
Fixed Cost Arbitration Procedure (FCAP)

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Awareness

Is this true or are we assuming too much?

Q1. Who has previously heard of FCAP?

1. Yes
2. No

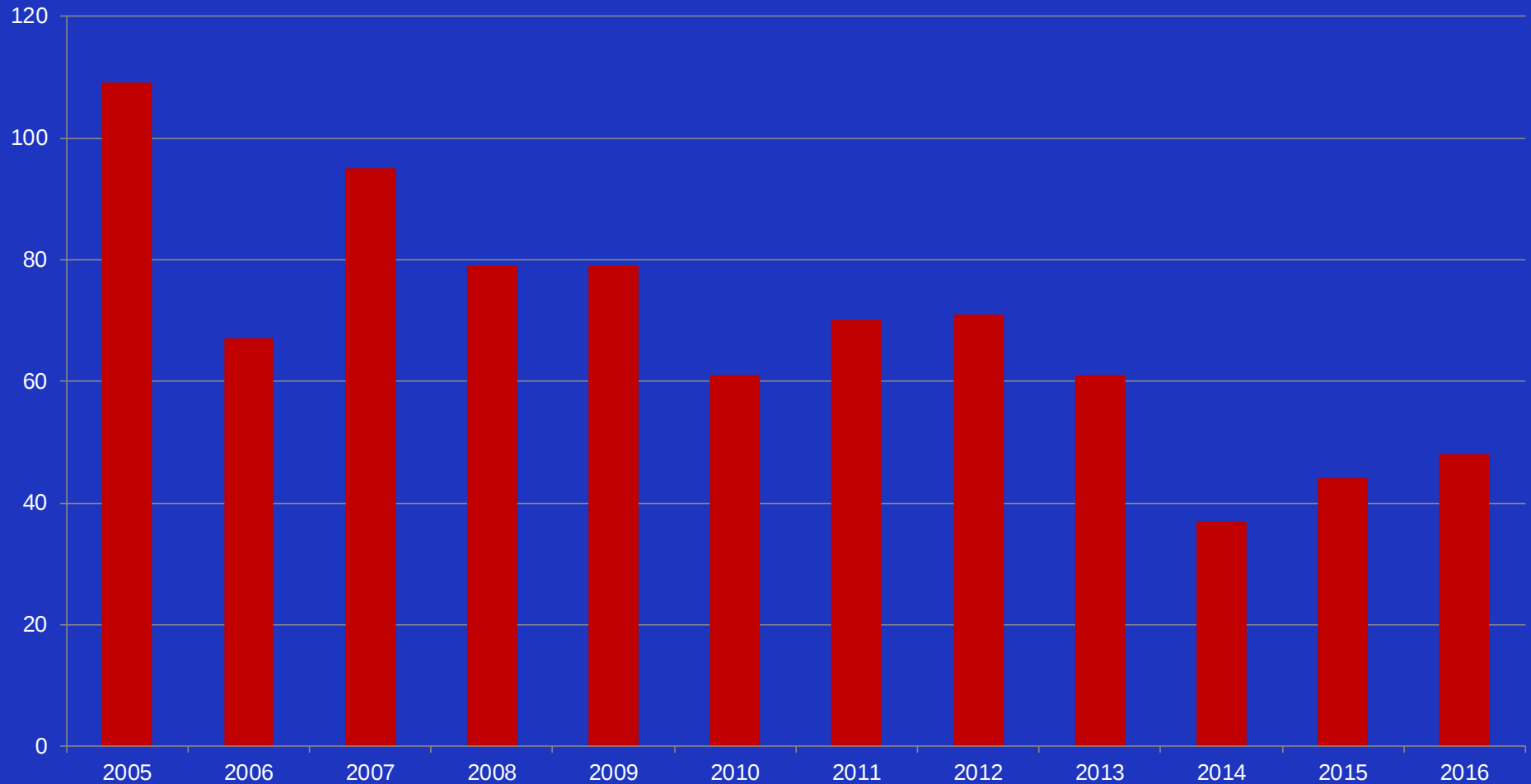
Awareness

Q2. Have you been involved in an FCAP case?

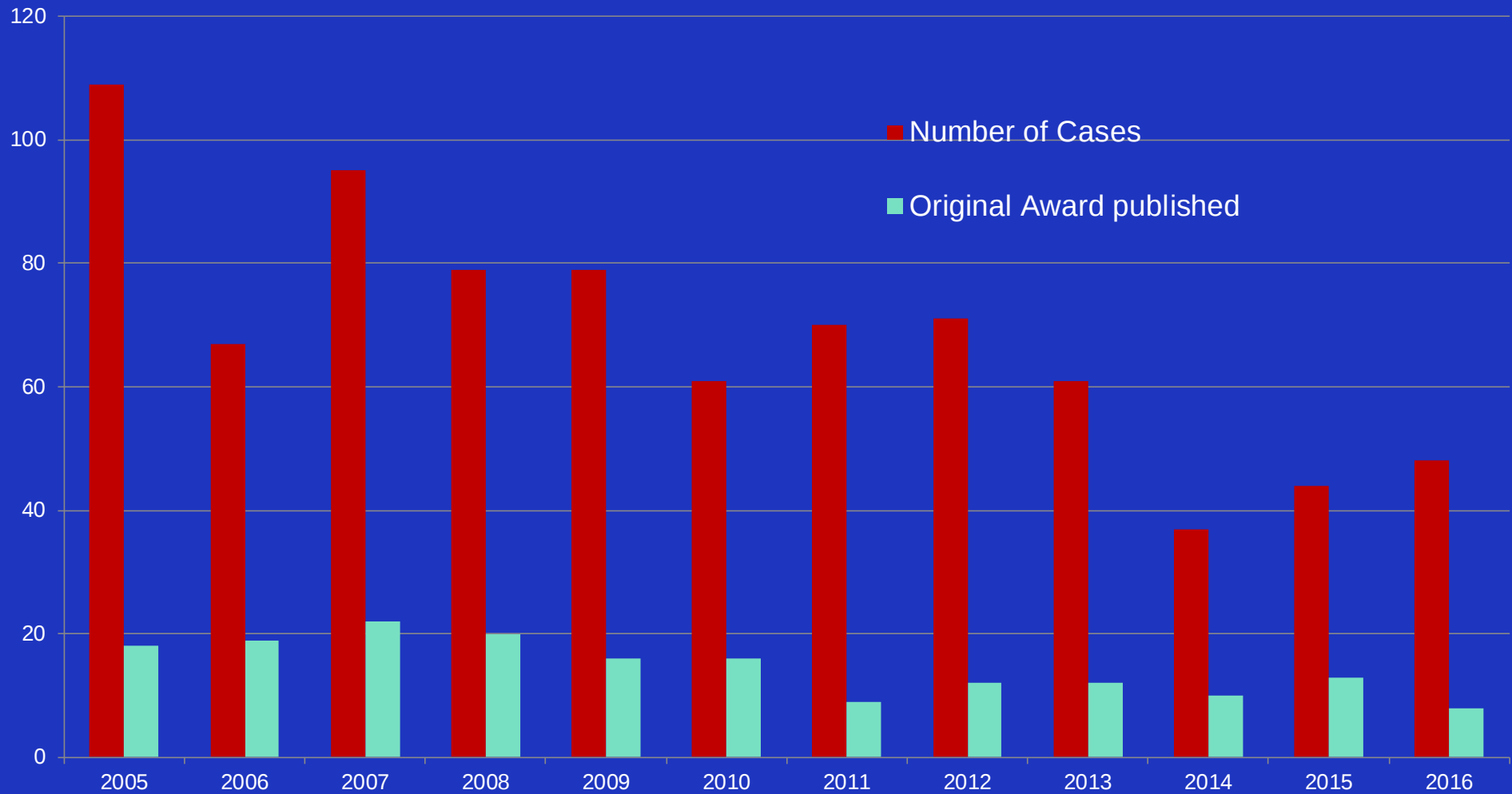
1. Yes
2. No

Number of LOF cases since 2005

(the year FCAP was introduced)



Number of Cases and Awards published



Background

The Fixed Cost Arbitration Procedure

Introduced in 2005 with the aim to limit the costs associated with obtaining an LOF Award particularly in cases where the amount of the salvage fund is small or where no point of law arises and the facts are uncomplicated.

Current FCAP Guidelines

1. In assessing cases which are suitable for FCAP, the Arbitrators will take into account the amount of security demanded by the Salvors. Where the security demand is less than USD1,500,000, then the case will usually be appropriate for a hearing on documents alone.

However, the documents only procedure will not be restricted to such cases.

A question for you....

Q3. Do you believe that parties would be more likely to request FCAP if the option was highlighted at an earlier stage of the case?

1. Yes
2. No
3. Don't know

Current FCAP Guidelines

2. Where the FCAP is ordered, the Arbitrator will expect the parties to prepare a joint bundle, not exceeding 75 pages, comprising documents, statements, and any agreed statement of facts which they wish the Arbitrator to take into consideration

Current FCAP Guidelines

3. Pursuant to the timetable fixed by the Arbitrator the contractors and respondents will serve submissions not exceeding 4,000 words to the Arbitrator.

Current FCAP Guidelines

4. Where there is more than one respondent, they will co-operate with each other to the fullest possible extent, with a view to avoiding duplication of submissions.

Current FCAP Guidelines

5. Within three weeks from the date of receipt of final submissions, the Arbitrator will send their Award to the Salvage Arbitration Branch of Lloyd's

6. The fees of the Arbitrator, the charges of the Salvage Arbitration Branch of Lloyd's and the party and party costs shall not exceed the fixed amounts as published by Lloyd's. These are:

- | | | |
|------|--|------------|
| i. | Arbitrator (excluding interlocutory work) | £4,500.00 |
| ii. | Salvage Arbitration Branch of Lloyd's | £1,000.00 |
| iii. | Party and party costs (excluding the costs referred to in 1 and 2 above) | £15,000.00 |

7. A party in whose favour an order for costs is made shall have its recoverable costs capped at £15,000, excluding the Arbitrator and SAB's costs plus any other costs not within the scope of FCAP.

Current FCAP Guidelines

8. Any Award published in accordance with FCAP will, of course, fall under the Appeal Provisions contained in Lloyd's Form of Salvage Agreement and any such appeal will usually be conducted on a documents only basis with fixed costs. The costs of appeal will be:

- | | |
|---|-----------|
| i. Appeal Arbitrator | £3,000.00 |
| ii. Salvage Arbitration Branch of Lloyd's | £500.00 |
| iii. Party and party costs (excluding the costs referred to in 4 and 5 above) not exceeding | £1,500.00 |

FCAP - The Future

Q4. What would encourage greater use of FCAP?

1. Raise security level to USD2 million
2. Incorporate guaranteed timeframe for each stage of the process
3. Make FCAP compulsory with 'opt-out' rather 'opt-in'
4. Have an 'opt-in' box on the LOF
5. Cargo interests must appoint one representative

Lloyd's Form of Salvage Agreement

Q5. What would make the use of LOF more appealing?

1. Tariff rates option
2. Fixed costs option
3. "Simple" tow option
4. Option to move to wreck removal contract
5. Greater FCAP powers
6. More education
7. All of the above
8. Leave things as they are

Thank you.

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