

**LLOYD'S**  
**OPEN FORM**  
**REPORT 2013**

# CONTENTS

<b>Introduction</b>	<b>3</b>
<b>The LOF Process</b>	<b>4</b>
<b>1. Vessel Type</b>	<b>5</b>
1.1.1 Year by year trend of vessels involved in LOF services	5
1.1.2 Total amounts awarded	6
1.1.3 The Award as a percentage of the salvaged value	7
<b>1.2 Bulk vessels</b>	<b>8</b>
1.2.1 Number of vessels	8
1.2.2 Amounts awarded/The Award as a percentage of the salvaged value	8
1.2.3 Time of process	9
<b>1.3 General Cargo vessel</b>	<b>10</b>
1.3.1 Number of vessels	10
1.3.2 Amounts awarded/The Award as a percentage of the salvaged value	10
1.3.3 Time of process	11
<b>1.4 Container vessels</b>	<b>12</b>
1.4.1 Number of vessels	12
1.4.2 Amounts awarded/The Award as a percentage of the salvaged value	12
1.4.3 Time of process	13
<b>1.5. Other vessels</b>	<b>14</b>
1.5.1 Number of vessels	14
1.5.2 Amounts awarded/The Award as a percentage of the salvaged value	15
1.5.3 Time of process	15
<b>2. Casualty Type</b>	<b>16</b>
2.1 Year by year trend of the cause of casualty	17
2.2 Total amounts awarded	17
2.3 The Award as a percentage of the salvaged value	18
<b>3. International Convention on Salvage 1989</b>	<b>18</b>
3.1 Article 13.1	18

## DISCLAIMER

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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 2011 and the status of those cases at 31 July 2013.

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 there was a small increase in the number of LOF cases reported to the SAB in 2011 the past decade has seen an overall decline in cases. The average Award to salvors shown as a percentage of the value of the property salvaged for the period of this study is 19%. Or put another way; an average benefit for owners and underwriters of 81% of the salvaged values.

I hope you find this publication enlightening and helpful.

# THE LOF PROCESS



## VESSEL TYPE

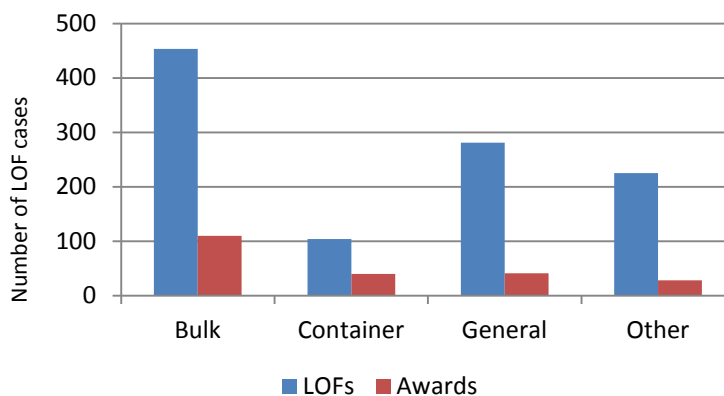
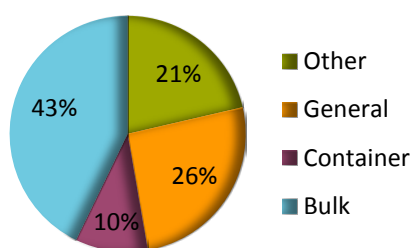
### What types of vessels are salvaged under LOF?

The total number of LOF cases reported to Lloyd's over the 2000-2011 period was 1,062. Bulk vessels continue to make-up the majority of these cases (43%) 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; potentially in excess of USD1.6bn.

There were also more Awards issued in Bulk vessel cases; however the number of these Awards, namely 110, represented 24% of all Bulk cases, while 38% 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 (USD13.4m) and Container (USD15.3m) are more likely to proceed to arbitration.

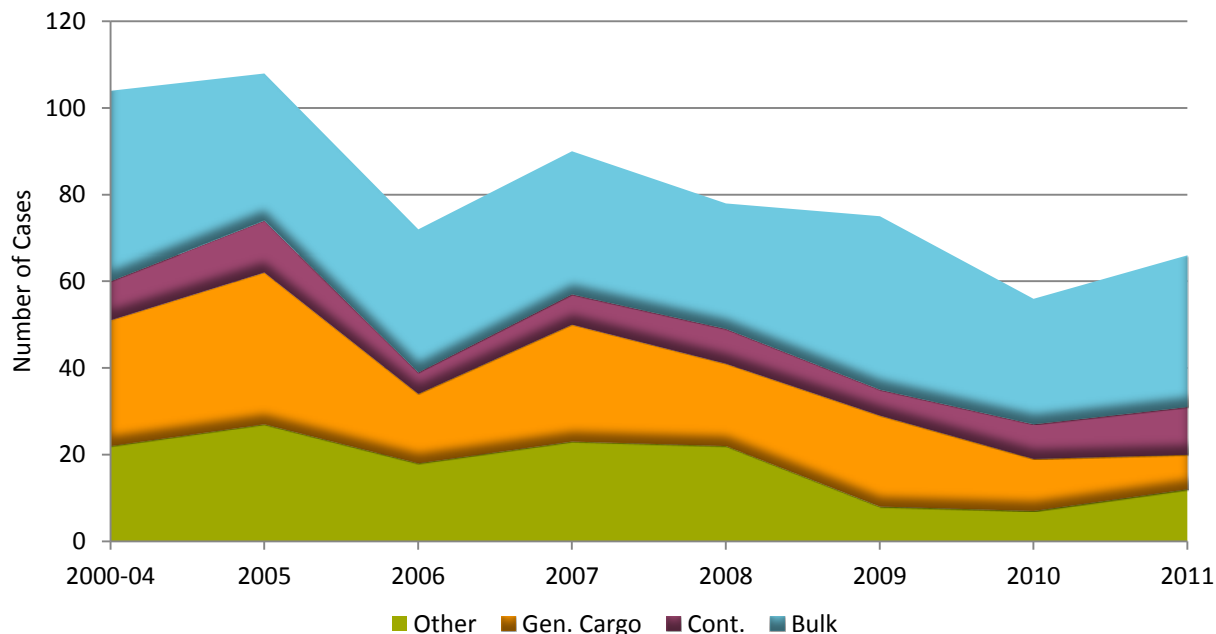
Vessel Group	Number of LOFs	% of all LOFs	Number of Awards	% of Awards to LOFs	Total Salvaged Values (Awards only)	Average Salvaged Value per Award
Bulk	452	43%	110	24%	USD 1,471,958,122	USD 13,381,437
Container	104	10%	40	38%	USD 612,443,041	USD 15,311,076
General	281	26%	41	15%	USD 228,354,013	USD 5,569,610
Other	225	21%	28	12%	USD 200,219,548	USD 7,150,698



### 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.

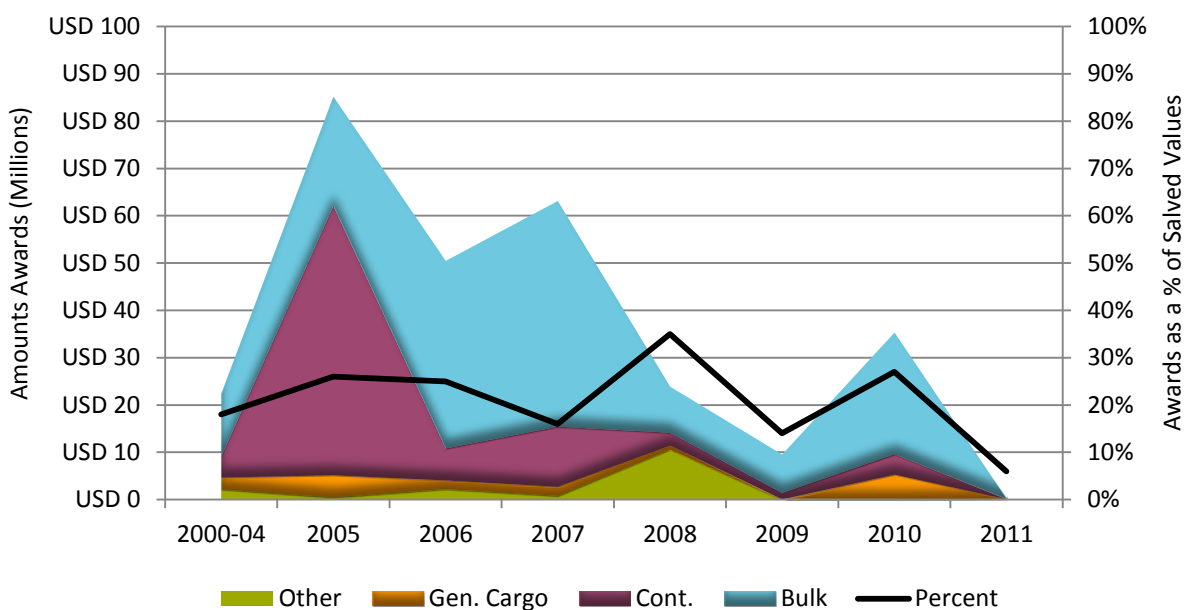
As can be seen, there was a small increase in the number of LOFs reported to Lloyd's in 2011, but overall the past decade has seen a decline in cases.



### 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.

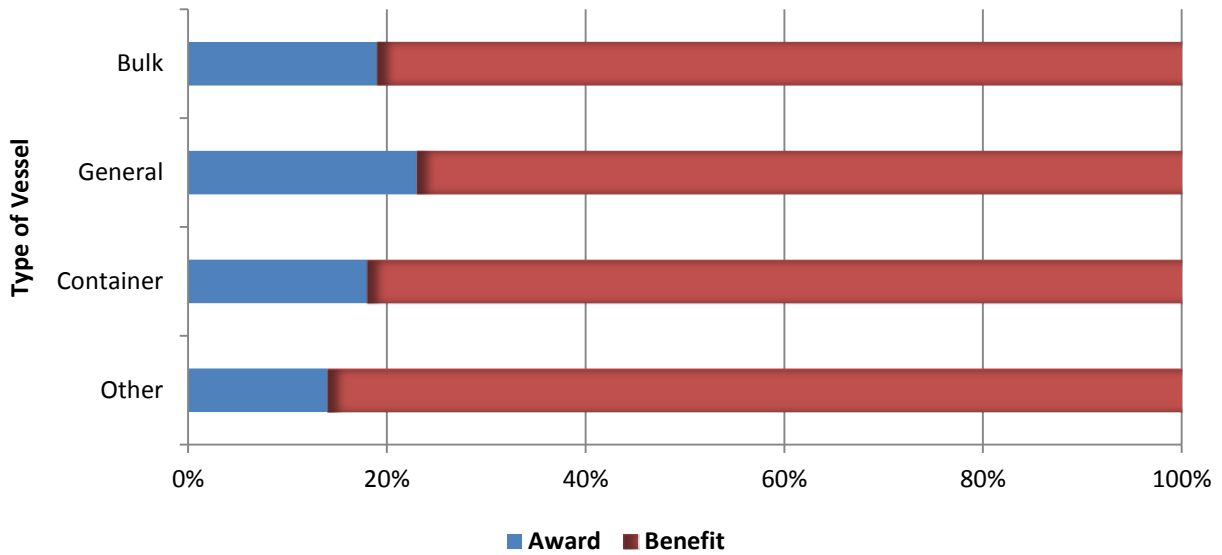
It can be seen from the graphs above and below that the higher number of LOF services involving Container vessels in 2005, with the subsequent rise in the level of salvaged values, was reflected in a large increase in the total amount awarded. However, the amount awarded in Container vessel cases over this twelve year period amounted to an average of 17.8% of the value of the property salvaged (see graph below: The Award as a percentage of the salvaged value).



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

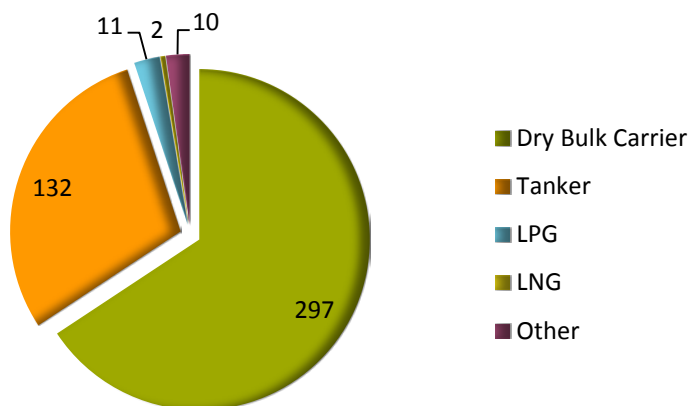
Awards as a percentage of the total salvaged value over the eleven year period of this study were fairly consistent across vessel type, ranging between 14% and 23%, giving an average benefit conferred of 81% of salvaged values.



## BULK

### An analysis of bulk vessels salvaged under LOF

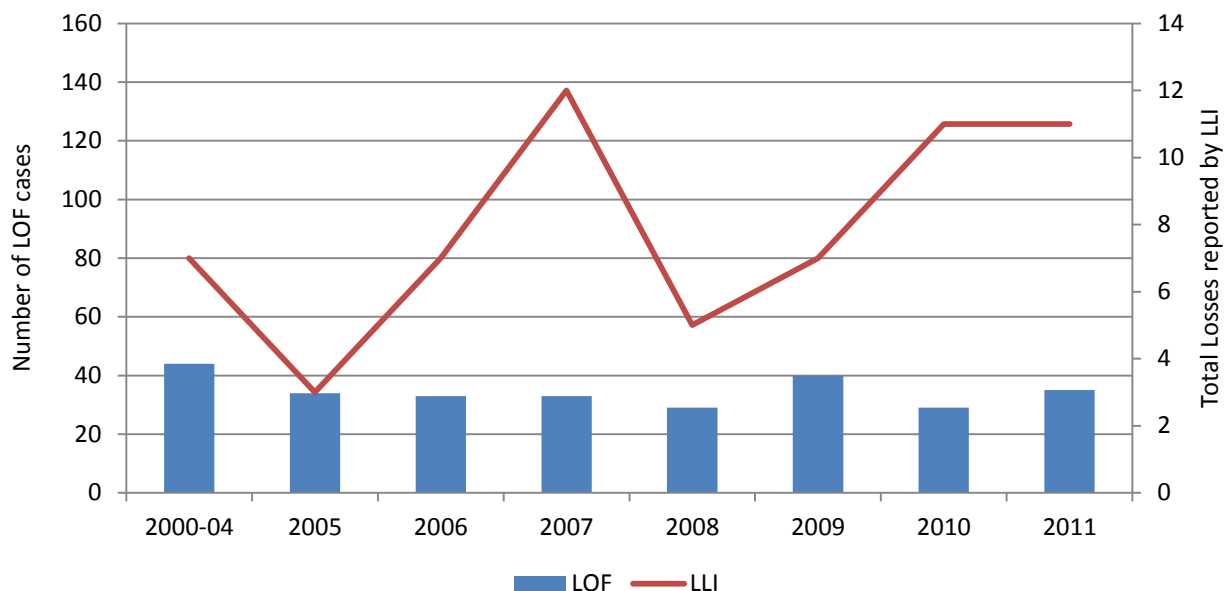
The large majority of bulk vessels were dry bulk carriers, followed by tankers. The balance of bulk vessels was made up of numerous categories, including LPG and LNG.



### Number of vessels

As stated previously, bulk vessels make up the largest category of vessels salvaged under LOF between 2000 and 2011, being 41.87% of all vessels. The number of bulk vessels on a year-by-year basis over the twelve 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).



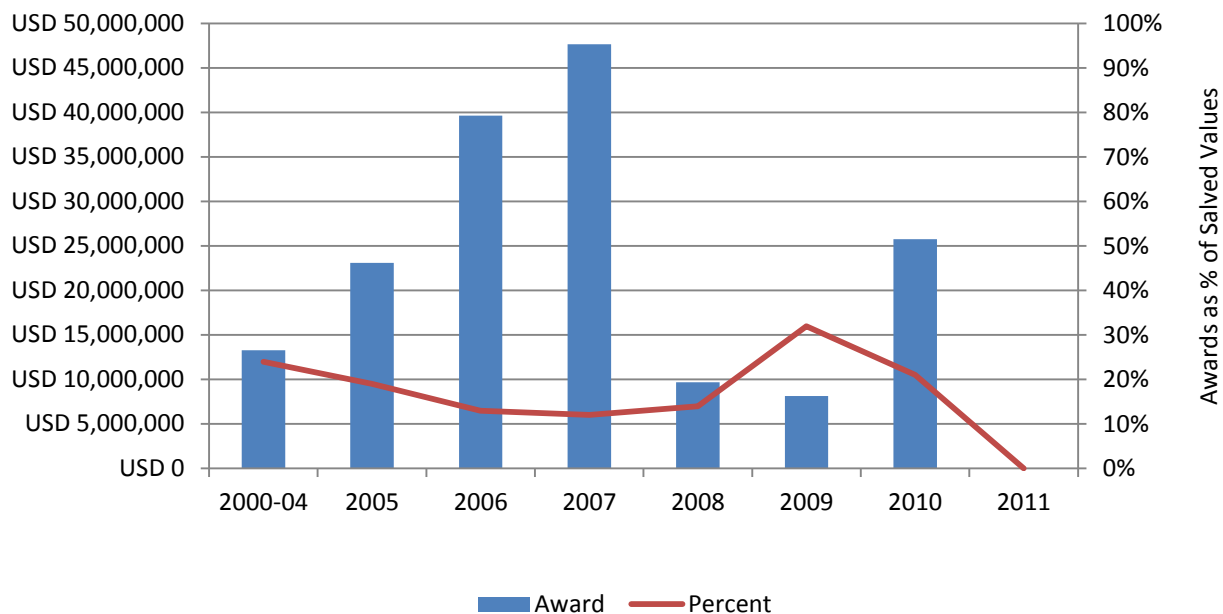
### Amounts awarded/ The Award as a percentage of the salvaged value

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 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.

To date there have been no Awards published in bulk vessel cases originating from 2011.

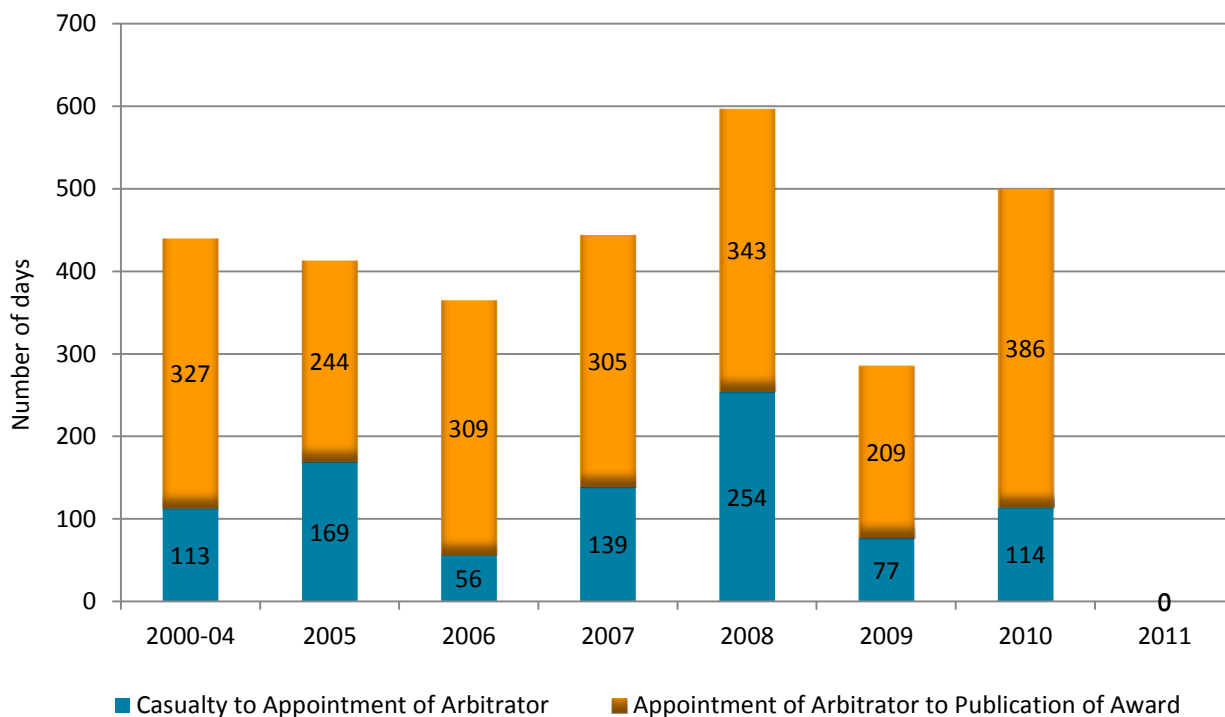




### Time of process

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.

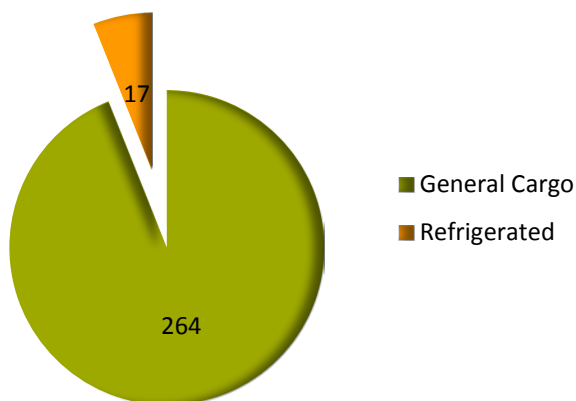
This time is broken-down in to two segments, namely (1) the number of days from the date of the signing of the LOF to the appointment of an Arbitrator (shown in blue), and (2) from that appointment to publication of the Arbitrator's Award.



## GENERAL CARGO

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

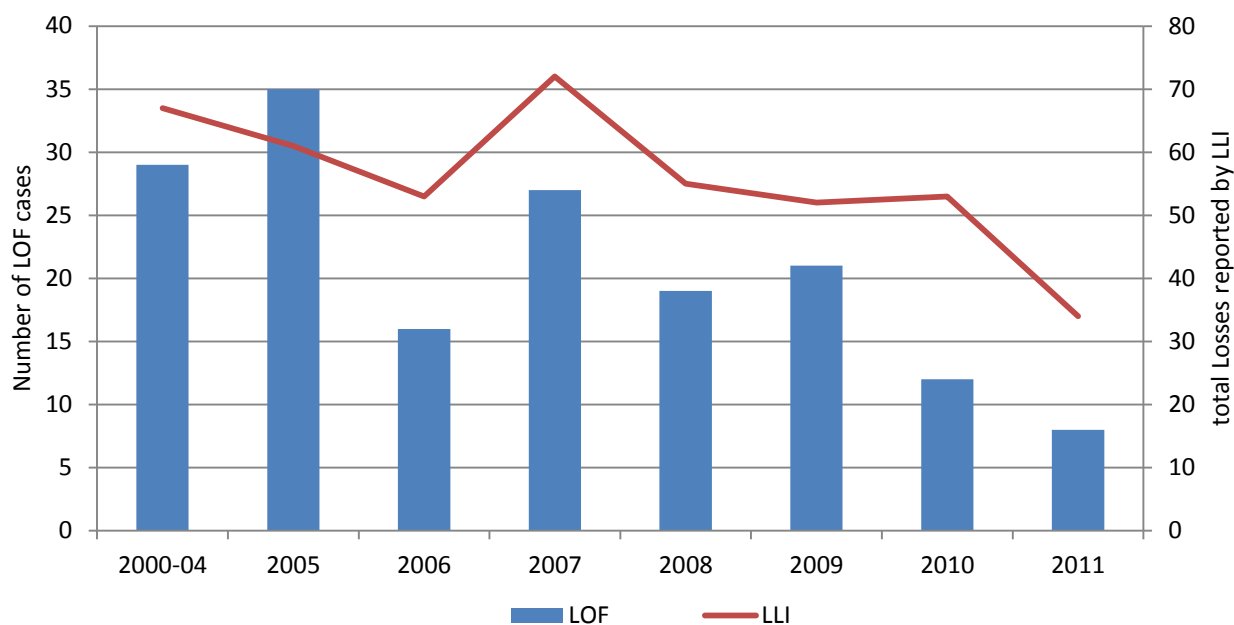
General cargo vessels accounted for 26% of all reported LOF cases between 2000 and 2011, this being the second largest category. Of these casualties, 17 (or 6%) involved refrigerated cargo vessels.



### 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.

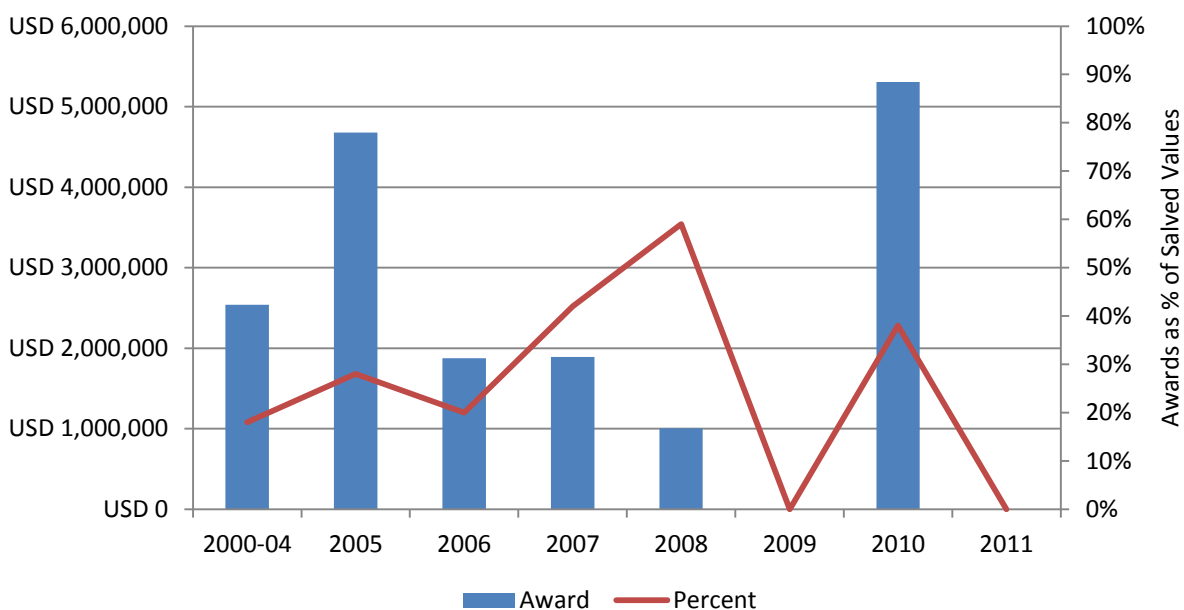


### Amounts awarded/ The Award as a percentage of the salvaged value

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).

To date there have been no Awards published in general cargo vessel cases originating from 2011.

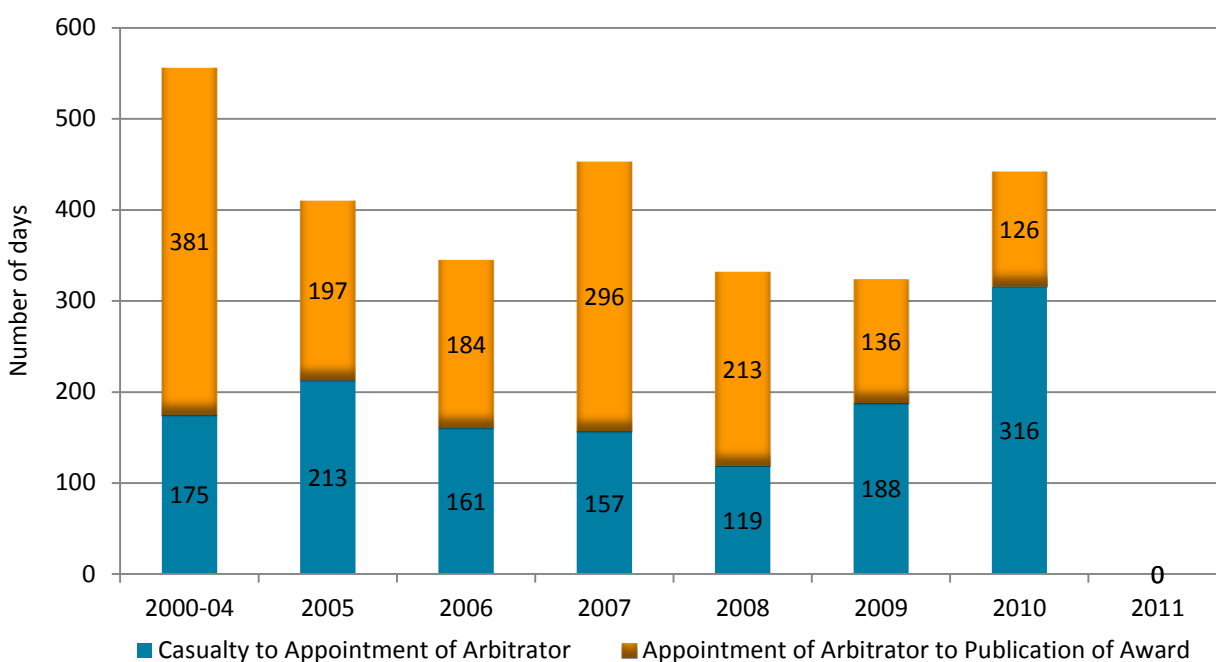


**Time of process**

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.



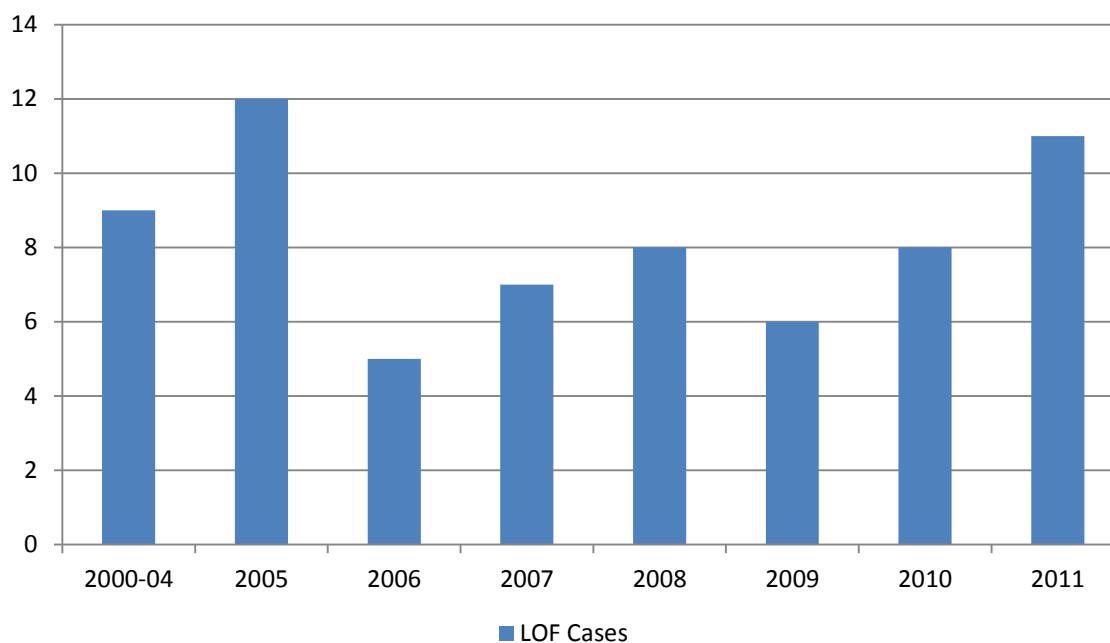
## CONTAINER

### An analysis of Container vessels salvaged under LOF

While container vessels account for only 10% 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 24.37% (USD612.4m).

#### 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.

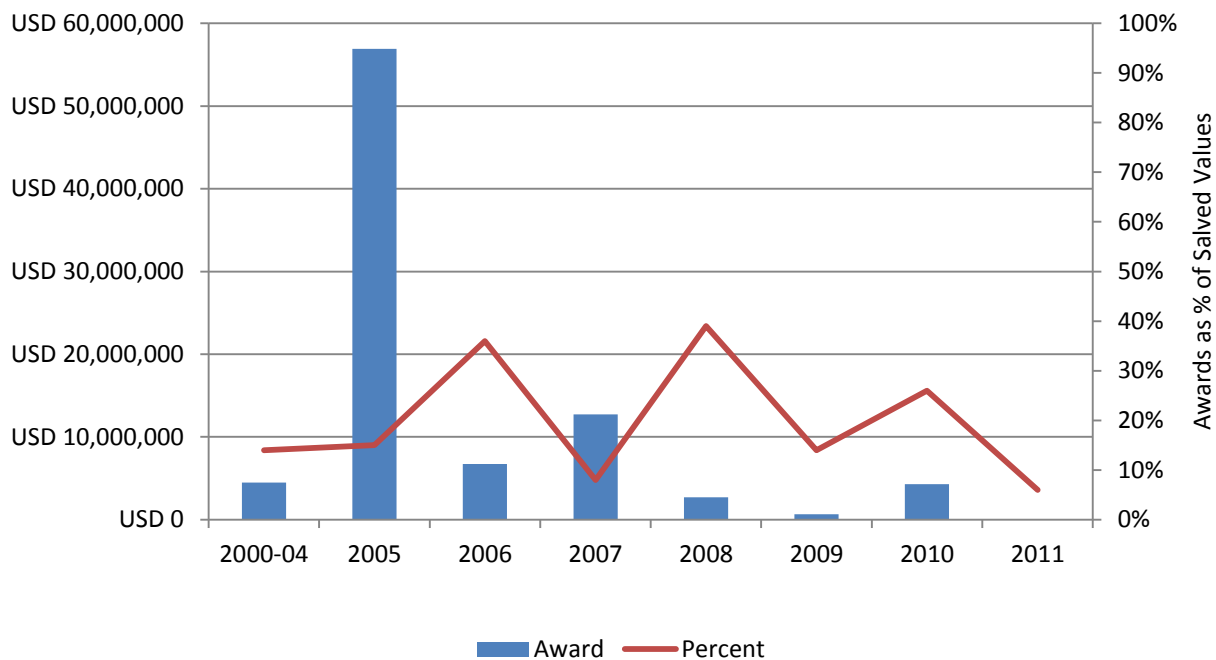


#### Amounts awarded/ The Award as a percentage of the salvaged value

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.

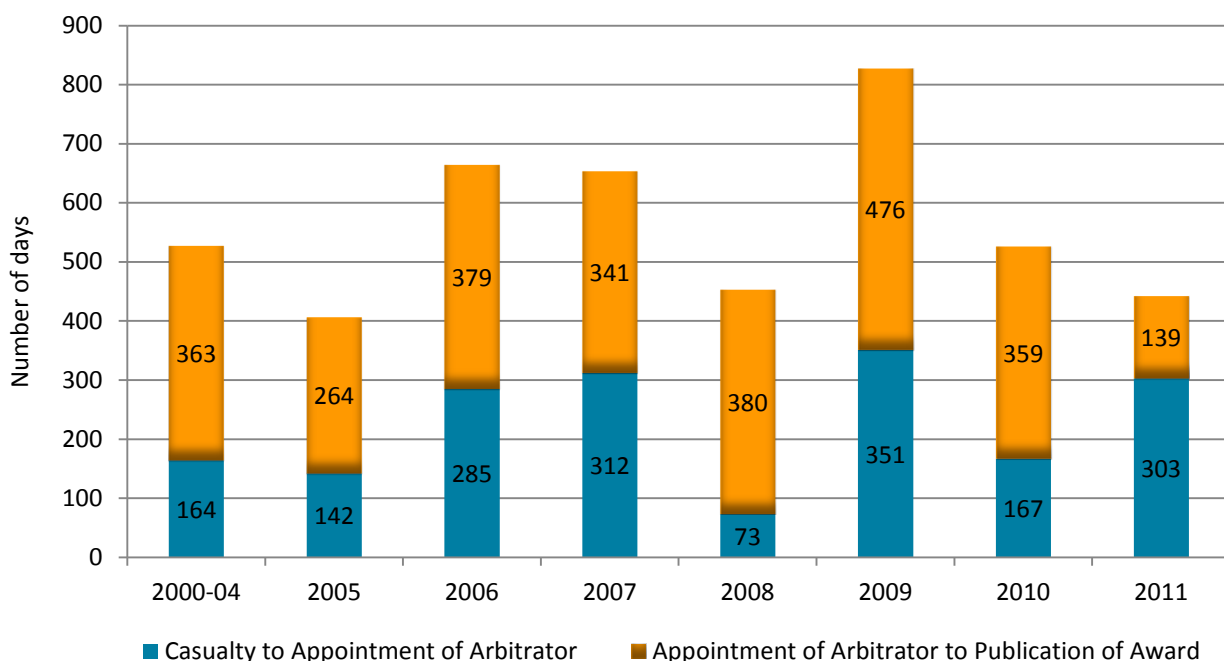


Please note that the amount awarded in cases originating in 2011 is presently USD54,442, or 6% of the salved fund.

**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.

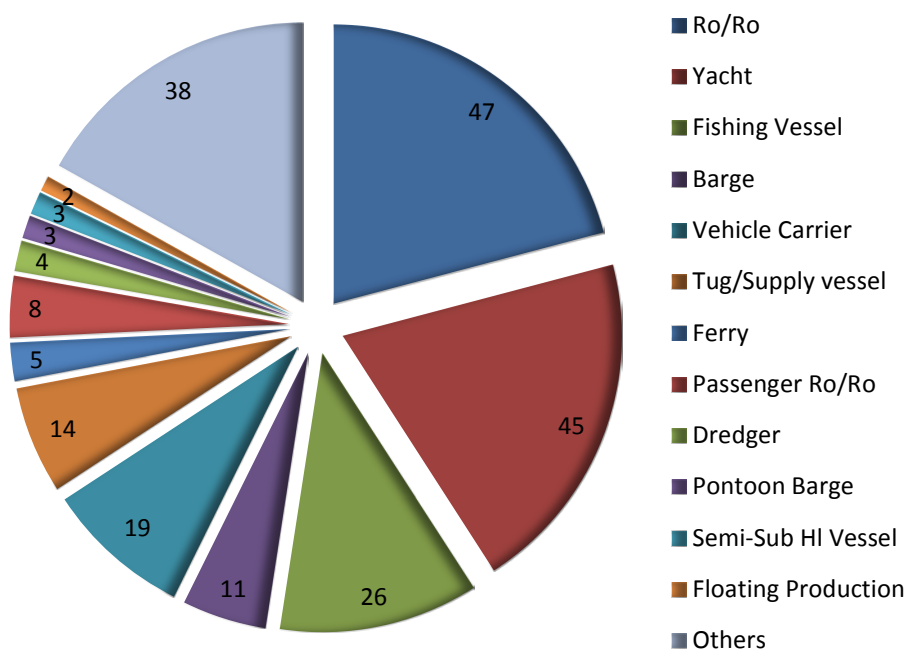
The comparative time for an LOF case involving a general cargo vessel is 360 days, or approximately one year..



## OTHER VESSELS

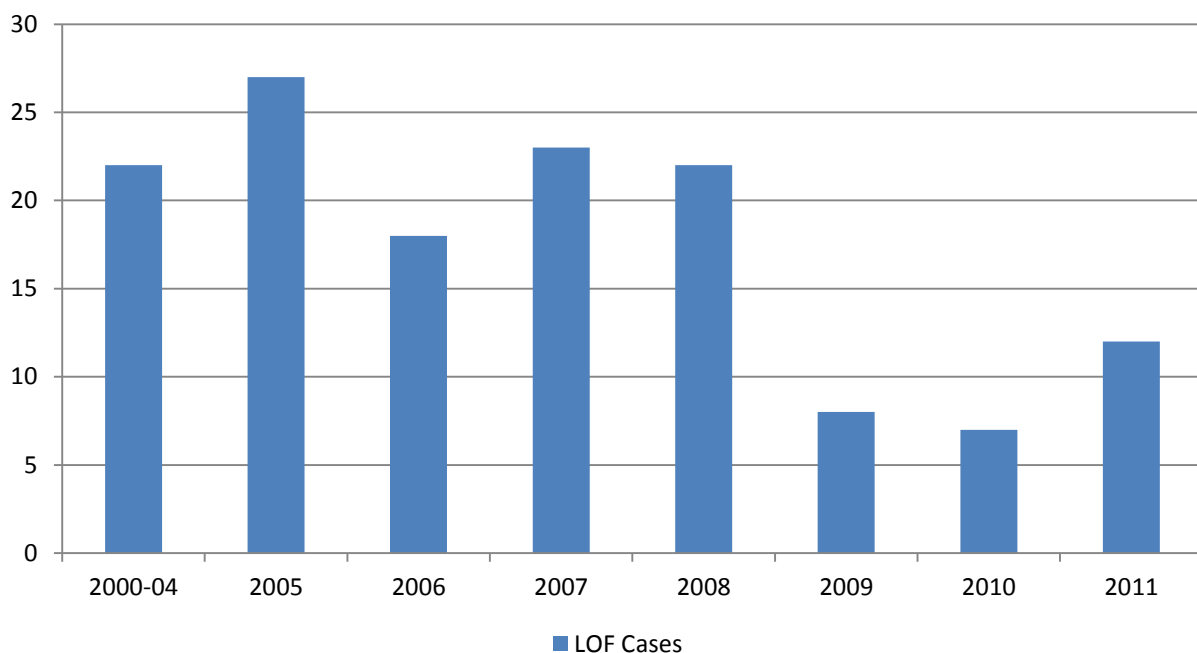
### An analysis of “other” vessels salvaged under LOF

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 2011. The total salvaged value of the “other” vessels during this period is USD198m (in cases that proceeded to arbitration).



### Number of vessels

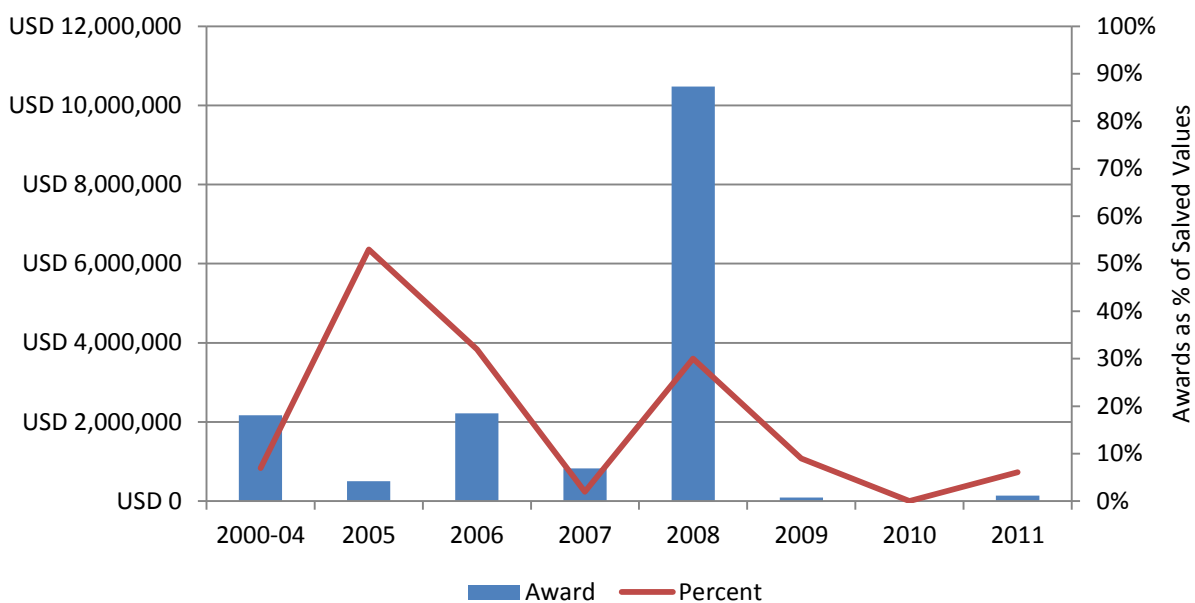
The following graph shows the number of vessels salvaged under LOF on a year-by-year basis over the period of this study.



**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).

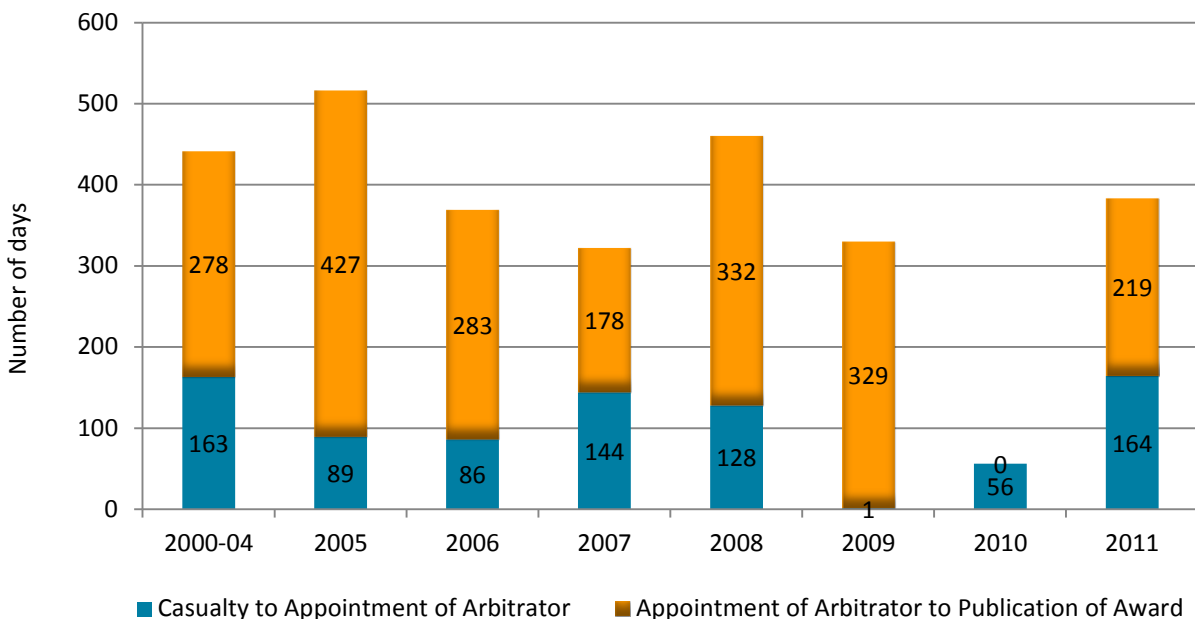
Once again the trend of higher amounts awarded (in total) corresponding to a lower percentage of the salvaged fund continues. We can see from the graph below that in year 2008 the total amount awarded in LOF Awards was just under USD10.5m, which amounted to 30% of the total salvaged fund for that year, 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 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.

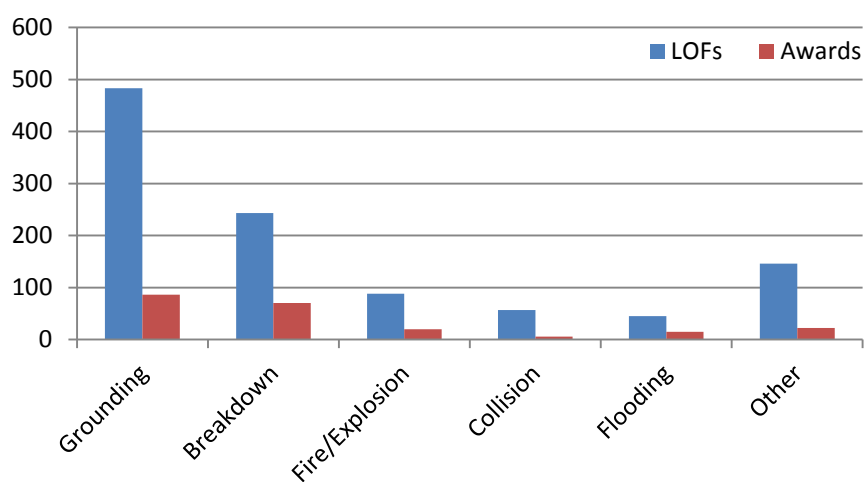
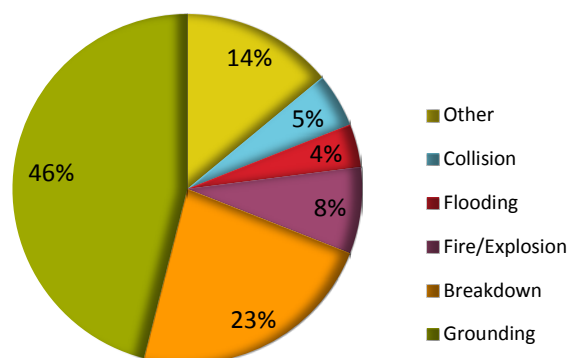


## CASUALTY TYPE

### Why were LOF services required?

Over the 2000-2011 period by far the largest cause of casualty to vessels receiving services under LOF was grounding, which accounted for 483, or 46%, of all cases reported to Lloyd's. The next largest cause of casualty was engine/mechanical breakdown; 243 cases or 23%.

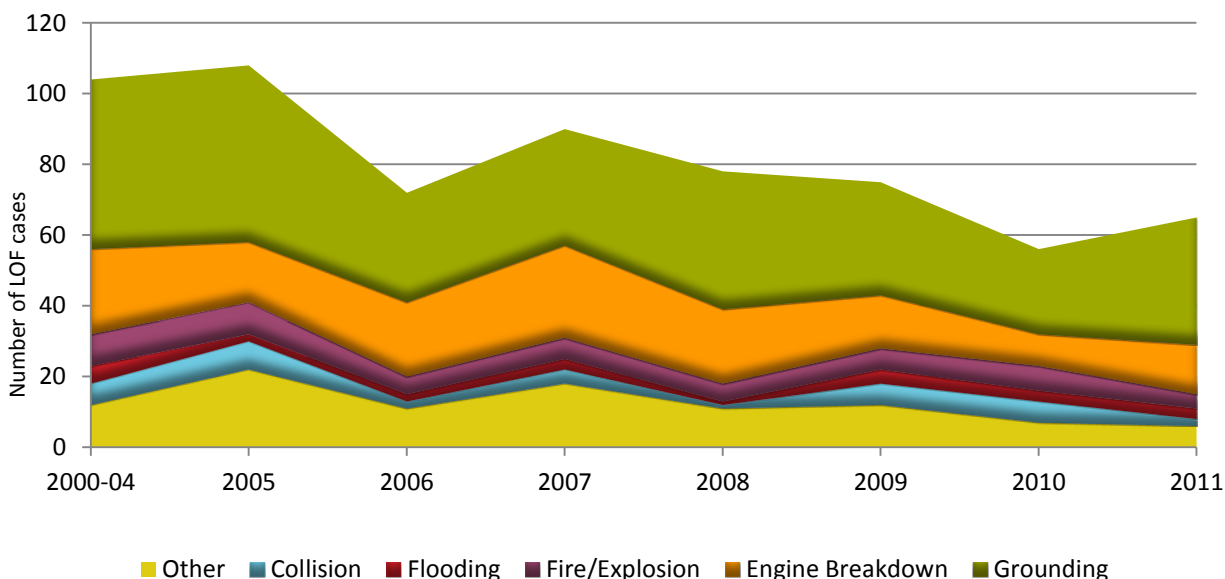
Casualty Type	Number of LOFs	% of all LOFs	Number of Awards	% of Awards to LOFs	Total salved Values (Awards only)	Average Salved Value per Award
Grounding	483	46%	86	18%	USD 1,053,434,017	USD 12,249,233
Engine/mechanical breakdown	243	23%	70	29%	USD 780,232,157	USD 11,146,174
Fire/Explosion	88	8%	20	23%	USD 247,141,445	USD 12,357,072
Collision	57	5%	6	11%	USD 125,747,213	USD 20,957,869
Flooding	45	4%	15	33%	USD 58,244,834	USD 3,882,989
Other	146	14%	22	16%	USD 248,175,057	USD 11,280,684





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

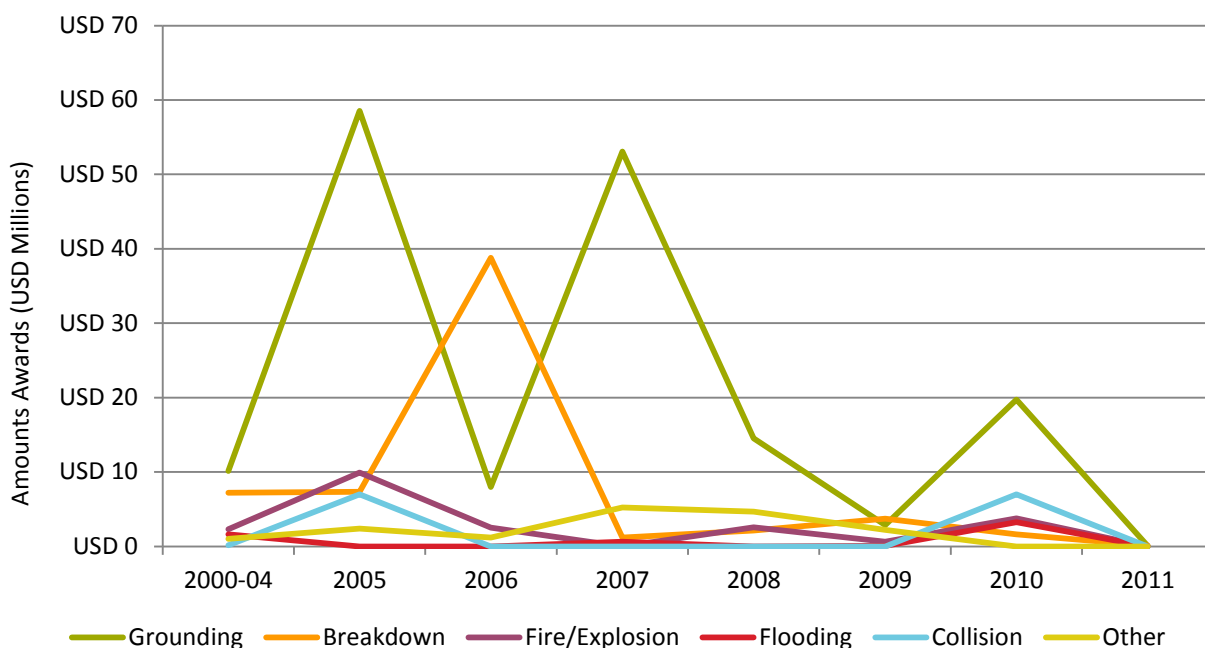
We can see from the graph below how grounding, as a cause of casualty, is consistently year-on-year, the single biggest reason for vessels receiving services under LOF. Further, apart from 2004 and 2005, the second largest contributing cause was engine/mechanical breakdown.



**Total amounts awarded**

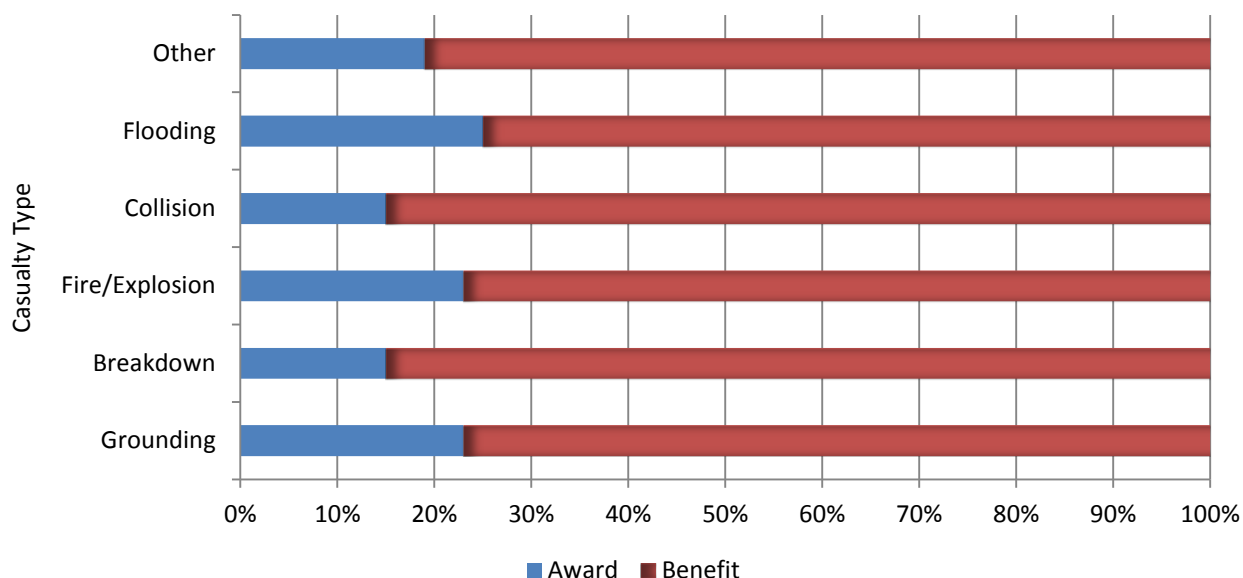
It has already been explained that the amount awarded to a salvor for services rendered under an LOF contract will depend on a number of factors and that the arbitrator must have in mind when assessing the level of the Award the “criteria for fixing the reward” set out in Article 13.1 of the International 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 81% 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.