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Volume 3 Number 3 June / July 2006

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Risk and responsibility

Dale Neef contends that ships will continue to be found guilty of discharging oil illegally until owners and ships management decide to adopt a formal Corporate Responsibility and Risk Management framework that monitors environmental, safety and security issues at a shipboard level

There is nothing more damaging to the reputation of maritime shipping than oil spills. In fact, few other industries have a single, comparable issue that resonates so negatively with the public. The apparel industry is one, and as with Nike and sweatshops, oil spills have become synonymous with maritime corporate irresponsibility.

This, of course, is with good reason. Oil spills combine all the elements that make for an angry public, wary investors, and a severe roasting by the press. Take just three examples from the past two decades:

- The *Exxon Valdez*, devastated the environment, killing around 250,000 seabirds, at least 250 bald eagles, and more than 20 orca whales. **Exxon** was fined \$6.75 billion in damages (and yet the incident ranks only at 35 among the world's largest oil spills);
- The *Rocknes* disaster in 2004 took the lives of 18 crewmen and spilled several thousand litres of oil and bunker fuel along the coast of Norway, killing thousands of seabirds and marine animals;
- The oil spill disaster involving the *Prestige* in November 2002 off the coast of Spain cost the **London Protection and Indemnity (P&I)** club alone \$27 million, and it is thought that the cost of the clean-up to the Galician coast ran to more than €2.5 billion (\$3.2 billion).

There are many other examples, of course, each with its gruesome photos of environmental damage, and its association with corporate brand names, massive fines, and criminal prosecution. In short, oil spills continue to create a powerful – and negative – image of the shipping industry.

The magic pipe

These types of large-scale oil spills have led to increased vigilance and greater regulation by coastal authorities. In fact, two new **European Union (EU)** bills will come into force in 2006 that will require member nations to treat oil or pollution discharge from ships as 'illegal acts', punishable by heavy fines – from €150,000 to €1.5 million (\$190,000 to \$1.9 million) – and even imprisonment. Responsibility will also extend beyond the officers, the crew and the

ship's owner. Now ships management, and even charterers can be held liable. The US has been equally stringent.

But it is not just the large-scale oil spills from tankers that damage the industry's reputation. Much more frequent in the news, in fact, are the smaller spills that come from maintenance failures, or worse, 'magic pipe' incidents. In the past 12 months, these types of spills have been almost constantly in the news (even in the non-shipping press), and have meant a record number of fines and criminal convictions.

A good example is the November 2005 magic pipe incident in the port of New Jersey by the *Atlantic Breeze*, owned by the Singapore-based **Wallenius Ship Management PTE Ltd**. The chief engineer of the ship faces more than a year in prison after he pleaded guilty to violating the US Act to Prevent Pollution from Ships and charges of using a magic pipe to dispose of oil and other liquid wastes. Wallenius Ship Management admitted seven felony counts, and were assessed a fine of \$5 million, with an additional \$1.5 million to be paid for clean up efforts in New Jersey. And the penalties don't stop there. All 12 auto carriers operated by Wallenius Ship Management will be subject to a three-year probation during which they will receive inspections from third-party auditors that will have access to any of their ships that trade in the US.

And this was not an isolated incident. In New Jersey harbour alone (and having lived there for many years, I can attest that it needs all the environmental protection possible), there were two other magic pipe incidents in the past year. In January, the chief engineer of the Japanese-owned *Magellan Phoenix* was sentenced to a year in prison for discharging sludge, and the Taiwanese company **Evergreen International S.A.** was forced to pay a total of \$15 million to five states for a series of magic pipe incidents.

In fact, despite the publicity, strict regulation and tougher enforcement, these types of incidents are occurring everywhere. There have been 28 ships charged with illegal pollution, for example, off the coast of France in the last three years. And the €800,000 fine recently meted out for the oil slick released off the coast of Brittany in September 2005 by the container ship *Maersk Barcelona* is another good example

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of how legal responsibility for these types of activities is shifting. Whatever damage the incident might have had to the good name of **Maersk** (the ship was actually owned by **Munia Mobiliengesellschaft** and was only on time charter to Maersk), 90% of the fine was actually assessed against **V.Ships** as the ship's manager.

The *Maersk Barcelona* incident highlights another important issue: the damage to a company's reputation. It is common practice among non-governmental organisations (NGOs) and activist groups to focus on leading brands when indicting an industry for social or environmental failures. Whatever their level of comparative responsibility (as with the association of Nike or **Gap** with child labour in the apparel industry), Maersk and Wallenius, as brand leaders, may find that their association with these incidents makes them the focus of press and activist criticism in a way that similar actions by smaller, less well-known shipping companies might not.

A little knowledge

So how can all of this be stopped?

For the major oil spills there are obvious answers. Poorly engineered, sub-standard tankers and single hull vessels are obvious

culprits, but these types of ships are rapidly being eliminated by the quality owner/operators and oil majors. Most oil spills from tankers are today limited to loading or discharging mistakes made in port facilities, and more than 90% of all incidents now involve less than seven metric tonnes (mt) of oil. In fact, the total amount of oil spilled per year (according to the **International Tanker Owners Pollution Federation – ITOPF**) has dropped dramatically in the last two decades: from 85,000 mt in 1985 to just 17,000 mt in 2005. This is largely because of the insistence by the oil majors on high-quality ships. Even the **Oil Companies International Marine Forum's (OCIMF) Tanker Management Self-Assessment (TMSA)**, whatever its limitations, reflects an encouraging concern for operational safety.

But a magic pipe incident is something different. After all, implementing a sophisticated bypass system isn't carelessness, or indifference; it is intentional. It is a pre-meditated act that requires collusion among the crew and the skills of an experienced engineer.

So why, given the damage to reputation and the environment, and even personal financial and criminal liability, does this continue to happen? After all, companies such

'I believe that not enough steps have yet been taken to be able to say that the market is fully prepared'

'It is hard to tell how bunker buyers will react, but with a projected price premium of \$70-\$100 a tonne, I am afraid that there will be quite a lot of non-compliance'

as V.ships and Wallenius (as Wallenius Ship Management PTE Ltd's parent company), are responsible industry leaders in social and environmental programmes.

These incidents highlight the problem inherent in many multi-national corporations today – a lack of knowledge and risk management. Either senior management know what is going on and are culpable, or (more likely), they simply don't know what is happening in their own operations.

If senior management know of regulatory violations and do nothing, then that is an issue of integrity. For example, it is reported that the **US Coast Guard (USCG)** found that seven of Evergreen's US-based fleet were using bypass pipes. At what point do these types of incident begin to point toward broader management collusion?

But, as is more likely, if senior company management do not approve of these types of activities (and I have to believe this is the case with the majority of quality shippers), the question then is why, given the management and technology systems available today, don't they know what is happening aboard their own ships?

After all, information technology has advanced to the point where maintenance and operations can be monitored and recorded accurately. And these types of violations are covered by clear regulations, codes and standards (everyone would admit that there is enough regulatory direction to conclude that using a magic pipe is something that a company should not do).

Corporate responsibility

These are the same reasons why Corporate Responsibility and Risk Management (CRRM) as a management practice has risen so quickly to prominence in other industries. In fact, the movement captures perfectly the feeling among quality shipping companies today (and among maritime shipping's stakeholders) – that regulation and a minimum compliance mentality is simply not enough to protect against bad

behaviour.

What other industries have found is that companies need to monitor and manage their maintenance, health, safety and environmental activities in a more formal way that goes beyond mere statutory compliance. According to CRRM, identifying and avoiding risk should be as much an integral part of day-to-day activities as avoiding delays or running a ship under capacity.

But what does CRRM mean, in real terms, to shipowner/operators and ships managers? There are three things that companies need to consider in order to begin combating these types of issues:

- First, understand activities at a shipboard level: Many companies will claim that they are already monitoring environmental, safety, crew welfare, and security issues at a shipboard level, but few could provide a detailed report by ship of these types of activities. Engine emissions levels, code citations, maintenance issues, safety incidents, crew training levels – all may be known by ship's officers – but because this type of information is usually collected on a piecemeal basis, scattered about the ship on various manual logbooks and computer spreadsheets, seldom is this level of information available to corporate quality assurance or company officers. Yet this is exactly the type and level of information that is necessary in order for senior management to spot disturbing trends and to take preventative action before incidents occur.
- Second, ensure data integrity by using information technology: Despite the plethora of regulations and operating IT systems aboard ships, most shipowners and ships management would admit that there is still a serious problem with data integrity and recordkeeping aboard ships (particularly when compared with other land-based manufacturing or transportation industries). In part this is because shipboard IT systems have never gone through the systems integration

process that has been so common in large company Enterprise Resource Planning (ERP) systems over the past decade. Shipowners and management need to be able to use information technology to gain access to all types of performance information; and to have automatically generated reports and dashboards that can help track trends and spot potential areas of risk.

- Finally, create proper key performance indicators (KPIs): Shipowners and managers need to change the KPIs they use to monitor and manage their shipboard and company activities. To manage risk better, these KPIs need to reflect new social, environmental, safety and security concerns.

There are several KPI initiatives now being started in the shipping industry – at association and at company level. Yet the vast majority of metrics and KPIs in these initiatives still focus almost exclusively on cost and operational issues.

These are important, of course, but what is needed now is a stronger will to set KPIs that truly reflect the types of behaviour that company leadership wants to see in their crews. After all, the best way to 'embed' good behaviour in employees that have few ties to the company's culture or values is to collect information on the ship's performance in specific areas of environmental health, safety. It is simply a confirmation of the well-tested maxim that what gets measured gets managed.

In short, KPIs need to go beyond mere commercial measurements; they also need to help a company monitor and measure risk.

Experience in other industries demonstrates that the best way to change bad behaviour is to make it transparent. As Louis Brandeis, US Supreme Court Justice once said: 'Sunlight is said to be the best of disinfectants.' In shipping, transparency comes from focusing policies, technology and KPIs in a way that helps company leaders to monitor, at ship level, important metrics about safety, security, environmental activities, crew training, crew welfare, and corporate governance.

In short, if shipping companies want to avoid oil spills and magic pipes, they need a more focused approach to Corporate Responsibility and Risk Management.

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