THE MARITIME LAW YEAR IN THE UNITED KINGDOM

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Recent Developments in Maritime Law

A brief discussion of current issues

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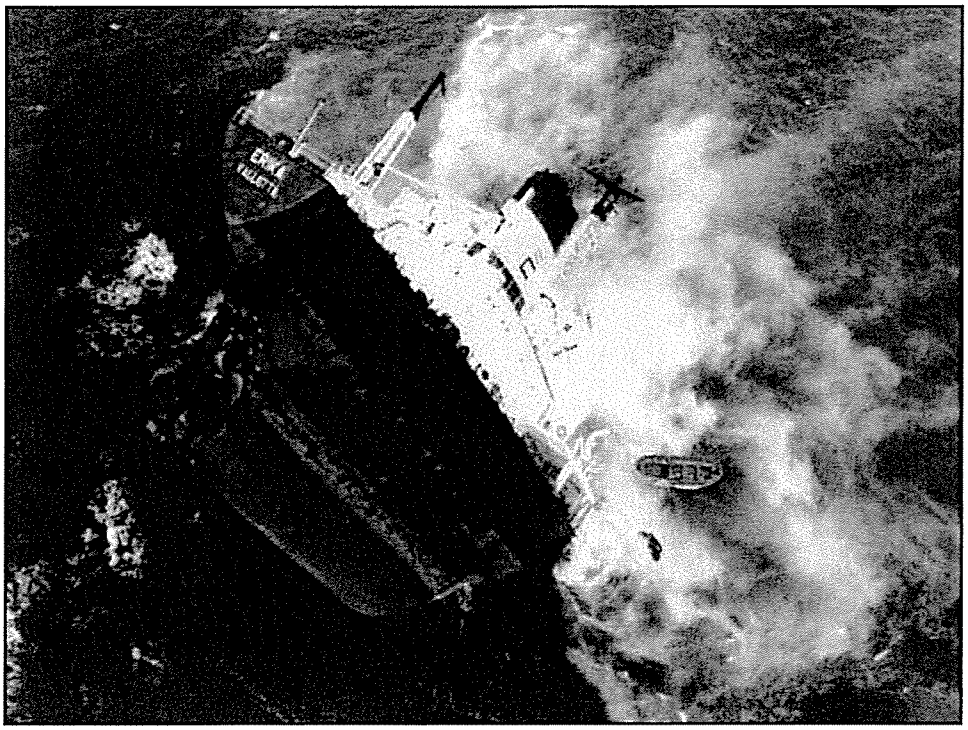
Points for discussion

- "Erika" - likely impacts
- The Contracts (Rights of Third Parties) Act 1999
- Increasing power of Arbitrators



ERIKA

- **Background**
  - Maltese Registered
  - Classed with RINA
  - Class survey failures
- **Approval System**
  - 12 Monthly
  - Given by Oil Majors
  - enable on-going chartering

Attack on sub-standard tonnage

- EU legislators focused on defective tonnage
- Currently single hulled vessels withdrawn by 2019
- Freng Government and Majors agreed 2008
- now proposing 1 January 2003
- 519 tankers >20,000 tons (64m dwt)
- 4000 tankers if < 20,000 tons

Economic Impact

- Majors paying for newer tonnage
- Average spot charter age 8 years down from 19
- eliminates half aframax/ VLCC/suezmax - > 15 years old
- freight rates increase inevitable
- impact on shipyards
- impact on scrapyards
- environmental/navigational aspects of early disposal

Contract (Rights of Third Parties) Act 1999

- Effective from 10 May 2000
- A named or clearly identified class
- contract parties can expressly exclude
- Specific Contracts excluded
  - Megitiable instruments
  - Contracts of Carriage by seas - B/ L's, Sea Way bills

- The Shipbroker Example
  - required Charterer to sue as trustee
  - cumbersome arrangement
  - may see revival of inclusion of commission clauses

Walford Case (1990)

- Insurance - Offshore Contractor
  - may be able to limit liability
  - eg: offshore installation contract
    - principle parties agree knock for knock
    - waiver of subrogation right
    - sub-contractor may benefit - identifiable under the Act
- Application to be expressly restricted ?

Developments in Arbitration

- Effect of the 1996 Act
- Impartiality of Arbitrators
  - Laker Airways v FLS [1999] 2 LR 45
  - Rustal v Gill & Duffus [2000] 1 LR 14
- Extensions of time
  - Harbour and General Works Ltd v Environment Agency [2000] 1 LR 65

Summary

- Woolf reforms continue to impact - Ascendancy of Arbitration to continue
- Classification Societies and Majors dispute to continue
- Impact of Brussels and French EU Presidency
- Rights of third parties Act - potential impact in maritime sectors