

BOOK REVIEW

**Shipping and the Environment
Law and Practice 3rd edn**
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The second edition of *Shipping and the Environment* was already a seminal tome – if not *the* seminal tome – for anyone with an interest in the rules and regulations governing ship sourced pollution damage and large maritime casualties. Its length and breadth of coverage was only surpassed by the in-depth nature of its analysis of the subject matter covered and the experience and expertise of the authors themselves. This third edition not only seeks to cover the subsequent development of the environmental aspects of shipping but does so with the addition to the existing line-up of leading practitioners in this field of a new co-author in the form of Jonathan Hare, formerly General Counsel at Assuranceforeningen Skuld (Skuld). During his time at Skuld, Jonathan Hare handled some of the most well-known ship sourced oil pollution damage incidents (the *Braer* and the *Sea Empress*, amongst others) in the last 30 years and was a well-respected figure in the P&I industry, especially on both the practical aspects of handling ship sourced pollution damage cases and on the knowledge and application of the related global rules and regulations. His addition as a co-author for this third edition is both positive and welcome.

There are 30 chapters in this updated edition, with an emphasis on differentiating between international rules and regulations, primarily those adopted at the International Maritime Organization (IMO), and US domestic legislation and in particular where the US has taken its own path from the IMO, eg US OPA 90, CERCLA etc. Reference is also made to divergent rules at the EU level and which has become, and continues to be, an important legislator in the maritime sector. The updates are necessarily wide-ranging and many.

Chapter 1 has been extensively rewritten – to the point of being described by the authors as a book within a book – to set the scene and provide the canvas on which the subsequent chapters can be drawn. In doing so it provides an eloquent and detailed insight into this fascinating subject, detailing the history of pollution events and the framework of marine environmental laws which often arose as a direct consequence of those landmark incidents. So,

from the start of the ‘supertanker’ age, we move from the beaches of Cornwall and the *Torrey Canyon* with the lack of any coherent liability and compensation regime to address the consequences of marine oil spills and which led to the birth of the IMO convention system, through to more recent events with the likes of the *Erika*, the *Prestige* and the *Hebei Spirit*. The history and development of the United States’ own unique system is described in equal depth, with the evolution and impact of the Oil Pollution Act of 1990 seen through the prism of the *Exxon Valdez* and the *Deepwater Horizon* in particular. This section finishes with a look at the broader environmental and compliance-led contexts in which the modern shipping industry must operate, with topics as varied as greenhouse gas emissions to sanctions and polar operations.

Chapters 2 and 3 (as well as 9 to 13) focus on developments related to the 1992 CLC, the 1971 IOPC Fund and the 1992 Fund Conventions and judgments in the *Erika*, *Prestige* and *Bow Jubail* cases and their impacts on the oil pollution damage regime, the contentious winding up of the 1971 Fund and the welcomed Funding of Interim Payments Standard Terms used by P&I Club members of the International Group of P&I Clubs in the 1992 CLC/1992 Fund cases. The discussions and agreements reached on such matters are often taken without fanfare or headline-grabbing attention but are no less important for it. In a similar vein, the opportunity is taken to explain the funding agreements STOPIA and TOPIA; rightly invisible to the victims of oil pollution, both schemes are nonetheless vital for the efficient and equitable funding of compensation for the victims of oil spills between the shipping and oil industries.

The authors’ coverage of such matters highlights the importance of the work of industry organisations such as the International Group of P&I Clubs and inter-governmental and UN agency forums such as the IMO and the International Oil Pollution Compensation Funds (IOPC Funds). Their first-hand knowledge of such matters adds much more than just an external forensic oversight of the international oil pollution compensation system and ship sourced oil pollution damage incidents but takes us into the heart of behind-the-scenes discussions that has continued to ensure that vessels are able to trade within a global rules-based order in the shipping sector.

Detailed discussion of the *Deepwater Horizon* and industry practice and international regulations in the offshore sector follows in Chapters 4 and 5 and

emphasises the sheer magnitude not just of the environmental and social impact of the *Deepwater Horizon*, but the financial risk of doing business in the offshore sector in the world's largest, but highly litigious, economy. The rules and regulations governing liability for environmental damage in this sector are often overlooked given their fragmented nature and lack of an international rules-based approach compared with shipping. It is debatable whether industry best practice in the offshore sector and, as such, industry self-regulation to a degree, provides an appropriate balance between protection of the environment and burdensome and unnecessary regulation. The *Deepwater Horizon* provides arguments for both sides of such a debate, but the authors' analysis and understanding of the subject matter is probably the most comprehensive currently available.

Part V looks at how the law relates to the particular parties in the maritime sphere, with the inclusion of parties such as charterers, cargo owners, ship managers, the owners of colliding ships and marine pilots being particularly apposite in the face of the modern tendency for the net of potential culpability to be spread by claimants, media and governments as widely as possible. The section on pollution liabilities arising from ship collision and the People's Republic of China (PRC) Supreme Court's *CMA CGM Florida* case in particular, along with details of the PRC's pre-contracting requirements with clean-up companies set out later in Chapter 25, make clear some of the intricacies of trading with the country that is currently the world's biggest importer of crude oil. As we noted previously, the addition of another leading P&I Club manager in Jonathan Hare to the roster of authors gives the section in this chapter on insurance and how the P&I Clubs in particular structure and operate cover for pollution risks unparalleled authority.

Further important court decisions are covered in Chapters 15, 17, 18, 22, 25 and 27 in the form of the *Athos I*, *Cosco Busan*, *APL Sydney*, *Shen Neng I*, *Prestige*, *Atlantik Confidence*, *Stolt Valor*, *MSC Flaminia*, *Costa Concordia*, *Rena* and *Golden Ray* cases, providing a suitable combination of analysis of difficult and complex cases and the actual application

of rules and regulations, including their inconsistent application and interpretation, alongside the oversight of such rules and regulations both in their formation and the politics and dynamics behind their negotiation. The coverage of the *Costa Concordia*, *Rena* and *Golden Ray* cases serves to highlight that: (i) the tragedy of loss of life can often be overlooked in high-profile cases that gain international media attention and headlines that are driven by self-interest and an appetite for salacious news stories; (ii) the sheer scale and cost of wreck removal cases; and (iii) the unique nature of P&I cover and how the P&I Club members of the International Group of P&I Clubs are able to cover such huge losses through a unique and flexible system of mutuality. The authors' coverage of such cases is balanced, well rounded and proportionate.

The final part of the book brings matters right up to date with a look at some of the modern societal pressures on shipping through the advent of environmental, social and corporate governance and other frameworks. Rules to prevent pollution from ships are discussed, along with topics which have come to the fore in recent times such as dumping, the recycling of ships and the fair treatment of seafarers, the latter sadly a vital topic for inclusion where innocent seafarers have been vilified for the mistakes and actions of others which led to pollution events.

There is no shortage of new material in this third edition of *Shipping and the Environment* to bring readers up to date. This is a prodigious and highly recommended work and deserves a wide readership amongst anyone with an interest in ship sourced pollution damage, environmental rules and regulations in the shipping sector and an understanding of how such rules and regulations are developed and subsequently applied in practice.

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