are essential to understanding the framework governing marine salvage. This guide will explain key terms and vocabulary in the legal framework for marine salvage.

Article 13 of the United Nations Convention on the Law of the Sea (UNCLOS)

Article 13 of UNCLOS defines marine salvage as the "rendering of assistance to vessels, their crew, or passengers in danger or distress at sea." This definition sets the stage for the legal framework governing marine salvage and highlights the importance of providing assistance to vessels in distress.

Salvor's Liability

Salvor's liability refers to the legal responsibility of a salvor for any damage or loss caused during the salvage operation. The salvor's liability is typically limited to the value of the salvaged property, unless the salvor acts with gross negligence or willful misconduct.

Salvage Agreement

A salvage agreement is a contract between the salvor and the owner of the vessel or property in distress. The agreement sets out the terms and conditions of the salvage operation, including the compensation to be paid to the salvor.

Lloyd's Open Form (LOF)

The Lloyd's Open Form (LOF) is a standard salvage agreement used in the maritime industry. The LOF is a no-cure-no-pay agreement, meaning that the salvor is only compensated if the salvage operation is successful. The LOF provides a simplified and streamlined process for determining the compensation due to the salvor.

The SCOPIC Clause

The SCOPIC (Special Compensation P&I Club) clause is an optional clause that can be included in a salvage agreement. The clause provides for additional compensation to the salvor in certain circumstances, such as

when the salvage operation becomes more complex or time-consuming than originally anticipated.

The LOF and SCOPIC

The LOF and SCOPIC are often used together in salvage operations. The LOF provides the basic framework for the salvage operation, while the SCOPIC clause provides additional compensation in certain circumstances. The combination of the LOF and SCOPIC provides a flexible and comprehensive framework for marine salvage operations.

The Salvage Award

The salvage award is the compensation paid to the salvor for their services. The amount of the award is typically determined by a salvage arbitrator or court, based on a variety of factors, including the risk and effort involved in the salvage operation, the value of the salvaged property, and the salvor's expenses.

Article 14 of UNCLOS

Article 14 of UNCLOS sets out the principles for determining the salvage award. The article provides that the award should be based on the "value of the salvaged property, the skill and efforts of the salvors in preventing or minimizing damage to the environment, and the danger to which the salvors were exposed." The article also provides that the award should be proportionate to the services rendered.

The "No Cure – No Pay" Principle

The "no cure – no pay" principle is a fundamental principle of marine salvage. The principle means that the salvor is only compensated if the salvage operation is successful. This principle incentivizes salvors to take on risky and challenging salvage operations, knowing that they will only be compensated if they are successful.

The "Polluter Pays" Principle

The "polluter pays" principle is a principle of international environmental law that requires the party responsible for pollution to bear the costs of remediation. In the context of marine salvage, the principle means that the owner of a vessel that causes pollution during a salvage operation may be liable for the costs of clean-up and remediation.

The International Salvage Union (ISU)

The International Salvage Union (ISU) is a trade association for the marine salvage industry. The ISU represents the interests of salvors and promotes best practices in the industry. The ISU plays a key role in

developing and promoting the legal framework for marine salvage.

Challenges in Marine Salvage Law

There are several challenges in marine salvage law, including:

1. **Valuation of salvage services:** Determining the value of salvage services can be challenging, particularly in complex or high-value salvage operations.
2. **Allocation of compensation:** Allocating compensation among multiple salvors can be difficult, particularly when the salvors have different levels of involvement in the salvage operation.
3. **Environmental considerations:** Incorporating environmental considerations into the salvage award can be challenging, particularly when the environmental impact is not immediately apparent.
4. **Cross-border issues:** Marine salvage operations often involve multiple jurisdictions, which can create complex legal issues related to jurisdiction, choice of law, and enforcement.

Conclusion

Understanding the legal framework for marine salvage is essential for professionals in the maritime industry. Key terms and concepts, such as the LOF, SCOPIC, salvage award, and "no cure – no pay" principle, provide the foundation for the legal framework governing marine salvage. While there are challenges in marine salvage law, the legal framework provides a comprehensive and flexible approach to addressing the complex issues that arise in marine salvage operations.