

SHIPPING
INTERNATIONAL EMERGENCY RESPONSE



What is a crisis?

A maritime casualty can become a crisis when the operator has little or no control over events; when there is little time to formulate and develop a clear plan; when the problem threatens to knock the business off its usual track; and when the decisions are being made in the full glare of hostile media.

Combined with a threat of pollution and/or loss of life, the upshot is an event which, if not handled correctly, may well affect the long term viability of the company and will certainly damage, perhaps fatally, its reputation - an uninsurable asset.

Why Ince?

Quite simply: our experience in dealing with some of the biggest maritime casualties makes us the first choice for our clients and their insurers wherever the problem is in the world.

One of our offices is instructed to help with a maritime casualty nearly every day of the year. That we know the law is a given, but it's our ability continuously to provide commercial and often creative solutions, when all parties are under pressure and in any jurisdiction, that makes us different.

Our team (many of whom are ex-mariners) is ready to respond 365 days a year. This experience gives us a unique insight into effect crisis response and how to plan for it. Whether the issues relate to the ship, salvage, the environment or reputation, we offer our clients a comprehensive service encompassing legal, auditing and media advice. In short, we help our clients to manage a crisis rather than just react to it.

Aims of an Effective Response (ER)

The aims are to:

- > minimise financial losses
- > minimise negative reaction
- > reduce personal liability - particularly important for company directors
- > safeguard company assets, of which the most important is reputation.

What we do

Preparing to face a crisis

Maritime incidents often happen unexpectedly. Preparation, therefore, is critical. We work with our clients to ensure they are adequately prepared and able to handle whatever an emergency situation will demand at each of the three critical phases in any

crisis management response. If you'd like to review your crisis response procedures/planning or discuss this critical subject with one of our ER team, please contact Faz Peermohamed (faz.peermohamed@incelaw.com), or speak to your usual contact or any of those named overleaf.

Pre-planning

All shipping companies have a plan dealing with a myriad of possible casualty scenarios, from collisions and fires to groundings and, increasingly, attacks by pirates. At the pre-planning phase we review these plans, consider their flexibility and test whether they work. We do this by providing workshops and seminars with clients' operations teams, sometimes in conjunction with other experts, to ensure that training is maintained and response strategies are up-to-date, whether they are regular desk-top drills or full-blown ER exercises.

Effective Emergency Response

The key benefit of pre-planning and carrying out drills is that many of the key decisions have already been made when a crisis occurs. In an emergency a company's response team will very quickly become tired, and may find the pressure and stress of handling the crisis increasingly difficult.

Our ability to respond immediately enables us to give advice and support to the company's leadership team, acting as a sounding board and helping with the formulation and implementation of the agreed strategy. Our involvement provides input with the important early decisions, all of which will have long term legal consequences. These will include:

- > issues of jurisdiction and limitation
- > dealing with the arrest of a ship
- > criminal issues, where the arrest of the master is becoming the norm
- > salvage and GA
- > contractual matters arising from the bills of lading and charterparties
- > crew welfare
- > dealing with local authorities.

We will send an experienced lawyer and/or mariner to the site of the incident to provide similar support to the master, as well as to gather the evidence needed to determine liability. They will often work with and guide the local authorities handling the casualty, acting in the interests of the client to achieve the best outcome.

Crisis communications

Mounting an effective response is critical, as is the ability to communicate with a sceptical public and to your key stakeholders, including insurers, charterers or bankers. We are experienced in working with a client's PR advisers. Equally we are able to provide advice on dealing with the media and on how best to control the flow of information crucial in determining liability and managing the litigation risk. As the role of the internet in global communications increases, we recognise the need to have the capability to operate web-based communication platforms so that the demands of the press and the outside world for instant information are met.

Our approach

Ince tailors its team to the particular casualty. Although many incidents can be investigated speedily and efficiently by one person, if needed we field a team of any size which remains in constant touch with a supervising partner at one of our offices.

Each of our offices is able to secure the involvement of any other office immediately, at any time of the day or night.

Areas of expertise

Few accidents do not give rise to litigation, arbitration or insurance considerations. Our ER team includes globally renowned maritime litigators and arbitrators as well as one of the world's most respected teams of marine insurance lawyers. For accidents which provoke doubts about professional or technical competence, our lawyers include not only those with the relevant technical backgrounds, but several with significant professional indemnity expertise, gained acting both for defendants and claimants. Ince & Co's global shipping team contains a significant number of ex-mariners, 11 of whom are Master Mariners. Between them they have sailed on most vessels types. Their experience at sea provides valuable insight into the full scope of our casualty investigation work.

Experience

Ince & Co has handled most of the world's recent major maritime disasters, usually on behalf of the shipowners and their insurers. Examples of these include:

- > the **Hebei Spirit** tanker oil spill in Korea
- > the **Prestige** breakdown, attempted salvage and oil spill in the Bay of Biscay, off the coast of Northern Spain
- > the **Selandang Ayu** freighter wreck off the coast of Alaska and the **Tropic Brilliance** grounding in the Suez Canal.

In each case we provided our clients with the benefit of an ER team, expert in the practical and legal challenges arising from the particular type of major accident involved.

The Hebei Spirit

What happened?

On 6 December 2007 the *Hebei Spirit* oil tanker was at anchor at a pilot station off Daesan port, awaiting orders to enter port to deliver her cargo, when she was struck by the giant crane barge Samsung No.1, after a tow line parted in heavy seas. The subsequent damage to the tanker caused part of her cargo of crude oil (about 11,000 tonnes) to escape into the Yellow Sea. One of the largest oil spills of recent years and the worst in South Korean history, this resulted in substantial pollution of the surrounding area and the government declaring a state of disaster.

Ince's involvement

Acting on behalf of the shipowners, managers and their P&I club, we immediately despatched a senior member of our ER team from our Hong Kong office. As a result of our findings we were involved in establishing compensation arrangements, negotiating the release of the vessel and in defending the crew against criminal charges.

We also advised on the legal issues associated with the international media campaign to highlight the detention of the ship's crew and the dissemination of information through the media.



Money saver

Crises are by their nature exceptional and, in exceptional cases, responding effectively will make the difference between continuing to trade profitably and unhindered and complete financial collapse. In most cases it is impossible to quantify exactly how much money can be saved through the implementation of effective and efficient emergency response procedures, but given how quickly and to what extent such crises can deepen, the potential risks to company assets and corporate reputation, are both enormous and inescapable.

Contact us

If you'd like to review your crisis response procedures/planning or discuss this critical subject with one of our ER team, please speak to your usual contact or any of those named below:

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