

# Rethinking environmental salvage and salvage law

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## Impact Statement

### 1. Scientific and Societal Relevance

Maritime transport is vital to international trade and the global economy, but it is a risky business. Despite the fact that *ex ante* safety regulations are in place, maritime accidents are inevitable due to factors such as perils of the sea. The salvage industry's services are essential to save life, property, and the environment in maritime accidents. But these services require high levels of upfront investment in sophisticated vessels and equipment and for these to be kept in station for emergency responses to maritime casualties. This research project finds that in environmental salvage, the current legal regime of salvage does not provide adequate incentives to the salvors to make such high upfront investments and to provide a cost-effective environmental emergency response. For society, a cost-effective environmental emergency response on the part of the salvor is desirable to *ex post* prevent or minimize environmental harm immediately after maritime accidents which pose a danger to the environment. Otherwise, there will be huge social costs in *ex post* recovery. The global salvage industry's capacity to provide emergency responses not only protects private interests but also the public interest.

This research project's analysis of the phenomenon of environmental salvage shows that firstly, the development of salvage law and practice has been accident-driven, i.e. the reform of salvage law is normally only made after a major maritime casualty causing enormous damage to the environment; secondly, the innovations have mostly come from the market in salvage practice, and the support of commercial parties is a somewhat fundamental condition for the development of the legal regime. However, industrial reports and academic papers have shown that, in the cooperate world where financial risk is a high priority, commercial parties may not see the full picture; they are likely to focus on their own private interests respectively rather than the other private parties' interests or the public interest. This piece of research not only contributes to the academic debates regarding the phenomenon of environmental salvage but also provides a socially desirable cost-effective mechanism for environmental salvage.

One piece of evidence for the high social relevance of environmental salvage, if it needs to be proved at all, is the recent explosion of the ageing oil tanker *Pablo* on 1 May 2023 in Malaysian waters. The *Pablo* accident drew attention to the 'shadow fleet', which is composed of 300–600 ageing tankers that are poorly managed and without insurance. The shadow fleet is used to circumvent sanctions against Russian oil and high insurance costs. Another point is that the transportation of alternative fuels (such as biodiesel, methanol, lignin fuels, and ammonia) as part of the green transition of the shipping industry also imposes a greater risk of maritime accidents. As such, it is highly important to society to provide the salvage industry with adequate incentives to maintain its capacity to provide a cost-effective environmental

emergency response. Contemporary trends in international politics and technological developments also add to the potential risks of environmental harm in maritime accidents.

## **2. Target Groups and Activities**

The target groups of this research project are academics, the shipping industry, and policymakers. Firstly, this research analytically examines the phenomenon of environmental salvage from both a legal- and an economic-analysis perspective. The efficiency perspective brought by the economic analysis provides new insights into academic debates. This study also provides ‘out-of-the-box’ thinking, i.e. a perspective outside the traditional salvage law paradigm that exists in current academic discussions due to the phenomenon of ‘path-dependency’. Secondly, from a private-interest perspective, the shipping industry as a whole has an interest in resolving the issues caused by environmental salvage. Both the demand and supply sides will get benefits if there is a cost-effective mechanism in place for environmental salvage. The shipowners and their insurers benefit from the salvage industry’s services; the salvage industry also benefits from the incentives provided by the mechanism. Therefore, this research could provide insights for the industry. Lastly, from a public-interest perspective, the research findings provide guidance for policymakers to make decisions regarding law reform to further protect the safety of navigation and the environment.

Steps have already been taken to reach out to the target groups. This research has been presented at various conferences and workshops hosted in Oxford, Split, Rennes, etc. During these conferences, academics and lawyers provided their insights. Moreover, interviews were conducted with salvage experts in the industry and experts from relevant international organizations such as the International Maritime Organization and the IOPC Funds. The research findings were communicated to academics and the industry through these events. These findings will be published in academic journals and as a monograph; some of the findings and ideas that have not been included in this thesis will be developed into publications. Furthermore, this thesis has the potential to be developed into a report for law reform and to reach the policymaking stage, if organizations such as Comité Maritime International have the opportunity to make another attempt at law reform on an international level. Due to the fact that the proposed mechanism of environmental salvage represents a new balance of public and private interests, the proposal for law reform could be brought to either the International Maritime Organization (IMO) or the United Nations Commission on International Trade Law (UNCITRAL).