

特別補償金防護及補償協會條款—2007 年版

Special Compensation Protection and Indemnity Clauses -2007

SCOPIC 2007

1.8.1999
1.9.2000
1.1.2005
1.7.2007

1. General

This SCOPIC clause is supplementary to any Lloyd's Form Salvage Agreement "No Cure - No Pay" ("Main Agreement") which incorporates the provisions of Article 14 of the International Convention on Salvage 1989 ("Article 14"). The definitions in the Main Agreement are incorporated into this SCOPIC clause. If the SCOPIC clause is inconsistent with any provisions of the Main Agreement or inconsistent with the law applicable hereto, the SCOPIC clause, once invoked under sub-clause 2 hereof, shall override such other provisions to the extent necessary to give business efficacy to the agreement. Subject to the provisions of sub-clause 4 hereof, the method of assessing Special Compensation under Convention Article 14(1) to 14(4) inclusive shall be substituted by the method of assessment set out hereinafter. If this SCOPIC clause has been incorporated into the Main Agreement the Contractor may make no claim pursuant to Article 14 except in the circumstances described in sub-clause 4 hereof. For the purposes of liens and time limits the services hereunder will be treated in the same manner as salvage.

2. Invoking the SCOPIC Clause

The Contractor shall have the option to invoke by written notice to the owners of the vessel the SCOPIC clause set out hereafter at any time of his choosing regardless of the circumstances and, in particular, regardless of whether or not there is a "threat of damage to the environment". The assessment of SCOPIC remuneration shall commence from the time the written notice is given to the owners of the vessel and services rendered before the said written notice shall not be remunerated under this SCOPIC clause at all but in accordance with Convention Article 13 as incorporated into the Main Agreement ("Article 13").

3. Security for SCOPIC Remuneration

- (i) The owners of the vessel shall provide to the Contractor within 2 working days (excluding Saturdays and Sundays and holidays usually observed at Lloyd's) after receiving written notice from the contractor invoking the SCOPIC clause, a bank guarantee or P&I Club letter (hereinafter

1. 通則

本 SCOPIC 條款為將 1989 年海難救助國際公約第 14 條規定(以下稱為第 14 條) 併入之任何勞依茲"不成功—無報酬"救助契約格式(以下稱為「主協議」)之附加條款。主協議內之定義均應併入於本 SCOPIC 條款中。本 SCOPIC 條款與主協議之任何條款有不一致之處或與主協議所適用之法律有不一致之處,本 SCOPIC 條款一旦依第 2 條為適用者,即賦予主協議商業效能所需之範圍內,應優先適用於其他條款之規定。於適用第 4 條規定之情況下,公約第 14 條第 1 項至第 4 項有關特別補償金之估算方法,應依以下所規定之估算方法估算之。如本 SCOPIC 條款已經併入於主協議中,除前述第 4 項所述及之情況外,締約救助者不得再依公約第 14 條規定提出求償。為優先權及時效期間之目的,此條款所稱之服務應同於救助之同樣方式處理。

2. SCOPIC 條款之適用

不論於何種情況下,包括無論是否有「環境損害威脅」之情況,締約救助者均有權於任何時間以書面通知船舶所有人之方式,適用下列 SCOPIC 各條款。SCOPIC 補償之估算應從該書面通知送達船舶所有人之時間開始起計;該書面通知前所進行之救助服務,不應依本 SCOPIC 條款予以補償,但仍得依併入主協議之公約第 13 條規定為補償。

3. SCOPIC 補償之擔保

- (i) 於收到締約救助者請求適用 SCOPIC 條款書面通知之 2 工作天內(不包括週六、週日及勞伊茲例假日),船舶所有人應提供銀行擔保或 P&I 協會保證函(以下稱為「初步擔保」),而該擔保應是一能足

called “the Initial Security”) in a form reasonably satisfactory to the Contractor providing security for his claim for SCOPIC remuneration in the sum of US\$3 million, inclusive of interest and costs.

- (ii) If, at any time after the provision of the Initial Security the owners of the vessel reasonably assess the SCOPIC remuneration plus interest and costs due hereunder to be less than the security in place, the owners of the vessel shall be entitled to require the Contractor to reduce the security to a reasonable sum and the Contractor shall be obliged to do so once a reasonable sum has been agreed.
- (iii) If at any time after the provision of the Initial Security the Contractor reasonably assesses the SCOPIC remuneration plus interest and costs due hereunder to be greater than the security in place, the Contractor shall be entitled to require the owners of the vessel to increase the security to a reasonable sum and the owners of the vessel shall be obliged to do so once a reasonable sum has been agreed.
- (iv) In the absence of agreement, any dispute concerning the proposed Guarantor, the form of the security or the amount of any reduction or increase in the security in place shall be resolved by the Arbitrator.

4. Withdrawal

If the owners of the vessel do not provide the Initial Security within the said 2 working days, the Contractor, at his option, and on giving notice to the owners of the vessel, shall be entitled to withdraw from all the provisions of the SCOPIC clause and revert to his rights under the Main Agreement including Article 14 which shall apply as if the SCOPIC clause had not existed. PROVIDED THAT this right of withdrawal may only be exercised if, at the time of giving the said notice of withdrawal the owners of the vessel have still not provided the Initial Security or any alternative security which the owners of the vessel and the Contractor may agree will be sufficient.

5. Tariff Rates.

- (i) SCOPIC remuneration shall mean the total of the tariff rates of personnel; tugs and other craft; portable salvage equipment; out of pocket expenses; and bonus due.
- (ii) SCOPIC remuneration in respect of all personnel; tugs and other craft; and portable salvage equipment shall be assessed on a time and materials basis in accordance with the Tariff set out in Appendix “A”. This tariff will apply until reviewed and amended by the SCR Committee in accordance with Appendix B(1)(b). The tariff rates which will be used to calculate SCOPIC remuneration are those in force at the time the salvage services take place.
- (iii) “Out of pocket” expenses shall mean all those monies reasonably paid by or for and on behalf of the Contractor to any third party and in particular includes the hire of men, tugs, other craft and equipment used and other expenses reasonably necessary for the operation. They will be agreed at cost, PROVIDED THAT:
 - (a) If the expenses relate to the hire of men, tugs, other

以提供三百萬美元 SCOPIC 補償請求(包括利息及訴訟成本)給予締約救助人之格式。

- (ii) 於提供初步擔保後之任何時間，如船舶所有人合理估計 SCOPIC 補償加上利息及訴訟成本少於所提供之擔保者，船舶所有人有權要求締約救助人將其所提供之擔保減少至合理價額，且此合理價額一旦同意，締約救助人即應儘速配合為之。
- (iii) 於提供初步擔保後之任何時間，如締約救助人合理估計 SCOPIC 補償加上利息及訴訟成本高於所提供之擔保者，締約救助人有權要求船舶所有人將其所提供之擔保增加至合理價額，且此合理價額一旦同意，船舶所有人即應儘速配合為之。
- (iv) 是項擔保之建議擔保人、擔保格式或擔保金額之任何增減之任何爭議，如未達成協議，則應提交仲裁人解決。

4. 撤回

如船舶所有人未於 2 工作日提供初步擔保，締約救助人得選擇並通知船舶所有人，其有權撤回 SCOPIC 條款之所有規定，並以如同從未適用 SCOPIC 條款般，回歸其於主協議下之權利，包括公約第 14 條之權利。然本撤回之權利僅於發出該撤回通知時，船舶所有人尚未提供初步擔保，或任何船舶所有人及締約救助人間同意足額之其他替代擔保時，始得行使之。

5. 費率表

- (i) SCOPIC 補償係指人員、拖船及其他航具、移動式救助機具、實支費用及應支付之津貼等之總費率。
- (ii) 關於人員、拖船及其他航具、移動式救助機具之 SCOPIC 補償，應依附錄 A 所規定之費率表，論時及論件為估算之。該費率表應適用至 SCR 委員會依照附錄 B(1)(b)之規定重新檢視並為修正之時。用於估算 SCOPIC 補償時，適用於救助進行當時仍為有效之費率表。
- (iii) 「實支」費用包括締約救助人或代表締約救助人向任何第三人所合理支付之款項，特別是包括人員、拖船、其他航具及所使用設備之雇用或租用，及為救助作業合理所需之其他費用。是項費用係以實支實付方式處理，然下列情況除外：
 - (a) 如人員、拖船、其他航具及所使用

craft and equipment from another ISU member or their affiliate(s), the amount due will be calculated on the tariff rates set out in Appendix "A" regardless of the actual cost.

- (b) If men, tugs, other craft and equipment are hired from any party who is not an ISU member and the hire rate is greater than the tariff rates referred to in Appendix "A" the actual cost will be allowed in full, subject to the Special Casualty Representative ("SCR") being satisfied that in the particular circumstances of the case, it was reasonable for the Contractor to hire such items at that cost. If an SCR is not appointed or if there is a dispute, then the Arbitrator shall decide whether the expense was reasonable in all in the circumstances.
- (c) Any out of pocket expense incurred during the course of the service in a currency other than US dollars shall for the purpose of the SCOPIC clause be converted to US dollars at the rate prevailing at the termination of the services.
- (iv) In addition to the rates set out above and any out of pocket expenses, the Contractor shall be entitled to a standard bonus of 25% of those rates except that if the out of pocket expenses described in sub-paragraph 5(iii)(b) exceed the applicable tariff rates in Appendix "A" the Contractor shall be entitled to a bonus such that he shall receive in total
 - (a) The actual cost of such men, tugs, other craft and equipment plus 10% of the cost, or
 - (b) The tariff rate for such men, tugs, other craft and equipment plus 25% of the tariff rate whichever is the greater.

6. Article 13 Award

- (i) The salvage services under the Main Agreement shall continue to be assessed in accordance with Article 13, even if the Contractor has invoked the SCOPIC clause. SCOPIC remuneration as assessed under sub-clause 5 above will be payable only by the owners of the vessel and only to the extent that it exceeds the total Article 13 Award (or, if none, any potential Article 13 Award) payable by all salvaged interests (including cargo, bunkers, lubricating oil and stores) before currency adjustment and before interest and costs even if the Article 13 Award or any part of it is not recovered.
- (ii) In the event of the Article 13 Award or settlement being in a currency other than United States dollars it shall, for the purposes of the SCOPIC clause, be exchanged at the rate of exchange prevailing at the termination of the services under the Main Agreement.
- (iii) The salvage Award under Article 13 shall not be diminished by reason of the exception to the principle of "No Cure - No Pay" in the form of SCOPIC remuneration.

7. Discount

設備之相關費用係向國際救助聯盟之會員或附屬公司所雇用或租用者，則無論實際支出之費用額為多少，費用支付之數額均應依附錄 A 所規定之費率表計算之。

- (b) 如人員、拖船、其他航具及所使用設備之相關費用係非向國際救助聯盟之會員所雇用或租用者，且租用費率高於附錄 A 所規定之費率表，於 SCR 得以充分接受締約救助人以是項成本及條件為租用是屬合理之特別前提下，仍應全額支付實際發生之成本。如 SCR 並未指派或對前述數額有爭議時，則仲裁人在審酌所有情況後，應決定哪項費用為合理。
- (c) 於服務過程中所發生之實支費用非以美元幣值為計價者，為本 SCOPIC 條款之目的，應以服務終止時之費率兌換成美元。
- (iv) 除前述費率及任何實支費用外，締約救助入尚可有權另外請求前述費率 25% 之津貼，但如第 5(iii)(b) 所規定之實支費用超過附錄 A 所適用之費率表，則救助入有權請求之津貼總額為下列較高者：
 - (a) 該人員、拖船、其他航具及所使用設備之實際成本，再加費率表之 10%，或
 - (b) 該人員、拖船、其他航具及所使用設備之費率表，再加該費率表之 25%。

6. 公約第 13 條報酬裁定

- (i) 既使救助入已適用 SCOPIC 條款，於主協議之救助服務應繼續依公約第 13 條之規定為估算。依前述第 5 條所估算之 SCOPIC 補償應完全由船舶所有人支付，且僅支出超過所有獲救當事人(包括貨物、燃油、潤滑油或物料)所支付之公約第 13 條總救助報酬以上，於加上利息及訴訟成本前之數額部分(或如無時，則為任何可能的公約第 13 條判定報酬數值)，既使公約第 13 條之救助報酬或其任何部分無法求償亦同。
- (ii) 如公約第 13 條之救助報酬或協議金額係使用美元以外之貨幣者，為本 SCOPIC 條款之目的，其應以主協議下之救助服務終止之時之兌換率予以換算成美元。
- (iii) 公約第 13 條之救助報酬不應由於 SCOPIC 條款補償有別於「不成功無報酬」之方式而有所減損。

7. 扣減

If the SCOPIC clause is invoked under sub-clause 2 hereof and the Article 13 Award or settlement (before currency adjustment and before interest and costs) under the Main Agreement is greater than the assessed SCOPIC remuneration then, notwithstanding the actual date on which the SCOPIC remuneration provisions were invoked, the said Article 13 Award or settlement shall be discounted by 25% of the difference between the said Article 13 Award or settlement and the amount of SCOPIC remuneration that would have been assessed had the SCOPIC remuneration provisions been invoked on the first day of the services.

8. Payment of SCOPIC Remuneration

- (i) The date for payment of any SCOPIC remuneration which may be due hereunder will vary according to the circumstances.
 - (a) If there is no potential salvage award within the meaning of Article 13 as incorporated into the Main Agreement then, subject to Appendix B(5)(c)(iv), the undisputed amount of SCOPIC remuneration due hereunder will be paid by the owners of the vessel within 1 month of the presentation of the claim. Interest on sums due will accrue from the date of termination of the services until the date of payment at the US prime rate plus 1%.
 - (b) If there is a claim for an Article 13 salvage award as well as a claim for SCOPIC remuneration, subject to Appendix B(5)(c)(iv), 75% of the amount by which the assessed SCOPIC remuneration exceeds the total Article 13 security demanded from ship and cargo will be paid by the owners of the vessel within 1 month and any undisputed balance paid when the Article 13 salvage award has been assessed and falls due. Interest will accrue from the date of termination of the services until the date of payment at the US prime rate plus 1%.
- (ii) The Contractor hereby agrees to give an indemnity in a form acceptable to the owners of the vessel in respect of any overpayment in the event that the SCOPIC remuneration due ultimately proves to be less than the sum paid on account.

9. Termination

- (i) The Contractor shall be entitled to terminate the services under the SCOPIC clause and the Main Agreement by written notice to owners of the vessel with a copy to the SCR (if any) and any Special Representative appointed if the total cost of his services to date and the services that will be needed to fulfil his obligations hereunder to the property (calculated by means of the tariff rate but before the bonus conferred by sub-clause 5(iii) hereof) will exceed the sum of:
 - (a) The value of the property capable of being salvaged; and
 - (b) All sums to which he will be entitled as SCOPIC

如依第 2 條已適用 SCOPIC 條款，且於主協議下之公約第 13 條之救助報酬或協議金額（於幣值調整後，但不包括利息及訴訟成本）大於所估計之 SCOPIC 補償時，則無論 SCOPIC 補償條款適用之實際日期為何，前述公約第 13 條之救助報酬或協議金額，就公約第 13 條救助報酬或協議金額與以服務第一天適用 SCOPIC 條款予以估算之 SCOPIC 補償數額間差額之 25%，應予以扣減。

8. SCOPIC 補償之支付

- (i) 任一 SCOPIC 補償到期應支付之日期，視下列情況為定：
 - (a) 如可能無依併入主協議之公約第 13 條意義下之救助報酬時，於適用附錄 B(5)(c)(iv)規定之情況下，無爭議且應支付之 SCOPIC 補償數額應由船舶所有人於提出求償之一個月內支付之。應支付款項之利息則以美元主要利率再加 1%自服務終止日起算以迄支付日。
 - (b) 如同時有公約第 13 條救助報酬之求償，以及 SCOPIC 補償之求償，於適用附錄 B(5)(c)(iv)規定之情況下，SCOPIC 補償預估值超過依公約第 13 條可向船舶及貨物所取得擔保總額之部分之 75%，應由船舶所有人於一個月內支付之；對於公約第 13 條之救助報酬業已完成估算並應支付時，亦應支付無任何爭議之餘額部分。應支付款項之利息則以美元主要利率再加 1%自服務終止日起算以迄支付日。
- (ii) 對於應支付之 SCOPIC 補償最後證明是低於帳上已付數額之任何溢付款，締約救助人謹此同意會以船舶所有人可接受之方式提供補償。

9. 協議終止

- (i) 如締約救助人服務提供之總成本已達到得以使其對財產之義務將超過下列數額之日期及服務時（依據費率表計算所得，但不包括第 5(iii)款所給予之獎勵金），締約救助人即有權以書面通知船舶所有人，副本知會 SCR（如有指派）及任何所指派之特別代表之情況下，終止本 SCOPIC 條款及主協議之服務：
 - (a) 得以獲救之財產價值；及
 - (b) 其有權依 SCOPIC 補償之所有數額

remuneration

- (ii) The owners of the vessel may at any time terminate the obligation to pay SCOPIC remuneration after the SCOPIC clause has been invoked under sub-clause 2 hereof provided that the Contractor shall be entitled to at least 5 clear days' notice of such termination. In the event of such termination the assessment of SCOPIC remuneration shall take into account all monies due under the tariff rates set out in Appendix A hereof including time for demobilisation to the extent that such time did reasonably exceed the 5 days' notice of termination.
- (iii) The termination provisions contained in sub-clause 9(i) and 9(ii) above shall only apply if the Contractor is not restrained from demobilising his equipment by Government, Local or Port Authorities or any other officially recognised body having jurisdiction over the area where the services are being rendered.
- (ii) SCOPIC 條款依第 2 條為適用後，船舶所有人得於任何時間終止其支付 SCOPIC 補償之義務，然締約救助人有權享有至少五天終止預告通知。於是項終止時，有關 SCOPIC 補償之估算應計入附錄 A 所定費率表應支付之所有金錢，包括為遣返救助而合理超過前述五天終止預告通知之時間。
- (iii) 上列第 9(i) 及 9(ii) 條所規定之終止條款應僅適用於該締約救助人未被政府、當地或港口當局或服務進行地區具有管轄權之任何其他正式機構限制不得遣返其設備之情況。

10. Duties of Contractor

The duties and liabilities of the Contractor shall remain the same as under the Main Agreement, namely to use his best endeavours to save the vessel and property thereon and in so doing to prevent or minimise damage to the environment.

10. 締約救助人之職責

締約救助人之義務及責任應與主協議規定相同，亦即應盡其最大努力為船舶及其上財產之救助，且於是項作業時，避免及減輕環境損害。

11. Article 18 – 1989 Salvage Convention

The Contractor may be deprived of the whole or part of the payment due under the SCOPIC clause to the extent that the salvage operations thereunder:

- (i) have become necessary or more difficult or more prolonged or the salvaged fund has been reduced or extinguished
- (ii) because of fault or neglect on its part or if the Contractor has been guilty of fraud or other dishonest conduct.

11. 1989 年公約第 18 條

就下列救助作業之範圍，締約救助人得剝奪其依 SCOPIC 條款之全部或部分給付：

- (i) 使救助作業成為必須或更為困難或更為延長或獲救價值減輕或喪失者
- (ii) 因締約救助人方面之疏忽、過失，或締約救助人有詐欺或其他不實行為者。

12. Special Casualty Representative (“SCR”)

Once this SCOPIC clause has been invoked in accordance with sub-clause 2 hereof the owners of the vessel may at their sole option appoint an SCR to attend the salvage operation in accordance with the terms and conditions set out in Appendix B. Any SCR so appointed shall not be called upon by any of the parties hereto to give evidence relating to non-salvage issues.

12. 船舶所有人事故代表(簡稱 SCR)

於本 SCOPIC 依第 2 條規定開始適用後，船舶所有人即得以其自己費用，指派一位 SCR 在指派人自行負擔其費用，並依據本條款附件 B 所規定之條件及條款，參與事故救助作業。任何被指派之 SCR 不應被任何當事人要求提供任何非關救助事項之證據。

13. Special Representatives

At any time after the SCOPIC clause has been invoked the Hull and Machinery underwriter (or, if more than one, the lead underwriter) and one owner or underwriter of all or part of any cargo on board the vessel may each appoint one special representative (hereinafter called respectively the “Special Hull Representative” and the “Special Cargo Representative” and collectively called the “Special Representatives”) at the sole

13. 特別代表

於本 SCOPIC 開始適用後之任何時間，船體及機器保險人(或如超過一人時，則為首席保險人)及該船上貨物之全部或一部之一位所有權人或保險人均得指派一位特別代表(以下稱為「船體特別代表」及「貨物特別代表」)，在指派人自行負擔其費用，以及依據本條款附件 C 所規定之條件及條款之情況

expense of the appointor to attend the casualty to observe and report upon the salvage operation on the terms and conditions set out in Appendix C hereof. Such Special Representatives shall be technical men and not practising lawyers.

下，參與事故救助作業之觀察及報告工作。該特別代表應為一技術人員，而不應是為實務界的律師。

14. Pollution Prevention

The assessment of SCOPIC remuneration shall include the prevention of pollution as well as the removal of pollution in the immediate vicinity of the vessel insofar as this is necessary for the proper execution of the salvage but not otherwise.

14. 污染防止

本 SCOPIC 補償之估算，應計入污染防止，以及就本救助之適當實行必要所需，緊鄰船舶之污染移除。

15. General Average

SCOPIC remuneration shall not be a General Average expense to the extent that it exceeds the Article 13 Award; any liability to pay such SCOPIC remuneration shall be that of the Shipowner alone and no claim whether direct, indirect, by way of indemnity or recourse or otherwise relating to SCOPIC remuneration in excess of the Article 13 Award shall be made in General Average or under the vessel's Hull and Machinery Policy by the owners of the vessel.

15. 共同海損

本 SCOPIC 補償，就超過公約第 13 條救助報酬範圍部分，不應成為共同海損費用；船舶所有人應獨自負擔支付本 SCOPIC 補償之所有責任，且船舶所有人不應就本 SCOPIC 補償超過公約第 13 條救助報酬範圍部分，直接、間接或經由補償或追償或任何其他方式於共同海損或依船舶之船體及機器保單中提出求償。

16.

Any dispute arising out of this SCOPIC clause or the operations thereunder shall be referred to Arbitration as provided for under the Main Agreement.

16.

本 SCOPIC 條款或本次作業服務所生之任何爭議，均應提送主協議所規定之仲裁為解決。