

**Legal commentary on
issues arising from
Captain Botterill's Address**

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Quality and Safety in Shipping - When things go wrong

Case study: the loss of MT "Erika" and consequential changes to the safety network in the shipping industry



1

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1. Overview of Safety Network for Ships
2. Background to "Erika" Incident
3. Claims and Compensation
4. "Erika" – History / Inspection / Certification / Sisterships
5. Conclusions and Lessons
6. Consequences – Class / Malta Registry / IMO / European Union / Equasis
7. Acknowledgements

- Flag state provides overall control of safety on ships. By periodical surveys and renewal of certificates Flag state ascertains that the ship meets the requirements laid down in national legislation
- Flag of convenience state registries tended to rely on classification societies to regulate and control standards set by IMO
- Port state control is the control of foreign flag ships in national ports. Port State Control is intended as a secondary safety net

- *"Erika"* – 25 year old, single hull, 35,000 DWT tanker. Malta Flag, owner Italian, crew Indian, charterer French
- 12 December 1999 during a storm – cracks in deck – broke in two – sank 40 miles off coast of Brittany
- Found initial failure: water and oil entered No. 2 STB segregated ballast tank and cracks and buckling of deck plating in way of tank
- Approximately 20,000 tonnes of heavy fuel oil released into sea. Ecological disaster

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- A number of different theories as to the cause:
 - Malta Maritime Authority report (October 2000) combination of corrosion, cracks, quality of repairs, quality of survey by RINA, vulnerabilities in design of ship, sea conditions
 - Later French Court decision, experts argued cracks in hull should have been visible during inspections before incident
 - RINA – progressive structural failure

Ship	Tonnes Oil
Amoco Cadiz (Brittany, 1978)	>200,000
Torrey Canyon (Scilly Isles, 1967)	100,000
Braer (Shetland Isles, 1993)	85,000
Sea Empress (S W Wales, 1996)	70,000
Erika (North Biscay, 1999)	20,000

- Pollution gave rise to three main categories of claims:
 - Damage to property, clean up operations
 - Fishermen and aquaculture
 - Economic loss in the tourist sector
- Limitation amount for "Erika" £8.4m ("Erika" 19666 GT). Security provided by a Club letter from Steamship Mutual
- Second layer of compensation paid by 1992 Fund in accordance with the 1992 Fund Convention up to overall maximum of 135 million SDR's (£115m)

- *"Erika"* was one of a batch of 8 sisterships built in Japan from 1974 to 1976. Changed name, registry and Class many times

Year	Name	Registration	Classification Society
1975	<i>Shinsei Maru</i>	Japan	NKK
1975	<i>Glory Ocean</i>	Panama	NKK
1977	<i>Intermar Prosperity</i>	Liberia	NKK
1980	<i>Intermar Prosperity</i>	Liberia	ABS
1985	<i>South Energy</i>	Liberia	ABS
1986	<i>Fahe Energy</i>	Liberia	ABS
1990	<i>Prime Noble</i>	Malta	ABS
1993	<i>Prime Noble</i>	Malta	BV
1994	<i>Nobless</i>	Malta	BV
1996	<i>Erika</i>	Malta	BV
1998	<i>Erika</i>	Malta	RINA

- *"Erika"* grounded 1977, 1979, 1985 and 1996. Resultant surveys

- *"Erika"* had valid class and statutory certificates
- Managed by an Italian company which was also ISM certified by RINA
- Between 1991 and 1999 *"Erika"* was:
 - Inspected 16 times PSC inspectors
 - Twice by Flag State Control inspectors
 - Surveys were carried out by classifications societies
 - Inspections had been undertaken by the oil majors
 - Had been detained 5 times as a result of PSC inspections

- No major deficiencies noted relating to structural fault
- During summer of 1998, "*Erika*" underwent substantial repairs under supervision of RINA
- Shortly before sinking, RINA completed her annual survey. All ballast tanks examined internally. Class certificate endorsed - repairs around ballast tanks by January 2000

- 4 of 8 sisterships experienced significant structural deck failure due to heavy corrosion when they were between 10 and 15 years of age
- Ships were registered under different flags, classed with different classifications societies, under different ownership, examined by different surveyors - severe corrosion featured strongly and was common to all
- April 1990 "*Green King*" sagged and buckled across the deck during a maiden voyage and almost sank
- December 1999 "*New Venture*" hogged and fractured across the deck during a ballast voyage
- A third sistership had to turn back on a transit voyage due to severe structural problems

- How did safety regime fail so as to permit a ship to sail with such poor hull condition leading to her breaking up at sea
- Numerous inspections and surveys. A lot of information on "*Erika*" and sisterships
- Inspections did not detect / adequately identify defects
- More stringent surveys of older ships required by Flag States and Class

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- Unrealistic for Port State Control inspections to detect latent structural defects. PSC final check only
- Action required to improve all aspects of shipping industry safety network to remove substandard ships
- Systematic exchange of information between Maritime players required to identify problem ships

- Recognised need for improved communication and information sharing between classification societies
- Strengthen the management of the way in which older ships are surveyed
- IACS – implemented measures for more extensive, focused and frequent surveys of older ships
- IACS proposed measures to stop ships “Class hopping” to try to avoid safety requirements

- MMA under close scrutiny. New guidelines to assist with ascertaining seaworthiness of vessels
- The IMO took action on the following:
 - Raised compensation limits for oil pollution disasters
 - Promoted enhanced measures to phase out single hull tankers quickly
- European parliament approved measures to strengthen port state control, monitoring of classification societies and the quicker phasing out of single hull tankers in European waters

- Equasis – origins November 1997
- As a consequence of "*Erika*", Equasis launched in May 2000
- Equasis is a free data base providing information on ships aiming to cover the world's fleet
- One of the aims is to provide a comprehensive database of safety related information for individual ships with a view to reduce sub-standard shipping

- Report of the Investigation into the loss of the Motor Tanker "*Erika*" on Sunday December 12, 1999, Malta Maritime Authority, Merchant Shipping Directorate, September 2000
- Port State Control: Dr Z Oya Ozcayir
- The Erika Oil Spill a paper by Simon Mustoe
- "*Erika*" (France) – implications for Asia-Pacific, a paper by Roger Timms AMSA for National Shipping Industry Conference



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