



**LLOYD'S**  
**OPEN FORM**  
**REPORT 2012**

Detailed, definitive, downloadable

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# INTRODUCTION

## Lloyd's Standard Form of Salvage Agreement

Lloyd's Standard Form of Salvage Agreement (or Lloyd's Open Form or LOF as it is more commonly referred to) is today a world standard. It consistently aims to reflect best practice in light of changing circumstances and is one of the finest examples of the use of Lloyd's name, featuring importantly in the maritime world, but without necessarily having any insurance connotations directly relating to the Lloyd's market. Indeed, it exists to serve the whole maritime community.

Lloyd's, through the Salvage Arbitration Branch (SAB) of Lloyd's Agency Department, provides a reputable and secure framework in which the security and arbitration process referred to in LOF can operate, although it assumes no direct involvement in the arbitration process itself.

## This Report

The data contained in this report takes as its source the LOF cases reported to the SAB over the period 1 January 2000 to 31 December 2010.

It should be noted that approximately 75% of these cases were settled amicably between the parties without need for recourse to arbitration and that therefore the "Award" data shown reflects only those cases that did proceed to arbitration and in which an Award was issued

The monetary details of the cases that settled are private and confidential to the parties and are therefore not included in the statistics shown here.

## The LOF Award

Article 13.1 of the International Convention on Salvage 1989 states that "the [salvors'] reward shall be fixed with a view to encouraging salvage operations..."

This echoes the guidance given by a former Admiralty Judge, Sir John Nichol, in the *Industry* (1835) who wrote that the salvors' remuneration should "encourage enterprise, reward exertion and be liberal in all that is due to the general interest of commerce, and to the general benefit of underwriters, even though the reward may fall upon an individual owner with some severity".

At the same time, when taking the above in to account, it is also important that the Award must not be altogether out of proportion to the services actually rendered.

Article 13.1 is reproduced on page 18 of this report.

## In Summary

It is hoped that the following statistics will allay many of the misconceived impressions that LOF Awards are often high and out of proportion to the benefit conferred on the property owners and underwriters.

You will note that while the number of LOF cases reported to the SAB has declined over the past decade the amount of remuneration awarded to salvors in each year ranges between 15% and 35% (on average) of the value of the property salvaged, giving an overall average for the period of this study of 21.6%. Or put another way; an average benefit for owners and underwriters of almost 80% of the salvaged values.

I hope you find this publication enlightening and helpful.

# THE LOF PROCESS



## VESSEL TYPE

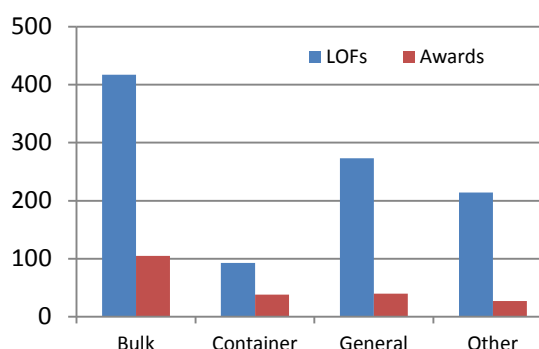
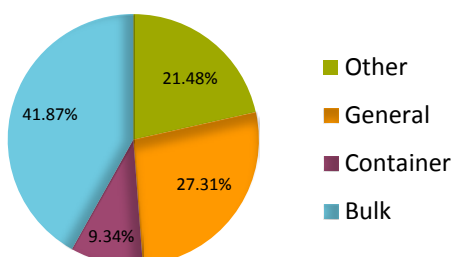
### What types of vessels are salvaged under LOF?

The total number of LOF cases reported to Lloyd's over the 2000-2010 period was 997. Bulk vessels made up the majority of these cases (41.87%) with a total salvaged value possibly in excess of USD5bn. Container vessels accounted for the smallest number of LOFs, but the second largest salvaged value; perhaps in excess of USD1.5bn.

There were also more Awards issued in Bulk vessel cases; however the number of these Awards, namely 105, represented 25% of all Bulk cases, while 41% of all Container vessel cases proceeded to arbitration. This is perhaps a reflection of the difficulties that may arise with the many diverse cargo interests involved in a Container case.

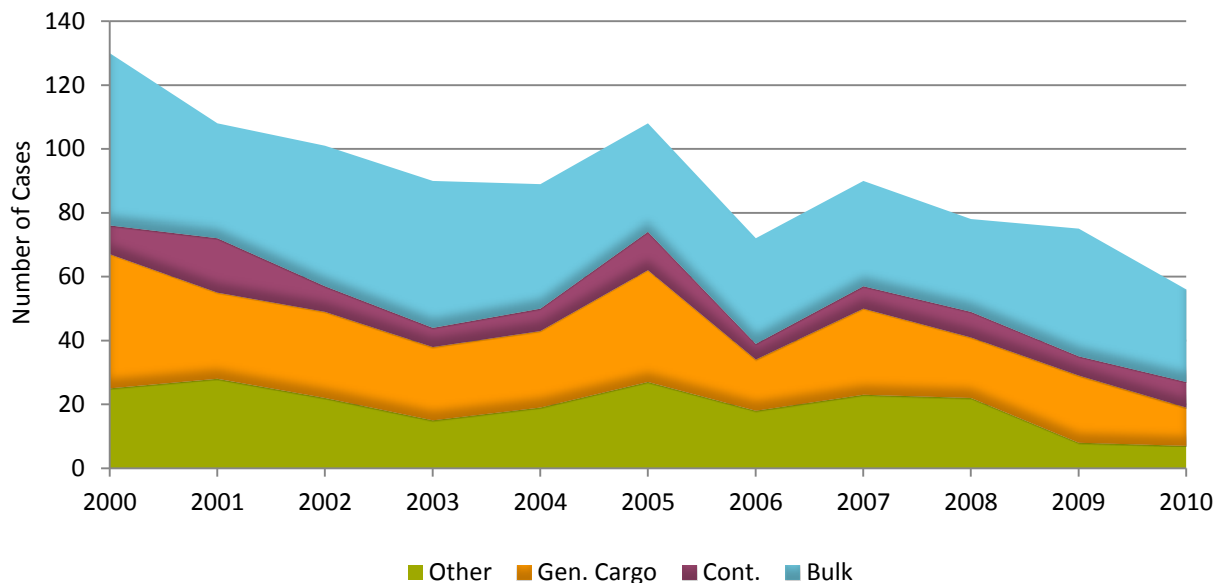
A further correlation of note is that of the average salvaged values of the cases that proceed to arbitration. It is clear from the data below that the cases involving higher average salvaged values, namely Bulk (USD13m) and Container (USD16m) are more likely to proceed to arbitration.

Vessel Group	Number of LOFs	% of all LOFs	Number of Awards	% of Awards to LOFs	Total Salvaged Values (Awards only)	Average Salvaged Value per Award
Bulk	417	41.87%	105	25.18%	USD 1,362,302,054	USD 12,974,305
Container	93	9.34%	38	40.86%	USD 606,809,545	USD 15,968,672
General	273	27.31%	40	14.65%	USD 225,623,131	USD 5,640,578
Other	214	21.48%	27	12.62%	USD 197,969,548	USD 7,332,205



### Year by year trend of vessels involved in LOF services

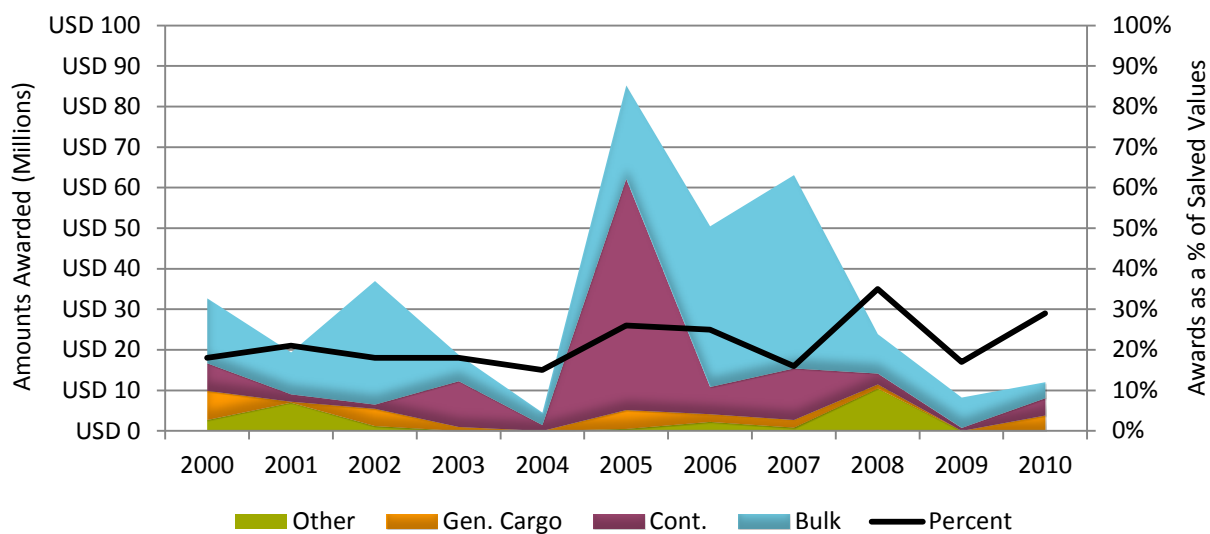
Bulk vessels have consistently made up the largest share except for 2005 when there was a spike in LOFs services involving General Cargo, Container and Other vessels, with General Cargo briefly exceeding Bulk with the largest number of LOFs.



### Total amounts awarded

The total amounts awarded under LOF by vessel year-on-year do, of course, vary. When assessing the level of the salvors Award the Arbitrator must take into account not only the salvaged value of the vessel and her cargo (if any), but apply the “criteria for fixing the reward” that is set out in Article 13.1 of the International Convention on Salvage 1989 (see page 18 of this report). The weight given to each of these criteria will differ from case to case so it would not be correct to expect that the total amount awarded in LOF cases would correspond to the total number of LOF services in any given year.

It can be seen from the graphs above and below that the higher number of LOF services involving Container vessels in 2005, with the subsequent rise in the level of salvaged values, was reflected in a large increase in the total amount awarded. However, the amount awarded in Container vessel cases over this eleven year period amounted to an average of no more than 18% of the value of the property salvaged (see graph below: The Award as a percentage of the salvaged value).

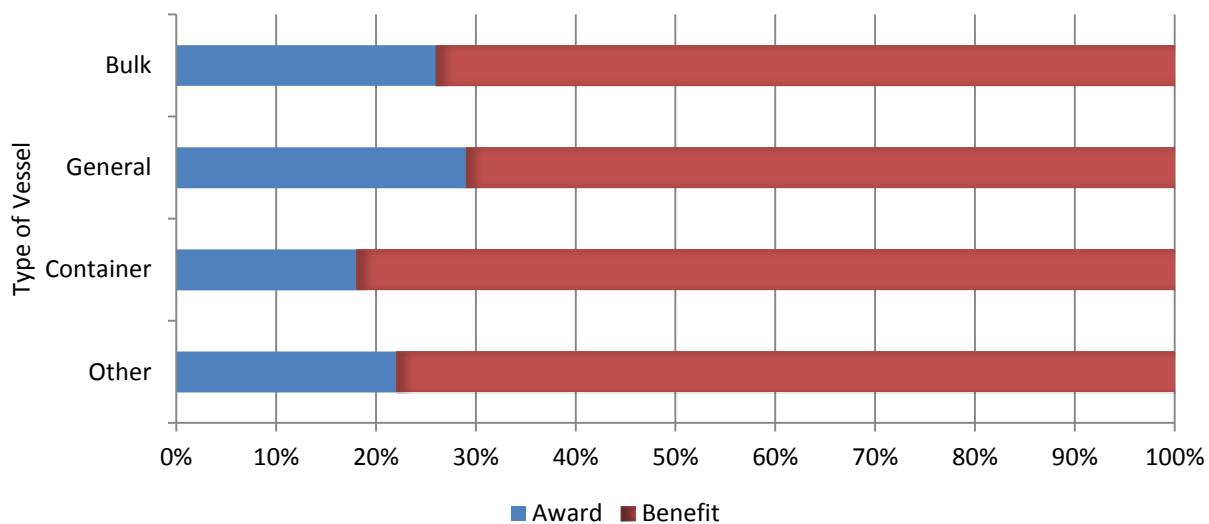


In the graph immediately above; while the high percentage figures of 35% (2008) and 29% (2010) are the ones that perhaps catch the eye, they should be looked at in conjunction with the amounts awarded in those years, namely USD23.9m and USD12m respectively.

It will be noted that in 2005, the total amount awarded in LOF Awards was approaching USD85.2m, but actually represented just 26% of the value of the salvaged property.

#### The Award as a percentage of the salvaged value

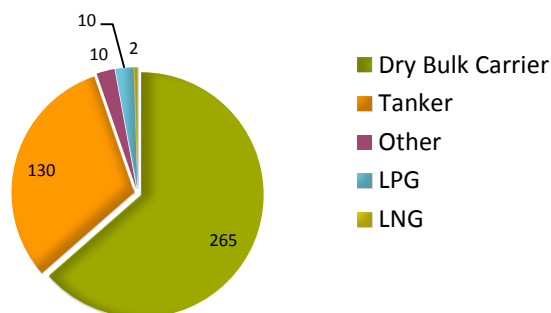
Awards as a percentage of the total salvaged value over the eleven year period of this study were fairly consistent across vessel type, ranging between 18% and 29%, giving a benefit conferred of up to 82% (Container vessels) of salvaged values.



## BULK

### An analysis of bulk vessels salvaged under LOF

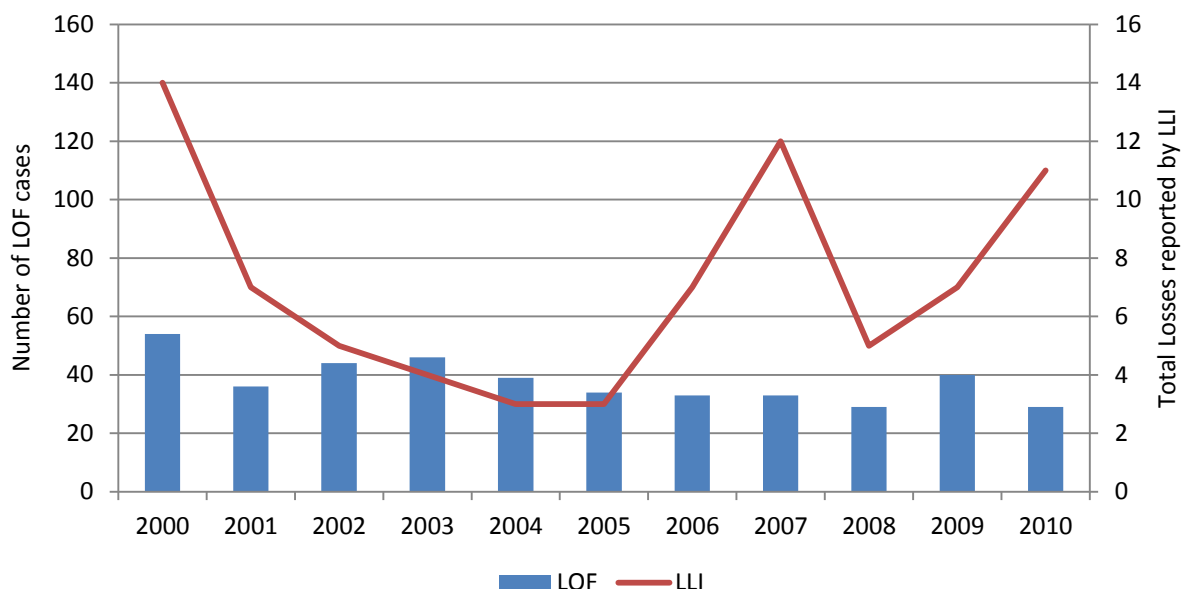
The large majority of bulk vessels were dry bulk carriers, followed by tankers. The balance of bulk vessels was made up of numerous categories, including LPG and LNG.



### Number of vessels

As stated previously, bulk vessels make up the largest category of vessels salvaged under LOF between 2000 and 2010, being 41.87% of all vessels. The number of bulk vessel on a year-by-year basis over the eleven year period of this study is as follows.

The red line shows the number of total losses suffered by Bulk vessels as reported by Lloyd's List Intelligence (LLI).

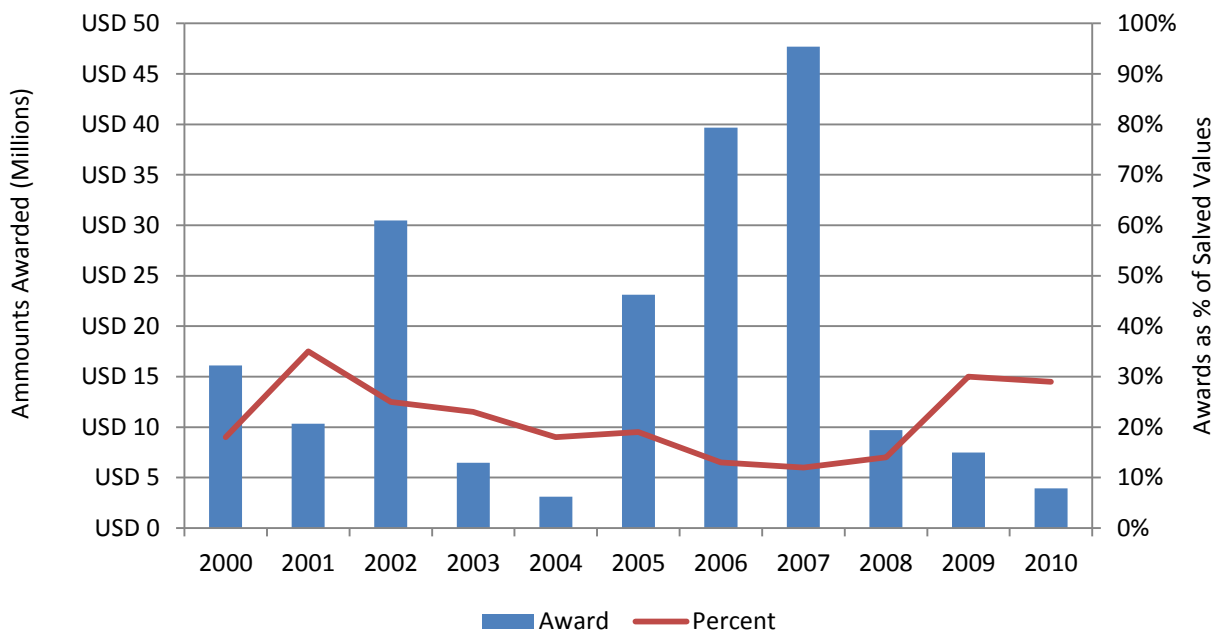


### Amounts awarded/ The Award as a percentage of the salvaged value

The amounts awarded in those cases that proceeded to arbitration (by year of casualty) are set out in the graph below, which also shows the amounts awarded as a percentage of the value of the property salvaged (see red line).

It should again be noted that whilst the years 2006 and 2007 show the highest amount of funds awarded, the Awards corresponded to the lowest levels of percentage of Award to salvaged values, namely 13% and 12% respectively.

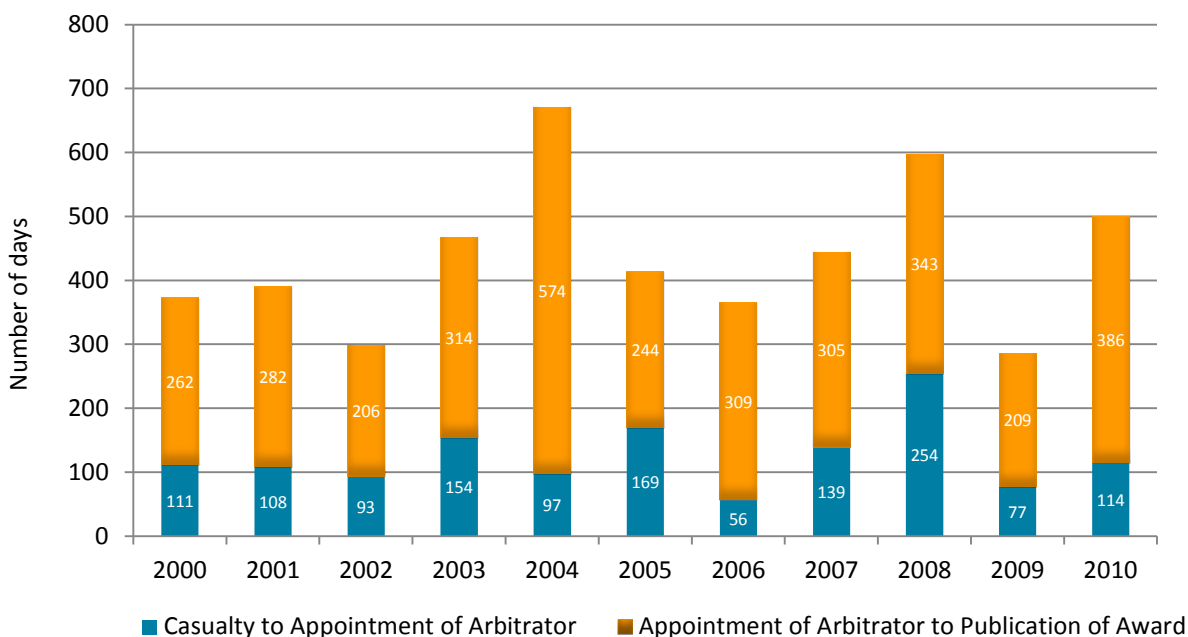




**Time of process**

Each case that proceeds to arbitration has its own unique characteristics, therefore the length any one case going through what is a quasi-judicial process will vary. The graph below shows the average time a case took from the date of the LOF (date of the casualty) to the publication of the final Award.

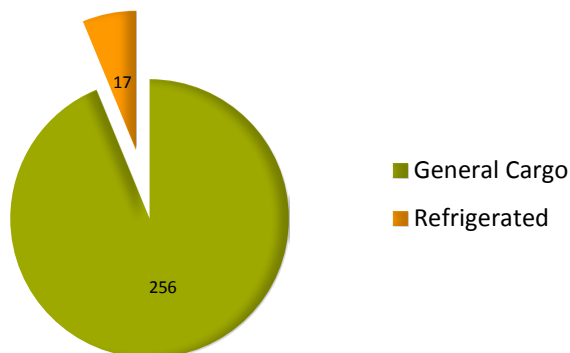
This time is broken-down in to two segments, namely (1) the number of days from the date of the signing of the LOF to the appointment of an Arbitrator (shown in blue), and (2) from that appointment to publication of the Arbitrator's Award.



## GENERAL CARGO

### An analysis of General Cargo vessels salvaged under LOF

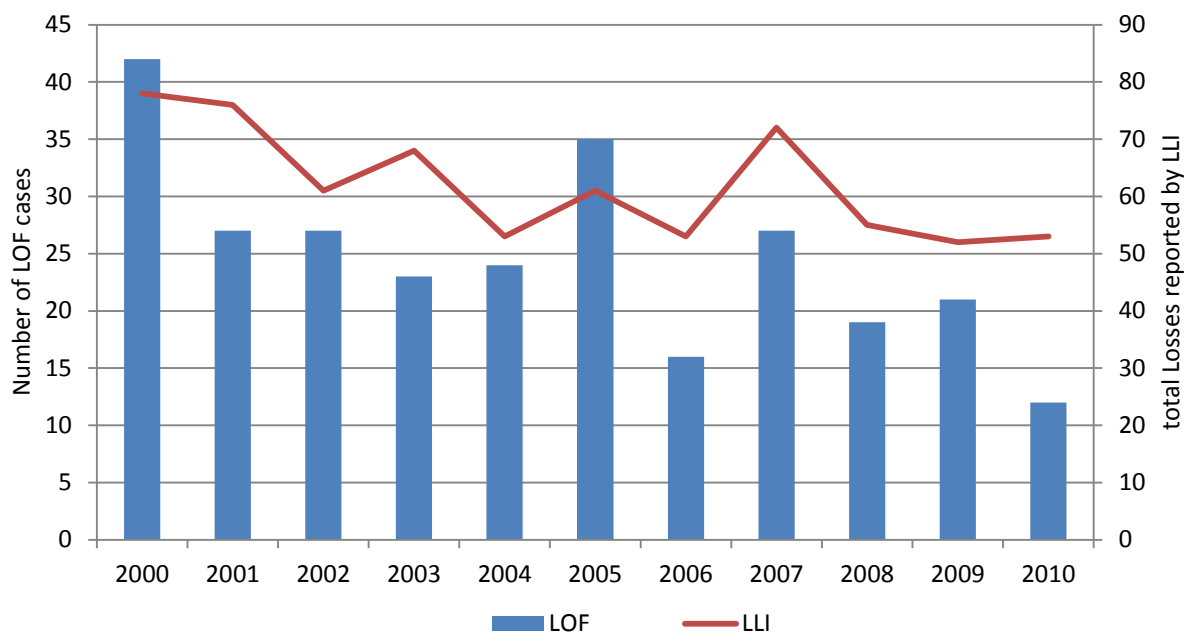
General cargo vessels accounted for 27.31% of all reported LOF cases between 2000 and 2010, this being the second largest category. Of these casualties, 17 (or 5.9%) involved refrigerated cargo vessels.



#### Number of vessels

The number of general cargo vessel on a year-by-year basis over the period of this study is as follows.

The red line shows the number of total losses suffered by General Cargo vessels as reported by LLI.

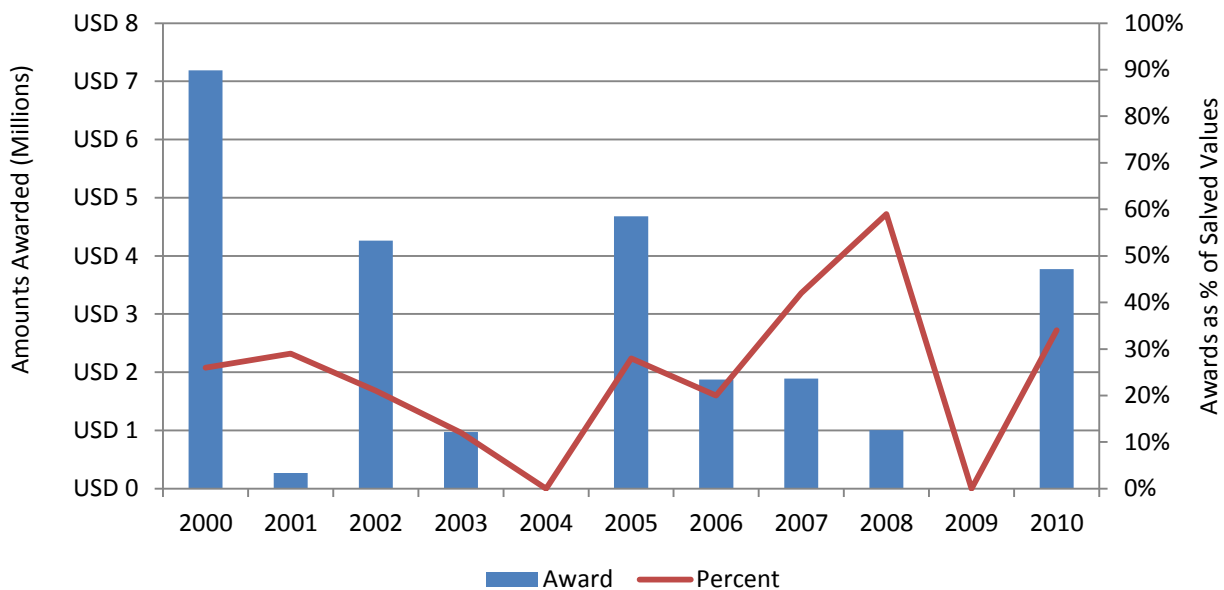


#### Amounts awarded/ The Award as a percentage of the salvaged value

The amounts awarded in those cases that proceeded to arbitration (by year of casualty) are set out in the graph below.

The amounts awarded are also shown as a percentage of the value of the property salvaged (see red line).

Again it is interesting to note that although the years 2000 and 2005 show the highest amounts of funds awarded, the Awards corresponded to a relatively low Award to salvaged value ratio. Conversely, the highest Award to salvaged value ratio, namely 59% in year 2008, is against a total salvaged value for that year of USD1,003,240. Only 2001 (USD267,544) and 2003 (USD975,000) returned lower salvaged values.



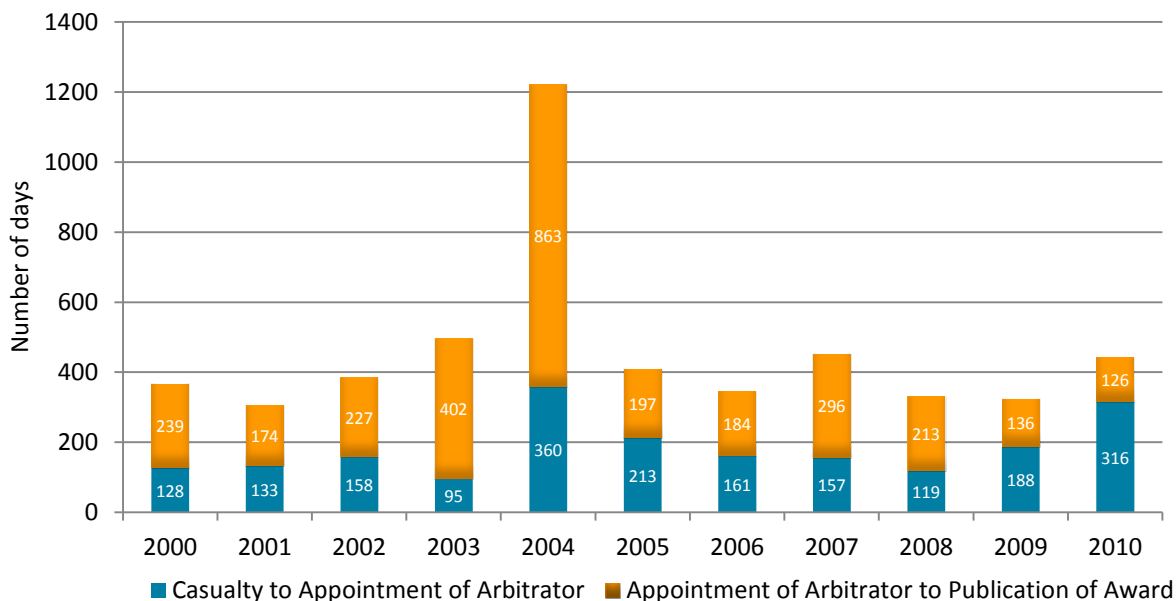
**Time of process**

It has already been stated that each case that proceeds to arbitration has its own unique characteristics and so the length of any one case from the date of the LOF until conclusion will vary.

The graph below shows the average time a case took from the date of the LOF to the publication of the final Award.

This time is broken-down in to two segments, namely (1) the number of days from the date of the signing of the LOF to the appointment of an Arbitrator (shown in blue), and (2) from that appointment to publication of the Arbitrator’s Award.

The unusual spike recorded in 2004 is attributable to one case that due to the many complex salvage and legal issues took over five years to conclude. When removing 2004 from the data, the average length of time for a general cargo case between 2000 and 2010 is 386 days, or less than 13 months.



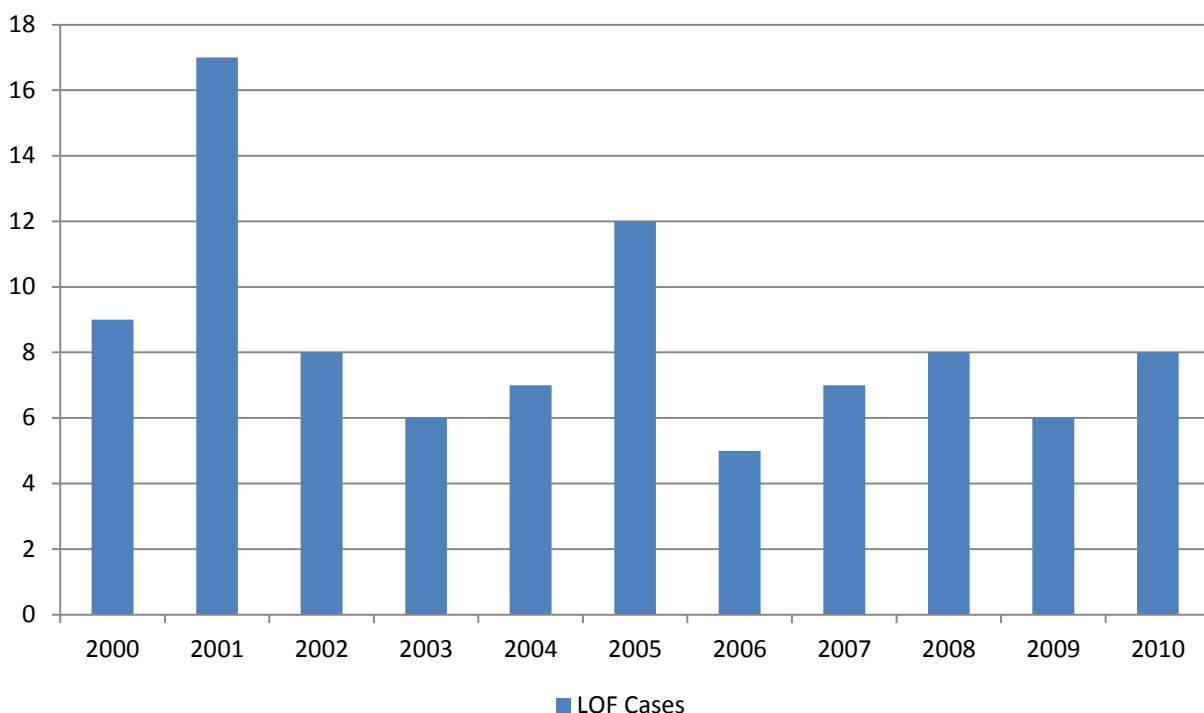
# CONTAINER

## An analysis of Container vessels salvaged under LOF

While container vessels account for only 9.3% of the number of vessels salvaged during this period, by their very nature they make up a far greater proportion of the salvaged fund of LOF cases that proceed to arbitration, namely a little over 25% (USD607m).

### Number of vessels

The following graph shows the number of container vessels salvaged under LOF on a year-by-year basis over the period of this study.

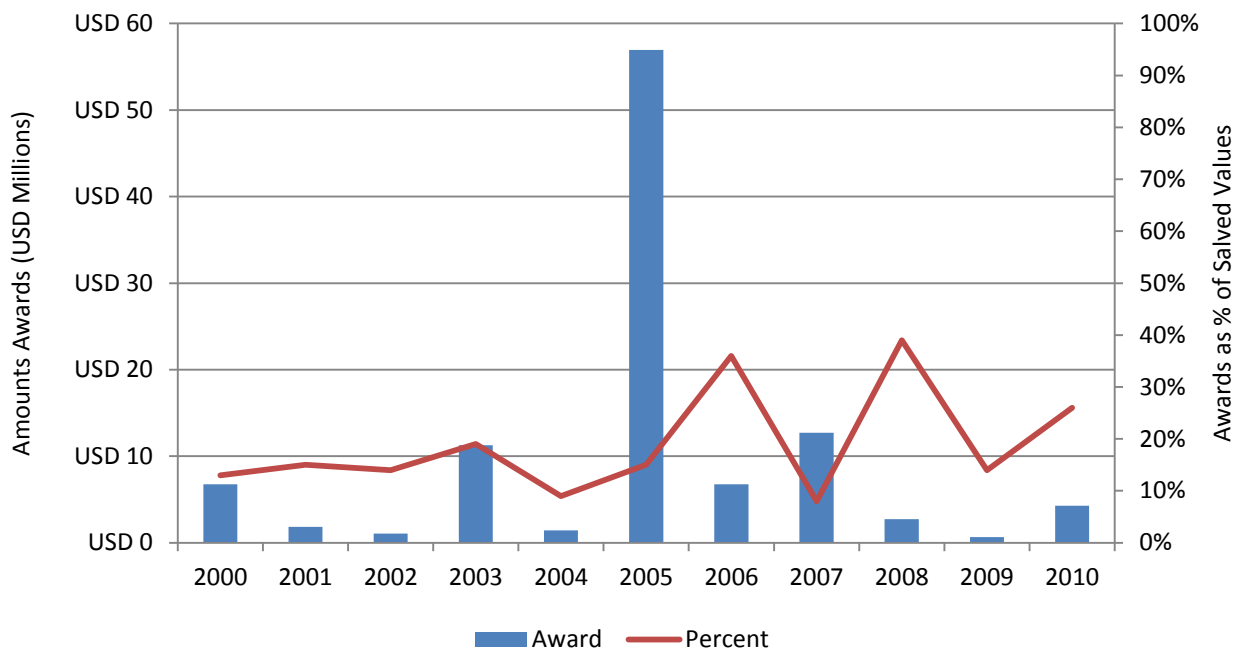


### Amounts awarded/ The Award as a percentage of the salvaged value

The amounts awarded in container vessel cases that proceeded to arbitration (by year of casualty) are set out in the graph below, which also shows the amounts awarded as a percentage of the value of the property salvaged (see red line).

We can see that the trend of higher amounts awarded (in total) to lower percentage of the salvaged fund continues.

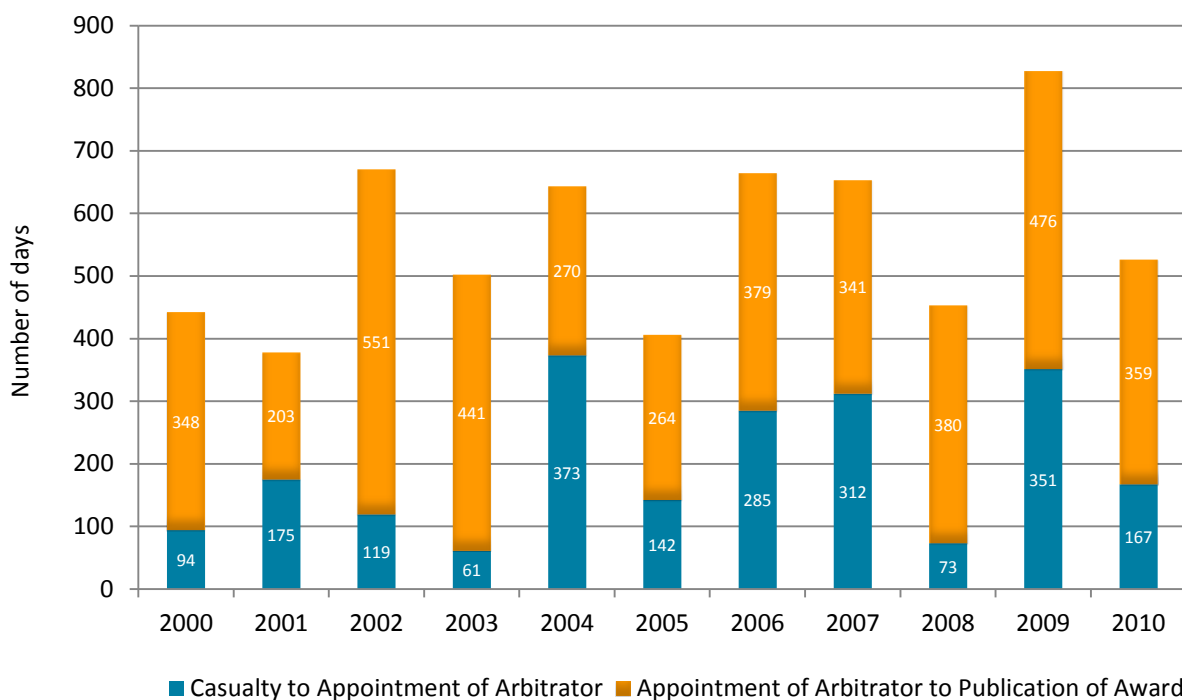
For example, in year 2005 the total amount awarded in LOF Awards was USD57m, which amounted to just 15% of the total salvaged fund for that year, while in 2008 the percentage awarded appears high at 39%. However in 2008 the salvaged fund was only USD2.7m.



**Time of process**

The design of the modern container ship, with its high sea-board and no on-board discharge equipment can lead to long and protracted salvage services. In addition to this, the after services administration, which invariably involves very many parties, means that container vessel cases tend to be protracted. This is reflected in the graph below, which shows an average case time of 551 days, or 18 month.

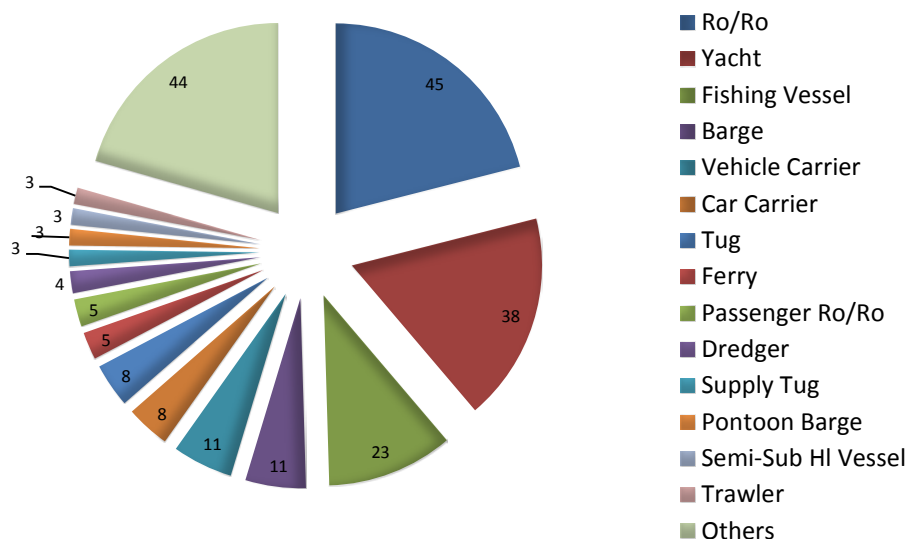
As we have seen above, the comparative time for an LOF case involving a general cargo vessel is 386 days, or less than 13 months.



## OTHER VESSELS

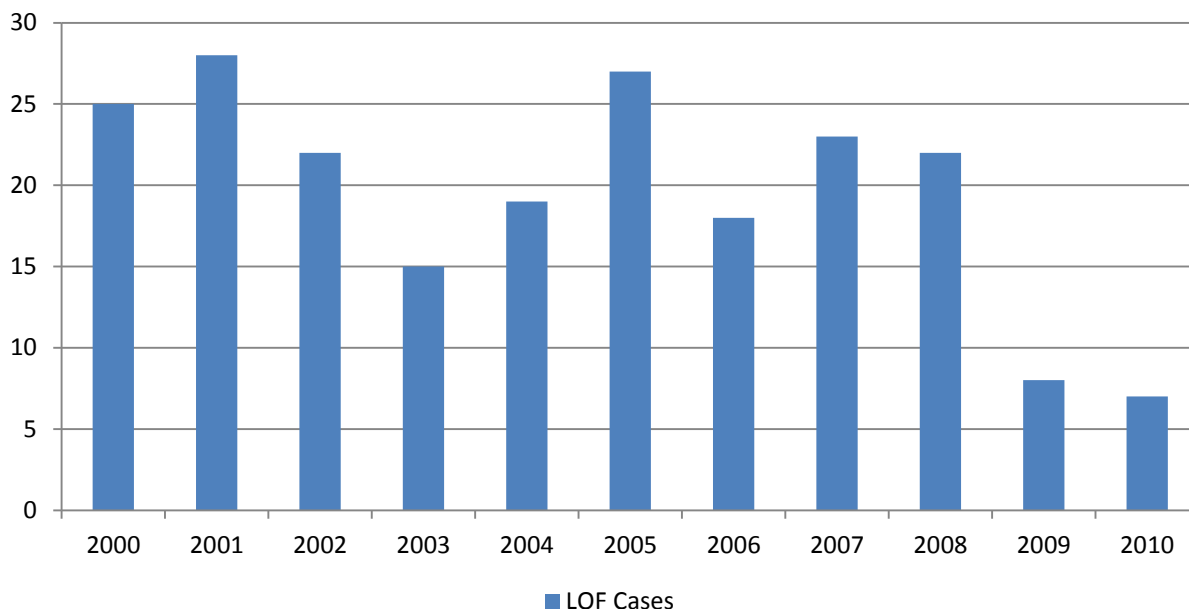
### An analysis of “other” vessels salvaged under LOF

The many diverse types of vessels making-up this particular category are clearly demonstrated by the chart below. In total they accounted for 214 (or 21.48%) of the LOF cases reported to Lloyd’s between 2000 and 2010. The total salvaged value of the “other” vessels during this period is USD198m (in cases that proceeded to arbitration).



### Number of vessels

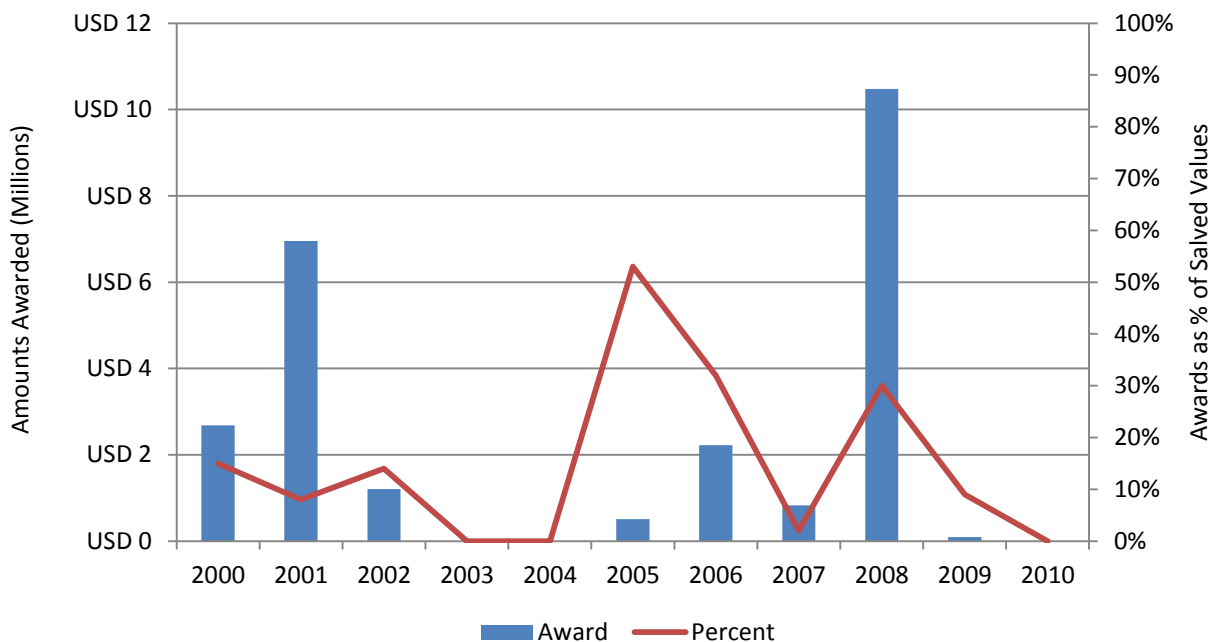
The following graph shows the number of vessels salvaged under LOF on a year-by-year basis over the period of this study.



### Amounts awarded/ The Award as a percentage of the salvaged value

The amounts awarded in cases that proceeded to arbitration (by year of casualty) are set out in the graph below, which also shows the amounts awarded as a percentage of the value of the property salvaged (see red line).

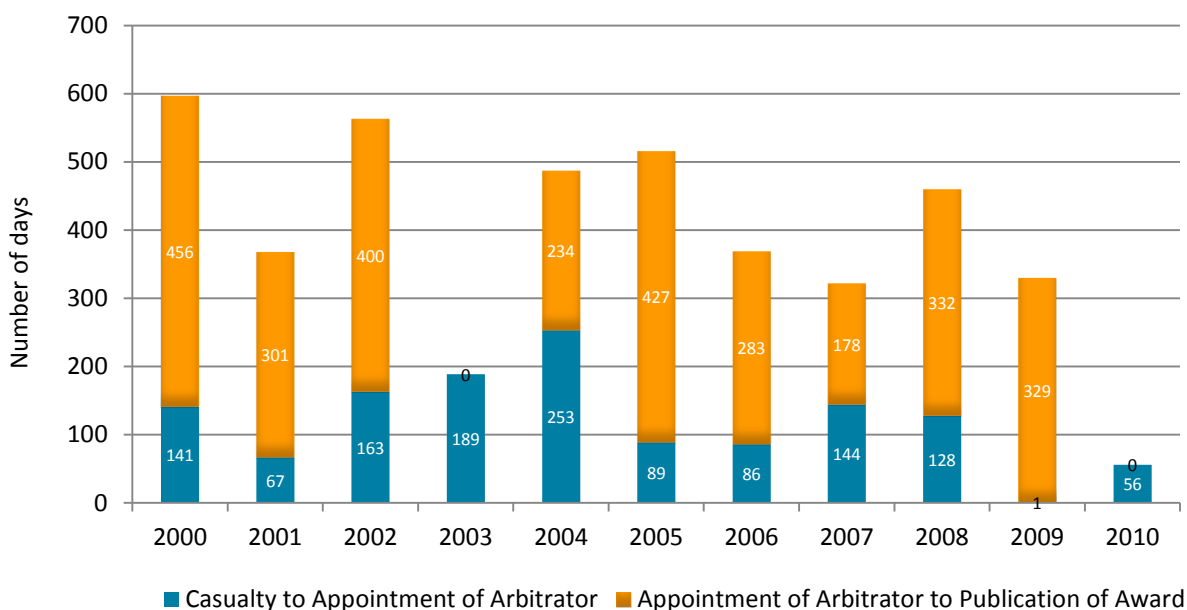
Once again the trend of higher amounts awarded (in total) corresponding to a lower percentage of the salvaged fund continues. We can see from the graph below that in year 2008 the total amount awarded in LOF Awards was just under USD10.5m, which amounted to 30% of the total salvaged fund for that year, while in 2005 the percentage awarded is high at 53%. However this latter figure was based on a salvaged fund in 2005 of only USD5.05m.



**Time of Process**

It is also a characteristic of this category that the vast majority of the cases are settled amicably between the parties without the need to refer the matter to arbitration. As can be seen from the graph below, no cases in this category in 2003 and 2010 proceeded to arbitration; all cases were settled.

Of those that required arbitration, the graph shows the average number of days a case took from (1) the date of the signing of the LOF to the appointment of an Arbitrator (shown in blue), and (2) from that appointment to publication of the Arbitrator’s Award.

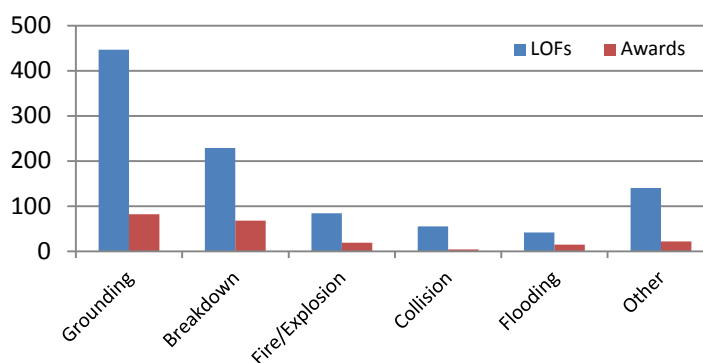
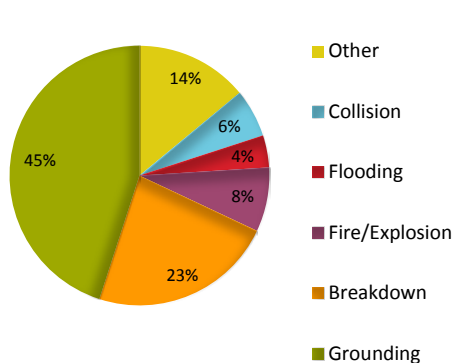


## CASUALTY TYPE

### Why were LOF services required?

Over the 2000-2010 period by far the largest cause of casualty to vessels receiving services under LOF was grounding, which accounted for 447, or 45%, of all cases reported to Lloyd's. The next largest cause of casualty was engine/mechanical breakdown; 229 cases or 23%.

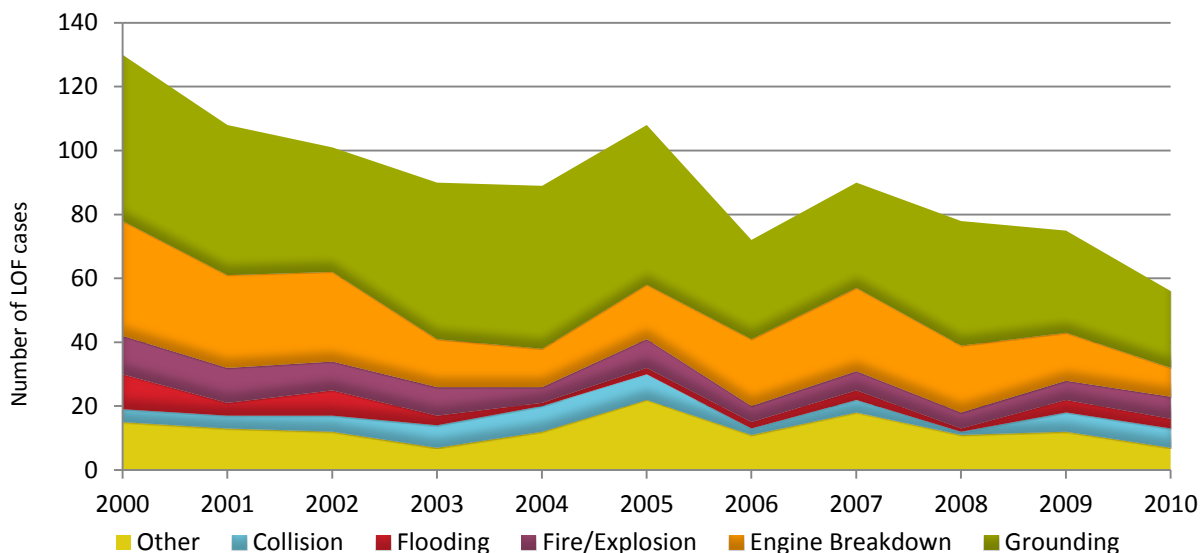
Casualty Type	Number of LOFs	% of all LOFs	Number of Awards	% of Awards to LOFs	Total salved Values (Awards only)	Average Salved Value per Award
Grounding	447	45%	82	18.34%	USD 1,021,523,527	USD 12,457,604
Engine/mechanical breakdown	229	23%	68	29.69%	USD 706,047,755	USD 10,383,055
Fire/Explosion	84	8%	19	22.62%	USD 246,341,445	USD 12,965,339
Collision	55	6%	4	7.27%	USD 112,371,659	USD 28,092,915
Flooding	42	4%	15	35.71%	USD 58,244,834	USD 3,882,989
Other	140	14%	22	15.70%	USD 248,175,057	USD 11,280,684



### Year by year trend of the cause of casualty

We can see from the graph below how grounding, as a cause of casualty, is consistently year-on-year, the single biggest reason for vessels receiving services under LOF. Further, apart from 2004 and 2005, the second largest contributing cause was engine/mechanical breakdown.

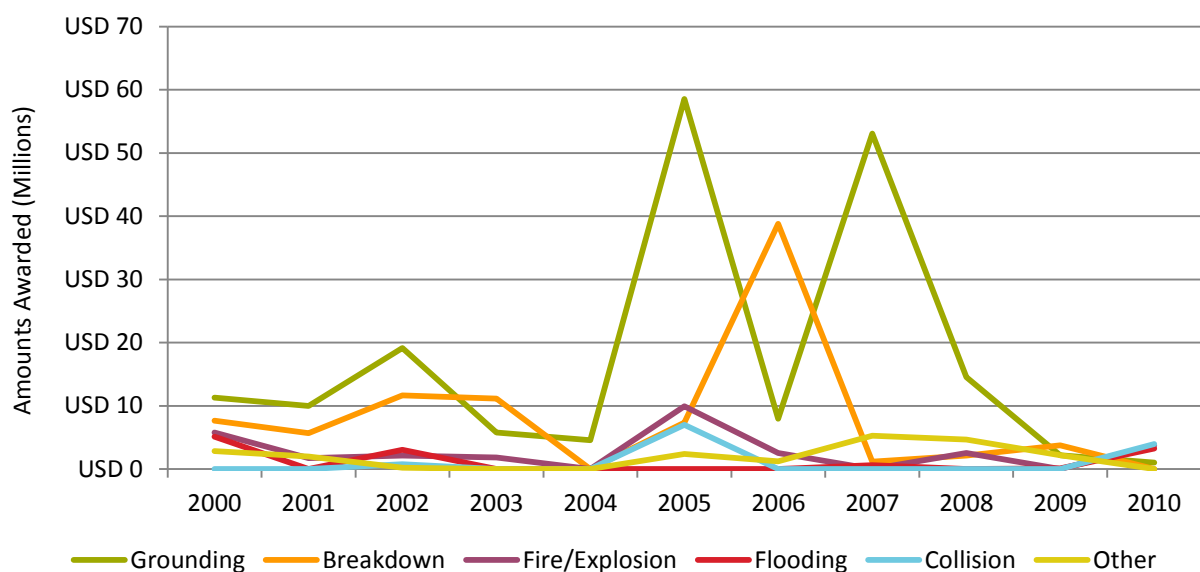




**Total amounts awarded**

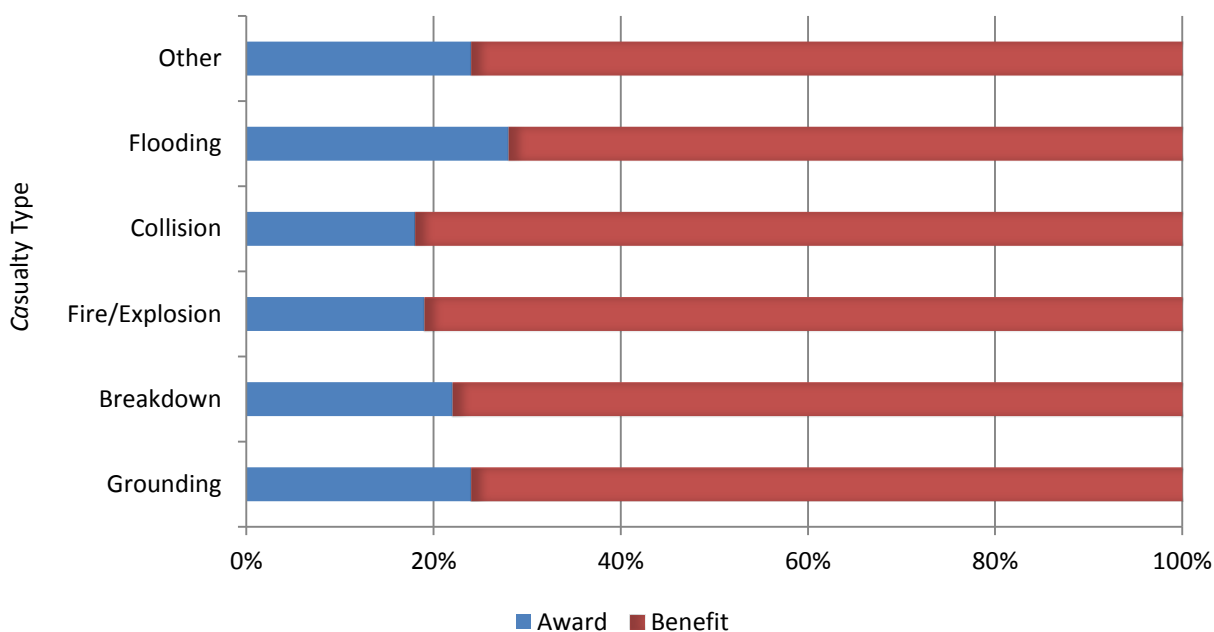
It has already been explained that the amount awarded to a salvor for services rendered under an LOF contract will depend on a number of factors and that the arbitrator must have in mind when assessing the level of the Award the “criteria for fixing the reward” set out in Article 13.1 of the International Convention on Salvage 1989 (see page 18 of this report). The weight applied to each of these factors will, of course, differ from case to case so it is therefore not correct to expect that the total amount awarded in LOF cases will correspond to the total number of LOF services in any given year, or indeed the type of vessels or casualties.

If we could confidently correlate the number of vessels and type of casualty with the amount awarded then we would expect to see groundings accounting for a far greater proportion of the amounts awarded. We can see from the graph below that this is indeed so for years 2005 and 2007, but the other years covered by this study do not support this.



### The Award as a percentage of the salvaged value

As can be seen from the graph below awards as a percentage of the total salvaged fund over the eleven year period of this study were fairly consistent across all types of casualty, with the average level of benefit conferred to the property owners/underwriters being around 82% of the salvaged value.



## International Convention on Salvage 1989

### Article 13.1

#### Criteria for fixing the reward

The reward shall be fixed with a view to encouraging salvage operations, taking into account the following criteria without regard to the order in which they are presented below:

- (a) the salvaged value of the vessel and other property;
- (b) the skill and efforts of the salvors in preventing or minimizing damage to the environment;
- (c) the measure of success obtained by the salvor;
- (d) the nature and degree of the danger;
- (e) the skill and efforts of the salvors in salvaging the vessel, other property and life;
- (f) the time used and expenses and losses incurred by the salvors;
- (g) the risk of liability and other risks run by the salvors or their equipment;
- (h) the promptness of the services rendered;
- (i) the availability and use of vessels or other equipment intended for salvage operations;
- (j) the state of readiness and efficiency of the salvor's equipment and the value thereof.