The initiation of a 'salvage pool' was suggested as a possible way forward in terms of financing, as was a shared, strategically located asset pool along the main shipping lanes in terms of rapid response resource. There was much speculation over the ability – or willingness – of the insurance sector to cover the costs of mega-ship casualties under existing insurance regimes.

The keynote speaker, Tan Beng Tee, assistant chief executive (development), from the Maritime and Port Authority of Singapore (MPA), said it was Singapore's ambition to be a leading centre of maritime casualty handling expertise.

She said: "Our advantage in Singapore is that with more than 5,000 maritime establishments located here, companies are able to tap on a whole eco-system of services and professionals.

"Recognising this, players integral to good marine casualty management have continued to set up operations. We have seen the entrance of Gard and the Japan P&I Club during the past two years, bringing the number of IG clubs with operations in Singapore to seven. As Singapore grows as a centre for maritime salvage operations, we hope industry players will also come together and discuss ideas to improve this complex and yet vital industry of marine casualty management."

A number of initiatives were also spearheaded at the forum, including the signing of a Memorandum of Understanding between Maritime New Zealand and the IG as part of the clubs' outreach project.

A positive outcome was the overwhelming sense of optimism of the salvors themselves, delegates from that sector confident in their abilities as problem solvers despite the complicated, often frustrating, issues. However, the question hung in the air: is optimism alone enough to sufficiently allay the worries of insurers having nightmares over mega-ship crisis scenarios?

A sequel to the forum, to reconvene and review what actions have been driven and what legislation begun, and assess the situation further, is planned for 2017.

● *LOC is an independent marine and engineering consultancy and survey organisation, providing services to the shipping and offshore energy industries.*

Tactics can make a big difference

Simon Tatham reports on the recent increase in the amounts by which salvors, tug owners and the larger OSV operators can limit their liability under international convention. He also makes a case for private submission to arbitration in salvage cases to avoid costly litigation

► *Simon Tatham*

It is no coincidence that the extraordinary number of salvage cases heard by the English courts in the decades from 1830 onwards owes its origin to the advent of the steam tug. Operators were quickly alive to the prospect of supplementing their income from towing sailings ships in and out of port, and – importantly at the time – up-river to new berths, by timely intervention to prevent groundings.

Nowadays, for any case to go to court is quite exceptional, so perhaps our predecessors in the practice of shipping law were on to something very lucrative at the time. It was not until 1908 that the insurance market began to claw back some control with the first version of Lloyd's Open Form (LOF), which has to a great extent shaped the development of the law and practice of salvage ever since.

Most salvage claims for the next 100 years were brought under LOF, resulting in a remarkable concentration of expertise evolving into perhaps one of the most cost-effective and efficient dispute resolution systems in the legal world.

With LOF becoming less used these days, however, one is left wondering whether there will now be a gradual return to those good (or should we say bad) old days first seen in the mid to late 1800s. Time will tell.

Meanwhile, one solution available to parties where LOF has not been agreed, but where there is obviously potential for a claim of salvage, is to agree a private submission to arbitration.

The standard wording for this, which rather like LOF itself needs no negotiation, and is approved by the market, is the Admiralty Solicitors Group Form ASG 3, which can be found at: www.admiraltysolicitorsgroup.com/site/assets/files/1200/asg3_submission_to_arbitration_salvage_services.pdf

This can avoid years of litigation before courts in jurisdictions around the world where a salvage claim would have to take its due place alongside other commercial disputes before judges who are unlikely to have any familiarity with salvage law. However, unlike LOF, a private submission signed after the event by owners will not bind cargo or charterers, so they have to be persuaded to participate, although in my experience cargo underwriters are pragmatic and usually do follow suit.

Salvors meanwhile face risks to their craft, equipment and personnel as well as potentially liabilities for negligence if things go wrong. A salvage contract, unlike a Towcon, Supplytime, Wreckfixed or similar, has no knock for knock liability regime resulting in losses falling where they lie.

However, no contract will protect a salvor, ocean towage contractor or OSV operator from third party claims in tort, for example if a collision occurs. In respect of such claims, among others, the international community set the levels at which a shipowner may limit liability under the 1976 Limitation Convention (LLMC 1976).

For the salvors and all other owners of vessels under 2,000 gross tons (thus harbour and most ocean-going tugs, but not the larger AHTS or modern OSVs) limitation is based on a minimum of 2,000 tons, with a sliding scale applying to larger vessels.

Since 2004, in jurisdictions where the 1996 Protocol has been adopted, the limit for vessels below 2,000 tons was set at the 1,000,000 SDRs equivalent to around US$1.4m. As of 8 June 2015, under the tacit acceptance provisions of the convention, these limits are set to rise by approximately 50 per cent to 1,510,000 SDRs, or about US$2.1m, for vessels below 2,000 tons, and a commensurately increased sliding scale for larger vessels.

Different and more generous figures apply for loss of life or personal injury claims. Each convention country will need to issue regulations or enactments to apply the changes and, at the time of writing because of the change of government in the UK, we await the application of the changes here.

There is a special limitation figure applicable to salvors when operating, for example, on board the casualty itself rather than from an attending craft; this is set at a level based on 1,500 tons.

This would cover the situation in the ***Tojo Maru*** case in 1972 where a diver negligently fired a bolt into a tank's plating causing the casualty to explode. In practice, where large claims arise, if the value of the offending vessel is lower than its applicable limitation fund, there may be a case for a defendant denying a claimant's security for any sum over the value of the vessel.

This does not always work, and I recall one case where claimants arrested the same vessel for claims a multitude of times, forcing the unfortunate owner eventually to set up a limitation fund for a figure in excess of the value of his ship. The law is one thing, but well thought out tactics and a strategy can make a world of difference.

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