

# Nightmare of finding place of refuge

Simon Tatham looks at how stricken vessels can get caught up in an extended game of political ping-pong between rival nations, increasing the risk of environmental damage



► Simon Tatham

I try not to miss the Salvage & Wreck Removal conference organised in London by Lloyd's Maritime each December. Some interesting papers were presented on this occasion, not least by the Standard Club on the *Costa Concordia*, now that the dust is settling on the case, and by Nippon Salvage recounting their recent place of refuge nightmare as salvors.

This case concerned the *Maritime Maisie*, which had suffered a serious collision in the narrow straits between South Korea and Japan, and the ship's fate was then the subject of an extended game of ping-pong between those two states, until eventually the Koreans relented and allowed her into a port.

These are difficult, politically sensitive cases because the vessel often needs a place of safety where intervention can take place to deal with the fire or other problem, but while the problem persists there is a risk of pollution.

Coastal communities are, understandably, reluctant to voluntarily expose themselves to such threats. This tricky issue was addressed by the IMO Resolution on *Guidelines on Places of Refuge for Ships in Need of Assistance* drawn up in 2003, and in Europe by the EU *Vessel Traffic Management Directive*. There is also a provision under Article 11 of the Salvage Convention of 1989 requiring contracting states to ensure the efficient and successful performance

of salvage operations as well as preventing damage to the environment.

The IMO document set out to recognise the need to balance a ship's need for refuge and a state's desire to protect its coastline on a case-by-case basis, and to achieve this by a framework of good practice guidelines.

The core provisions run to merely four pages, two of which relate to what the ship should do and two that deal with guidelines for the state.

The former amounts to basically two propositions: identify and assess the risks and secondly to inform the coastal state.

Coastal states, for their part, having firstly established a maritime assistance service capable of responding, are to make a subjective evaluation of the ship's situation and risk.

*"It seems inevitable that the problem of leper ships will continue for the foreseeable future"*

An appendix to the guidelines provides a pragmatic and logical list of matters to take into account.

These include social and environmental factors such as the sensitivity of the area, fisheries, economic activity, population, tourism, the reception of cargo and other available facilities.

To this are added natural conditions to be taken into account such as exposure to wind and sea, tides, seasons, bathymetry and navigational characteristics, both in relation to the casualty, shipping traffic and to permit good access by salvaging craft.

Nowhere, incidentally, is politics mentioned, despite being possibly the single greatest obstacle to decision making in these cases.

In the UK at least, politics are avoided to a degree by the ingenious appointment of the famous SOSREP, a single purpose civil servant widely empowered to make critical decisions and to intervene in maritime emergencies, being answerable only to one minister of state.

Leaving politics aside, it does not take a genius to conclude that few locations will meet each and every test, particularly in densely populated or environmentally sensitive areas.

Even in more remote regions, adverse factors can apply to dissuade a coastal state from assisting, and in a recent case the presence of a desalination plant in a sparsely populated desert region was sufficient to prevent a refuge from being granted.

It seems inevitable that the problem of leper ships will continue for the foreseeable future and that there will be no substitute for teamwork between owners and their insurers, salvors, flag states, technical experts and classification societies, combined with very long hours, competent risk assessment, excellent co-ordination and good communications both at 'team' level as well as with the target state.

These all come at some cost, including a daily or SCOPIC rate for the tugs and responders engaged, but that is part of the very considerable investment required these days if a ship in serious trouble is to gain access to a port or place of refuge.

• Simon Tatham is a partner of Tatham Macinnes LLP and a founding member of the TugAdvise.com service. He has 30 years experience in shipping law.







## Long term reliable machine cooling systems

GEA Bloksma Boxcoolers ensure elimination of complete outboard secondary cooling water circuit on board. Furthermore it protects the sea-chest against galvanic corrosion by a coating covering all noble surfaces.

**GEA Bloksma B.V.**  
 Tel. +31 36 549 23 00, Fax +31 36 549 23 90, Email: bloksma.info@gea.com, www.gea-heatexchangers.com

engineering for a better world GEA Heat Exchangers