

U O W

Places of Refuge Case Studies

China-ASEAN Academy on Ocean Law and Governance
1st Special Program of Maritime Law Enforcement

National Institute for South China Sea Studies (NISS)
China-Southeast Asia Research Center on the South China Seas (CSARC)
Australian National Centre for Ocean Resources and Security (ANCORS)
 20-26 October 2019, Haikou, China

Anthony Morrison, PhD (amorriso@uow.edu.au)
 Research Fellow, Australian National Centre for Ocean Resources and Security (ANCORS)



Urquiola

- slightly damaged on a voyage from Saudi Arabia, when it hit a shoal not indicated on the maps at the entrance to the port of destination La Coruña (Galicia, Spain)
- sought refuge in that port. Access was refused and the ship was ordered by the port authorities to go 200 miles offshore.
- ship grounded again, became stranded and exploded killing those on board and causing a spill of approximately 110,000 tons of oil.



ANCORSUOW 

Christos Bitas

- ran aground near Milford Haven in Wales and refloated itself
- requested that it proceed into the Irish Sea even though it was in a damaged state and leaking oil.
- towed into Irish waters off Wexford where the cargo of oil was offloaded and the ship was towed out to deep water and sunk.
- While this was not a refusal as such, the failure to order the ship into port had the same effect.



ANCORSUOW 

Andros Patria

- carrying 208,000 tons of oil suffered a crack in the cargo tanks off Spain and quickly lost 50,000 tons of oil
- refuge were refused by Spain, Portugal, France and the United Kingdom because of the fear of contamination
- transfer of the oil that remained in the tanks into the English tanker "British Promise" in the south of the Azores
- Once lightened, she was carried to Lisbon for repairing, and scrapped



ANCORS UOW

Atlantic Empress

- *Atlantic Empress* collided with the *Aegean Captain* off Tobago resulted in a spill of 287,000 tons
- *Atlantic Empress* was refused refuge in Tobago and towed out to sea where it exploded and sank
- Because of its position there was little environmental damage



ANCORS UOW

Aeolian Sky

- The *Aeolian Sky* was built in 1978
- On 3 November 1979 while travelling 20 miles off the coast of Guernsey she collided with the German coaster in fog and during a storm
- only lightly damaged,
- port authorities of Portsmouth and Southampton concerned that the ship would sink fouling their busy waterways, declined permission for her to enter either port.
- weather at gale force, the tug started to tow the ship to get to [Portland Harbour](#) but sank.



ANCORS UOW

Attican Unity and Long Lin

- *The Attican Unity* caught fire and sought refuge in Antwerp. However it was refused entry into Dutch territorial waters to enable it to do so
- Court effectively upheld the right of a port to refuse refuge to a ship in distress because of the dangerous condition of the ship.
- *The Long Lin*, was carrying a cargo of resin and had been heavily damaged in a collision off Ramsgate. The collision had resulted in some of the cargo being lost and the fuel tanks of the ship being hit allowing oil to escape.
- Confirmed it is permissible for a coastal State to refuse access to damaged ships that pose a threat



ANCORS

UOW 

Toledo

- *The Toledo*, the ship developed a major leak in the hull during adverse weather conditions such that the hold was flooded and it was in danger of sinking.
- The crew were airlifted off the ship which was then abandoned to the salvors. Access to Irish ports was requested and refused for the reasons that there was no risk to life and there was risk the ship might be wrecked and bunker fuel might pollute the south Irish coast, as well as the practical reasons that Bantry Bay and the only other alternative, Cork, were unsuitable. The ship was towed to Falmouth in England where it was also refused access, was beached, was subsequently declared to be a total loss.

ANCORS

UOW 

Erika

- Greek owner/Maltese flag
- Carrying 30,000 tonnes of heavy fuel oil
- Developed structural problem in Bay of Biscay
- Refused refuge in France
- Broke in 2 and sank quickly spilling 20,000 tonnes of oil and polluting 400km of coast
- Owner, manager, charterer and Classification Society fined



ANCORS

UOW 

- 25 year old ship
- 8 owners
- 4 classifications societies (last RINA from 1998)
- Report by RINA in October 1998 stated “ no defects affecting integrity of hull or the structure, no outstanding recommendations affecting class and material wastage was within class requirements”
- Report in October 1999 disclosed no defects except apparent thinning of longitudinal deck structures close to ballast tanks
- On December 12 1999 it broke in two and sank

ANCORS UOW

- At time of sinking all class and statutory certificates were valid
- Between 1991 and 1999 it was inspected 18 times by flag State control and port State control inspectors
- In summer 1998 substantial repairs under supervision of RINA
- Inspected 5 times between repairs and sinking
- Four of 7 sisterships experienced severe structural defects from late 1980's and 1991-2
- And yet it sank in 24 hours.

ANCORS UOW

Castor

- Greek owner/Cyprus flag
- Carrying 23,000 tons of unleaded fuel
- Developed severe structural problems off Gibraltar
- Refused refuge by Morocco, Spain, Gibraltar, Algeria, Tunisia, Malta and Greece
- After 40 days, cargo successfully removed and ship towed to Greece



ANCORS UOW

Prestige

- Bahamas Flag/Liberian owner carrying
- Structural damage off Spain
- Spain refused refuge and ordered salvors to tow ship away from the coast
- Ship broke up and sank 170 miles off coast causing major oil spill which polluted 800 kilometres of Spanish coast
- Clean up costs estimated 3 billion Eu



ANCORS UOW

- 26 years old
- American Bureau of Shipping (ABS) built and maintained to ABS class
- After fifth special survey in April 2001, substantial repairs done
- Annual survey in May 2002 required minor repairs
- Port State Control Inspections had revealed no deficiencies and there had been no detentions

ANCORS UOW

Flaminia

- MSC Flaminia is a German-flagged container vessel.
- On 14 July 2012, on a voyage from Charleston (USA) to Antwerp (Belgium), with a cargo of 2876 TEUs, the vessel encountered difficulties in the Atlantic Ocean 1,000 nautical miles west of Cornwall (UK).
- On that day a fire broke out in hold 4 and during the attempts to extinguish the fire an explosion occurred.



ANCORS UOW

- A crew member was killed and another one subsequently died of his injuries .
- As a result of the fire and explosion, 72 containers were destroyed and 24 were substantial damaged. 151 containers contained dangerous goods. the vessel was not permitted to enter the waters of any coastal State until 16 August. On 17 August, Germany agreed to grant a place of refuge.
- On 31 August the consents of all coastal States involved were obtained and on 8/9 September the vessel was towed into and berthed in Jade-Weser-Port in Wilhelmshaven, Germany.

ANCORS UOW 

- Inquiry then found the IMO Guidelines are not internationally binding but should merely be treated as recommendatory, and deal with any situation that may involve the loss of a ship and/or a risk to the environment or vessel traffic
- it was emphasised that the Guidelines confirm that a (sheltered and thus near the coast) place of refuge basically represents the best means of combating risks to or posed by the stricken vessel. Having said that, the Guidelines also stresses that the allocation of a berth near the coast or a port can pose significant risks to the coastal or port State affected.
- the Guidelines call on coastal States to weigh up the benefits the ship concerned and the environment would derive from the allocation of a place of refuge on one hand, and the (additional) environmental risks posed by the stricken vessel being near to the coast, on the other.

ANCORS UOW 

- it should therefore be noted that the Guidelines seek an entitlement of the flag State (and with that the stricken vessel) to a correct decision on access to a place of refuge based on the discretion of the coastal State requested to provide assistance, which is endorsed by international law. As a general rule, the decision to refuse or grant a place of refuge should be taken only after open-ended and careful consideration of the arguments for and against doing so in the case in question.

ANCORS UOW 

Stolt Valor

- STOLT VALOR a Liberian chemical tanker carrying 13,000 tonnes of dangerous chemicals and 430 tonnes of Intermediate Fuel Oil (IFO 380) as bunkers, suffered an explosion in international waters off Ras Tanura, Kingdom of Saudi Arabia.
- investigations for potential places of refuge, were sent to the Qatar, Bahrain, Saudi Arabia and Iran. None of these countries granted refuge to the casualty and bunker oil removal started at sea on 24th March once the risk of further fire and explosion risk were reduced.



ANCORS

UOW 

- The oil removal operation was completed on 2nd April and the cargo removal was completed on 29th April. No leakage of oil or cargo was reported throughout the operation and the casualty was eventually towed to a shipyard in the Kingdom of Bahrain to be recycled
- A key factor in approving the vessel for transit to Bahrain was the compliance of the vessel's owner with a number of stringent requirements, including: performing offshore lighterage of all heavy fuel oil, diesel, lube oil and all cargo remaining on board; gas freeing for the entire vessel including all tanks; structural assessment report for the intended tow-voyage to the repair yard; confirmation from Bahrain for receiving vessel directly to the dry dock; approval to use an inward route to dry dock outside the main channel; and full liability for any unforeseen eventualities.

ANCORS

UOW 
