

Question 1.2 or 1.3	Article 1(d) Delete "In coastal or inland waters or areas adjacent thereto"? Replace with "Wherever such may occur/eez/territorial sea"?
	<p>Argentina: Favours replacement "wherever such may occur".</p> <p>Australia &amp; New Zealand: Favours deletion but no additional words necessary.</p> <p>Brazil: Favours replacement with: "in territorial waters and in the exclusive economic zone of any State".</p> <p>China: Favours deletion and extension to EEZ, but not high seas.</p> <p>Denmark: Favours replacement with "EEZ or an area adjacent to the territorial sea equivalent to an exclusive economic zone".</p> <p>France: Favours amendment: "Damage to the environment means...in territorial waters and in the exclusive economic zone of any State, established in accordance with international law, or, if a Contracting State has not or, if a State Party has not established such a Zone, in an area beyond and adjacent to the territorial sea of that State determined by that State in accordance with international law and extending not more than 200 nautical miles from the base lines from which the breadth of the territorial sea is measured".</p> <p>Germany: Not deletion, rather amendment, so as to refer to "Coastal waters including Territorial Sea and EEZ... or up to 200 nautical miles", some restriction on geographical scope is needed. (It should not be necessary that EEZ belongs to a State party to the Convention).</p> <p>Hellenic: Favours amendment to include "wherever such may occur/EEZ" etc.</p> <p>Italy: Favours amendment (same wording as France).</p> <p>Japan: Do not consider words should be changed but would be prepared to consider any better wording.</p> <p>Malta: Favours extension to all areas of the sea, ie "wherever such may occur" should replace "in coastal or inland waters or areas adjacent thereto."</p> <p>Mexico: Favours replacement and additional words, such as "in territorial waters and in the EEZ of any State as established in accordance with International law".</p> <p>Slovenia: Favours replacement and additional words, (Territorial Sea, EEZ etc).</p> <p>Sweden: Does not favour deletion but the notion of the High Seas should apply to the EEZ.</p>

Question 1.4	Reported cases where the word "substantial" interpreted (as in "substantial damage)" - Article 1(d)?
	Argentina: No, but favours retention (or even clearer language).
	Australia & New Zealand: Yes, (None in New Zealand - the word "substantial" does not cause difficulties).
	Brazil: No, "substantial" would create difficulties of interpretation - suggest deletion of "substantial" and "major"].
	China: No cases, and favours deletion of the word "substantial" in view of likely inconsistent interpretations.
	Denmark: None.
	Germany: None, "substantial" could cause difficulties, similarly "major", but this should be left to the courts to determine.
	Hellenic: None. Supports deletion of "substantial" and inclusion of "such damage does not include minor cases".
	Italy: None, and supports deletion of words "substantial" and "major".
	Japan: None, and do not consider the words cause difficulties of interpretation.
	France: None [1.4.2. "Substantial" translated as "important" - large discretion].
	Malta: None. (Malta is not a party to the Convention)
	Mexico: None. Whilst recognising problems with "substantial" suggests it remain.
	Slovenia: None. "Substantial" can cause difficulties and supports deletion of "substantial" and "major".
	Sweden: None. "Substantial" creates difficulties and supports deletion of "substantial" and "major".

<b>Question 1.5</b>	<b>Article 1(d) - Would the words "Dangers to navigation" (such as containers lost at sea) be covered by "or similar major incidents" in your jurisdiction?</b>
	<p>Argentina: Were it a party to Convention it would not be covered, unless contents of containers, sensitivity of area etc made it so.</p> <p>Australia &amp; New Zealand: Yes it would be covered.</p> <p>Brazil: No, unless it causes risk to the environment would not be in favour of expanding definition.</p> <p>China: No, it would not be covered, and do not consider definition needs to be amended.</p> <p>Denmark: No.</p> <p>France: It is not clear that all incidents would give rise to damages to navigation - have to be a "major incident". Does not consider amendment necessary.</p> <p>Germany: Not covered.</p> <p>Hellenic: Not covered and definition should be widened.</p> <p>Italy: Not covered, and do not support widening the notion of "similar major incidents", and would endanger survival of the Montreal Compromise.</p> <p>Japan: It would depend on the nature of the incident, and would not support widening.</p> <p>Malta: Were Malta a party to the Convention, it is likely that a restrictive interpretation would be given and such a scenario would not be covered, and therefore supports amendment to refer to such an occurrence.</p> <p>Mexico: Yes it would be covered, but would not oppose widening the definition.</p> <p>Slovenia: Yes it is possible it would be covered, but the definition should not be widened.</p> <p>Sweden: Not necessarily - it would depend on the contents of the container. Would not support widening of the definition.</p>

Question 2.1 and 2.2	Article 5 - Can Public Authorities pursue claims for salvage in your jurisdiction? If they cannot would it improve their position if Article 5 paragraph 3 were deleted or amended?
	<p>Argentina: Naval and Coast Guard vessels cannot seek a reward but can recover expenses. Public vessels can seek reward.</p> <p>Australia and New Zealand: Yes.</p> <p>Brazil: Although there is no provision which prevents such claims in practice Brazilian navy, for example, only seeks to recover costs. This provision should remain unchanged.</p> <p>China: Yes, although it is unclear whether this right continues where salvage is performed under the control of the relevant competent authority. Favours Article 5 paragraph 3 being deleted so as to distinguish between possible authorities who "perform" salvage from those who "control" salvage, perhaps allowing States to reserve their position on deletion.</p> <p>Denmark: Yes.</p> <p>France: Yes, however there is an obligation on the State to maintain public properties on the coastline in good condition.</p> <p>Germany: Yes, in principle but there are conflicting views and less clear in relation to special compensation.</p> <p>Hellenic: No, but public authorities are entitled to expenses and damages.</p> <p>Italy: Nothing to prevent but not done by Navy and not in favour of changing the provision.</p> <p>Japan: No. There is no domestic law permitting such claims. The present article should remain the same.</p> <p>Malta: Public authorities can bring claims for salvage.</p> <p>Mexico: Yes.</p> <p>Slovenia: Yes, but not the military. The provision should not be amended, although Model Rules to assist in achieving uniformity may be of benefit.</p> <p>Sweden: Yes, Article 5 paragraph 3. Provision should remain.</p>

Question 3.2, 3.2.1 and 3.2.3	Article 11 - Has the Salvage Convention been ratified by your jurisdiction? Has "Article 11 been given effect to? Should the IMO Guidelines be incorporated?
	<p>Argentina: No No Yes</p> <p>Australia &amp; New Zealand: Yes No No</p> <p>Brazil: Recently accepted but not ratified No No.</p> <p>China: Yes No No, because Salvage Convention is essentially dealing with private law matters.</p> <p>Denmark: Yes No No, but strengthen by replacing "take into account" with more binding words.</p> <p>France: Yes No No, because article is in general terms and reference to IMO Guidelines would be too restrictive.</p> <p>Germany: Yes No Yes, because EEZ directive refers to IMO Resolution A.949(23) and EEZ States are required to bring the legislation into force. It would lead to greater uniformity if Convention also requires States to observe IMO Resolution.</p> <p>Hellenic: Yes No</p> <p>Italy: Yes No No, do not consider it necessary or advisable.</p> <p>Japan: No N/A No - Guidelines mainly deal with public law and do not fit with the nature of the Convention.</p> <p>Malta: No No ?</p> <p>Mexico: Yes Yes with reference to other, unnamed International Conventions No</p>
	<p>Slovenia: Yes No</p>

	It is not necessary but it might improve salvage practice.
	Sweden: Yes No No. Better dealt with in Convention specifically dealing with these issues.

<b>Question 4.2 / 4.3</b>	<b>Article 13 paragraph 2 - Has your jurisdiction provided for payment of reward by one of the interests?</b> <b>Containership cases: Should the Convention identify only the vessel as responsible?</b>
	<p>Argentina: No No.</p> <p>Australia &amp; New Zealand: No Yes.</p> <p>Brazil: No No - do not consider it appropriate.</p> <p>China: No Further work needs to be done to explore solutions in relation to provision of security and handling of unrepresented cargo, both in relation to container and general cargo ships.</p> <p>Denmark: No No, opposed to any special rule for containerships.</p> <p>France: No No, there is no apparent reason to make specific provision for containerships.</p> <p>Germany: No No, it is salvor's responsibility and can enforce its lien. .</p> <p>Hellenic: No, although the prevailing opinion is that it is permissible to submit a claim against the ship owner for the fee which relates to the cargo. Yes.</p> <p>Italy: No, any change to deal with containerships would have to be for all vessels.</p> <p>Japan: No No.</p> <p>Malta: No Whilst it may be beneficial doubts whether owners and their insurers would find it acceptable.</p> <p>Mexico: No No, strongly opposes any such provision.</p> <p>Slovenia: No No, unless do for all ships.</p> <p>Sweden: No No distinction should be made for container vessel.</p>

Question 5.2	Article 14 - Environmental Salvage award?
	<p>Argentina: Yes.</p> <p>Australia &amp; New Zealand: It is worth considering.</p> <p>Brazil: No.</p> <p>China: Yes. The existence of SCOPIC establishes the deficiency in the Convention. Such award should be paid for in proportion to the salvaged values of ship and other property.</p> <p>Denmark: No (strongly opposed) because it was firmly rejected from the Convention. Any change would lead to uncertainty and would constitute a breach of the Montreal Compromise.</p> <p>France: No, there seems no reason to create an environmental reward beyond what is already covered by Articles 13 and 14.</p> <p>Germany: Yes, the existence of SCOPIC demonstrates that Article 14 has not been accepted by industry and needs to be reconsidered. Any amendment needs to be negotiated by Clubs, property underwriters and ISU. Industry support needed.</p> <p>Hellenic: Yes.</p> <p>Italy: No, but could simplify the wording of Article 14 without being so radical. The introduction of an environmental reward would disrupt the Montreal Compromise.</p> <p>Japan: No, it would damage the fundamental structure of the Convention.</p> <p>Malta: Yes.</p> <p>Mexico: No.</p> <p>Slovenia: No. Concerned that amendment would cause dissatisfaction to owners and Clubs but salvors concerns need to be addressed.</p> <p>Sweden: An investigation would need to be initiated</p>

Question 7	Article 20 - If yes to 5.2 do you agree that Article 20 should be amended to create a statutory lien against the ship for such a claim?
	<p>Argentina: Yes.</p> <p>Australia &amp; New Zealand: No (already a maritime lien).</p> <p>Brazil: No.</p> <p>China: Yes, against the ship and other property.</p> <p>Denmark: N/A</p> <p>France: No.</p> <p>Germany: Yes. Under German law salvor has lien, Article 20 should provide statutory liens for all salvage claims including any environmental award.</p> <p>Hellenic: Yes.</p> <p>Italy: No.</p> <p>Japan: N/A</p> <p>Malta: This would not be necessary in Malta (which is not a party to the Salvage Convention. Its legislation is already sufficiently wide). It queries, however, whether it would be appropriate to create such a lien in circumstances in which the Convention does not grant a lien in any other situations.</p> <p>Mexico: No.</p> <p>Slovenia: No.</p> <p>Sweden: No, but an investigation of the environmental salvage issue may lead to a different outcome.</p>

Question 6.2	Article 16 - Should life salvage claims be made against a property owner rather than a salvor?
	<p>Argentina: Yes.</p> <p>Australia &amp; New Zealand: Yes. (NZ - domestic legislation already covers this).</p> <p>Brazil: No. This provision should not be altered.</p> <p>China: Claims for life salvage should be treated separately from property. Suggests the promotion of establishment of a "fund for life-saving".</p> <p>Denmark: No, opposed to any change, as do not support giving life salvors a right of their own.</p> <p>France: No opinion.</p> <p>Germany: Yes. Life salvor should be required to pursue claims against property owner. Under German law where life salvor's claim is reduced by property salvor's misconduct he/she can proceed directly against property owners.</p> <p>Hellenic: Yes.</p> <p>Italy: No. (It is not sure that claims on life salvage under 1910 Convention should be made against owners of the property salvaged).</p> <p>Japan: No amendment necessary.</p> <p>Malta: Yes.</p> <p>Mexico: Yes, favours amendment to ensure that life salvage claim be made against property.</p> <p>Slovenia: No.</p> <p>Sweden: No change necessary.</p>

Question 8	Article 27 - Amend so that awards are published as a matter of course, but not when a party objects?
	<p>Argentina: Yes.</p> <p>Australia &amp; New Zealand: Yes.</p> <p>Brazil: No.</p> <p>China: No.</p> <p>Denmark: Support publication provided parties agree but believe national law/parties should determine, not the convention.</p> <p>France: A compromise solution may be to publish a summary of the award without names of parties, as in Chambre Arbitrale Maritime de Paris.</p> <p>Germany: Yes, strongly in favour that all awards be published (after making them anonymous) and subject to a party's objection.</p> <p>Hellenic: No. However Arbitration Tribunals must have the authority to publish awards when they may be of interest to others.</p> <p>Italy: No.</p> <p>Japan: Not necessary to amend.</p> <p>Malta: Yes.</p> <p>Mexico: Yes.</p> <p>Slovenia: No.</p> <p>Sweden: No, should be a matter for the parties.</p>

Question 9.1 / 9.2	Any other issues or problems? Have there been any Salvage cases in your jurisdiction under the 1989 Convention?
	<p>Argentina: No.</p> <p>Australia &amp; New Zealand: Suggests that potential liability to third parties be expressly excluded in Article 13 as a factor to take into account. Less than 10 cases (Australia); None (NZ).</p> <p>Brazil: No None.</p> <p>China: No Data being collected.</p> <p>Denmark: No Under investigation.</p> <p>France: Not responded to.</p> <p>Germany: Yes - the definitions of "ship" and "property" in Articles 1(b) and (c) in light of definition of wreck in Wreck Removal Convention; "owner" as it is unclear whether this applies to operator or bareboat charterer, and Article 18 - third party claim. The salvor's misconduct (Article 18) should not affect the claim of the third party salvor of human life (Article 16(2)).  None reported.</p> <p>Hellenic No It is not possible to determine the number of cases. Such as they are is limited and involve minor cases. Significant cases go to London.</p> <p>Italy: Too early for review but Articles 14 and 21 need to be debated and considered. In relation to the latter consideration could be given to provide that the owner has the obligation not to deliver the cargo until satisfactory security provided otherwise the owner liable for the entire reward (ie problem if vessel bareboat chartered). 4 cases.</p> <p>Japan: No None.</p> <p>Malta: No None.</p> <p>Mexico: No 6 Cases.</p> <p>Slovenia: No None.</p> <p>Sweden: No. It considers it to be too early to consider amendments to the Convention. None.</p>