

IMLI^e-News

The IMO International Maritime Law Institute Official Electronic Newsletter (Vol. 3, Issue No. 26) 2 March 2006

Legal Adviser to the International Salvage Union:

“Lecturing at IMLI gives you the opportunity to express the industry views..”

Mr Archie Bishop, Legal Adviser to the International Salvage Union, and former senior partner of Holman Fenwick and Willan, recently delivered the IMLI course on the Law of Maritime Salvage and Wreck.

Mr. Bishop, who has been a visiting fellow and external examiner at IMLI for many years, is considered one of the most appreciated specialists in this field of maritime law. He was directly involved in the preparations of the 1989 Salvage Convention, he is a member of the drafting committees of LOF (*Lloyd's Open Form*) and SCOPIC (*Special Compensation P & I Club Clause*), sits on the Salvage Committee of the British Maritime Law Association and he is also a member of the newly constituted Lloyd's Salvage Group



Mr. Archie Bishop, lecturing to the 17th generation of IMLI lawyers.

Mr. Bishop is also an International Legal Adviser to the American Salvage Association, an Examiner in Admiralty and a CEDR accredited mediator. He has spoken at many conferences and seminars on subjects germane to his experience.

Mr. Bishop, what were the highlights of your lectures at IMLI ?

I have been discussing in details general salvage law including the 1989 International Convention on Salvage, the Lloyd's Open Form (*which is the most widely used contract*) and the SCOPIC clause, which has been devised to replace the Special Compensation provision under Art. 14 of the 1989 Salvage Convention. We have also been able to touch on the IMO guidelines on places of refuge and I mentioned furthermore the new concept which the salvage industry is trying to promote - environmental salvage.

What is your opinion about the current legal framework regulating "Places of Refuge" ?

Places of refuge (or the lack of places of refuge) has long been a problem for the professional salvor. If a place of refuge is refused only one of the three options can happen: (1) the salvor continues with its efforts and succeeds to overcome the additional burden upon him and finally saves the ship despite the greater danger (ex. CASTOR); (2) despite the salvor's best efforts the ship sinks in deep water causing environmental damage to nearby coastal States (ex. PRESTIGE); (3) he keeps the vessel under tow for a long period (probably without getting any remuneration) until he finally receives permission to dump the vessel at sea (*as required by the 1972 London Dumping Convention*).

In either of these scenarios the environment is either threatened or damaged. In the vast majority of cases it is better to give a ship a place of refuge where any pollution would be under control, whilst further pollution is avoided by the transshipment of the cargo. For this and other reasons the salvage industry was pleased by the initiative of the IMO to issue guidelines for places of refuge. However, they are disappointed to see that they are now (*at least in some countries*) in an even worse position than before. Some countries have enlarged the list of requirements for the granting of a place of refuge with conditions almost impossible to achieve. Examples are the requirement for the carrier to waive its right to limit liability or/and to provide security in excess of the limits established by generally accepted international conventions. There is also an increased tendency for the criminalization of seafarers concerned in the main operations. These two problems are making even more difficult for a vessel to be granted a place of refuge.

To overcome this problem the International Salvage Union (ISU) firmly believes that there is a need to impose a “principled ” duty on coastal States to grant a place of refuge, unless they can prove greater damage. As long as this is not an express obligation, is quite likely that coastal States will continue to refuse the granting of places of refuge.

Which are the latest developments in the field of maritime salvage?

The SCOPIC clause continues to develop (*the latest edition being adopted in January 2005*). It has been recently amended (*1st January 2006*) to take into account and increase the tariffs for “personnel” rates.

Aside from this, the Salvage industry believes that while contributing substantially to the prevention of damage to the environment, it is not adequately paid for the benefits to the environment. In order to ensure more money for education, training, equipment and research (*as to how we can better protect the environment*) the Salvage industry seeks greater remuneration through a new concept – *environmental salvage*. If a salvor saves the ship and its cargo, the law encourages him to do so again by rewarding him generously with a reward paid by the beneficiaries of the services, the property owners and their insurers. Logically, if he protects the environment, he should be similarly encouraged, with a generous award paid by those that benefit.

What are your general impressions about IMLI ?

It is always a pleasure come here, not only to talk about the subject in which I am deeply interested, but also to meet the students which are generally experts in a particular area. Lecturing at IMLI it gives you also the opportunity to express the industry views on certain topics.

**** If you do not want to receive IMLI e-News in future, please return this message to the above address with request to DELETE in the subject field.***

***** For further information please contact Mr. Mitja Grbec (Editor, IMLI e-News) at publications@imli.org***