

Two years after the Prestige disaster, new sea pollution measures blocked

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1 December 2004

It has been two years since the Prestige oil tanker carrying 77,000 tonnes of heavy fuel oil sank, polluting the coasts of Spain, Portugal and France.

However, several countries have delayed new measures designed to reduce the risk to European coastlines of pollution by oil and chemical tankers.

Following the sinking of the oil tanker Erika off the French coast of Brittany in 1999, spilling thousands of tonnes of oil onto beaches, the European Commission proposed two sets of regulations to prevent future ship pollution and the costs involved in cleaning up the environment and paying compensation.

The Erika-1 regulations demanded European Union governments carry out an annual inspection of every high-risk ship entering its ports and blacklist those repeatedly found to be in poor condition. The regulations stated that by 2015 all single-hulled ships like the Erika had to be phased out and replaced by much safer double-hulled ships. Erika-1 also called for stricter control of the “classification societies” to whom governments subcontract ship inspections and which are often owned by ship owners, shipbuilders or other commercial shipping organisations.

The later Erika-2 regulations required greater monitoring of maritime traffic including the fitting of black box recorders, the creation of places of refuge for ships in distress, a European Maritime Safety Agency and a 1-billion-euro compensation fund.

But the Commission complained that “certain key components” of the Erika packages were “watered down” during discussions with the Council of Ministers. The Commission had originally proposed, for example, that single-hulled tankers be taken out of service after 23 years—a measure that would have prevented the accident involving the 26-year-old Prestige.

The Prestige was a Liberian-owned vessel with a Greek captain, crewed by Filipinos and registered in the Bahamas, that had been chartered by the Russian Alfa Group conglomerate and subject to inspections by the American Bureau of Shipping (ABS) classification society.

It sank some 250 kilometres off the Spanish coast of Galicia on November 19, 2002. It was the third major oil slick in the region in less than 20 years and became Spain’s worst environmental catastrophe, severely affecting the vital tourist industry and crippling the fishing industry. The port of Vigo in Galicia is the largest fishing port in Europe.

The Greek captain Apostolos Mangouras, who was arrested and accused of disobeying orders and polluting the environment, said, “I want to put on record that I offered the most precious thing a person has—his own life—by staying on board my gravely wounded ship,

trying with all my strength to avoid that catastrophe.”

He accused the Spanish government of refusing his requests to tow his ship to a place of refuge.

By December 2002, the Spanish Popular Party (PP) government of Prime Minister José María Aznar admitted that it “had made bad decisions” such as ordering the ship to be towed away from the coastline, but it continued to make incorrect statements. At first, the government claimed just 17,000 tonnes of oil had been lost, and that the remaining 60,000 tons would freeze and settle in the wreck. But by early 2003, it announced that nearly 40,000 tonnes had leaked, and by August 2003 the figure had risen to 63,000 tonnes.

Spanish Socialist Party (PSOE) government spokeswoman Maria Teresa Fernandez de la Vega reported in November 2004 that the bill for the Prestige disaster has now reached an estimated 1 billion euros (US\$1.3 billion), with considerable clean-up costs still to come. Some 70,000 tonnes of sand, for example, contaminated with oil, from 1,000 beaches are still lying in ditches awaiting treatment.

Environmental organisations such as Greenpeace and Galician group Adegas have accused the current Socialist Party government of Prime Minister José Rodríguez of also minimising the extent of contamination and its effect on marine life. The environmental movement Nunca Mais (Galician for “Never Again”) demands that the national and local government take responsibility for “resorting to tactics of concealment, censorship and outright lying.”

Tens of thousands of people took to the streets of Santiago de Compostela in Galicia in a demonstration organised by Nunca Mais on November 13 under the banner “we continue to demand solutions and justice.”

Compensation for the Prestige disaster is payable under the 1992 Civil Liability and Fund Conventions, which form part of Spanish, French and Portuguese law. But the fund hasn’t enough money to pay the 1,000-plus claims, and it decided that payments should be limited to 15 percent of the loss or damage suffered by claimants.

The Spanish government and the Basque region have taken legal action against the ABS to recover \$US 700 million in outstanding costs. This appears to be based on reports in the Spanish press that a temporary relief master of the Prestige sent the ABS a fax in August 2002 detailing various mechanical and structural defects. ABS spokesman and vice president Stewart Wade denies the charges, saying, “ABS has conducted an extensive electronic search of all fax transmissions received at that time and has no record of having received the alleged communication from the master.”

The ABS has instituted a counterclaim against the Spanish government saying the pollution can “be directly attributed to the Spanish Government’s failure to properly activate and implement an

effective oil spill contingency plan as required by Spanish law.”

It also alleges that “the Government’s decision to deny the vessel access to a place of refuge was a clear violation of its legal duty and that the Government acted recklessly, negligently and grossly negligently in its response to the casualty.”

The European Commission reacted to the Prestige disaster by bringing forward the ban on large old single-hull tankers from 2015 to 2005 and instituting an immediate ban on their use to transport heavy fuel oils to or from European ports. EU member states were required to implement most of the Erika-1 and Erika-2 rules by July 2003.

The European Parliament also started its own investigations into the Prestige disaster. Its “temporary committee on improving safety at sea” published the Sterckx report in April 2004, welcoming the implementation of some Erika measures while it “deplored” the various shipping accidents since the sinking of the Prestige.

The worst of these was the capsizing in seconds of the double-hulled freighter Rocknes near Norway in January 2004, killing 18 of the ship’s crew of 30.

In another incident near the Dutch coast in December 2003, the Ethiopian freighter Andinet lost overboard three containers and 63 drums of highly toxic arsenic pentoxide, a wood preservative not listed on the bill of lading.

The Sterckx report noted that the “capacity for cleaning up oil at sea has proved inadequate in certain areas and that no improvement measures have been taken since the sinking of the Prestige,” and that there has been a “proliferation of counterfeit and fraudulent certificates” issued to cover ship safety.

The Spanish government was again criticised for its handling of the Prestige disaster—in particular, its decision to not tow the tanker to a port of refuge—and its statement that it would do the same in similar circumstances.

The Sterckx report also criticised several EU member states for failing to apply European or international legislation on maritime safety. According to press releases from the European Commission, Italy, Portugal, Austria, Luxembourg, Greece, Finland, Belgium and the Netherlands were warned in November 2003 about their failure to implement the regulations concerning inspection of ships. In March 2004, Italy and Finland appeared in court for continued non-compliance.

In February 2004, proceedings were taken against all EU states except Denmark, Germany and Spain for failing to implement the regulations calling for places of refuge and installation of black-box recorders.

In March 2004, warnings were issued to Belgium, France, Italy, Netherlands, Austria and Finland for failing to implement regulations on safe loading and unloading of bulk carriers.

The European Court of Justice found France guilty in June 2004 of failing to carry out the inspection of 25 percent of ships entering its ports as required. Only 9.6 percent of vessels were inspected in 2001, and “the percentage appears to be diminishing,” the Court revealed.

Currently, the Commission and Parliament are trying to pass legislation to prevent ships from dumping pollutants into the sea. European Transport Commissioner Loyola de Palacio complains that “the existing civil liability regimes for pollution by ships do not provide sufficient financial disincentives for shipowners and others involved in the transport of dangerous cargoes by sea to behave in the most responsible way” and is pressing for penalties of up to 10 years jail and fines up to US\$2 million.

The International Tanker Owners Pollution Federation opposes these

measures, saying that oil pollution caused by ships is only a quarter in 1997-2003 compared to 1990-1996—mainly due to the replacement of single-hulled ships by double-hulled ones. However, there are still thousands of deliberate discharges of waste and cargoes from ships each year around Europe. In 2001, there were 390 oil slicks recorded in the Baltic Sea and 596 in the North Sea; and in 1999, there were 1,638 in the Mediterranean Sea.

At a recent meeting of European justice ministers, Greece, Cyprus and Malta blocked the new penalties for ship pollution, saying they would make their merchant fleets less competitive against ships from outside the EU.

Greece said it would never back down from its decision. Government spokesman Evangelos Antonaros declared, “The merchant marine is a national treasure that has been defended by our constitution for 60 years. This would have placed Greek seamen at great danger, and no Greek government would ever allow it.”

Antonaros added “Greece has no intention, and no interest, in cooperating in the criminalisation of seafarers. Others, not us, are responsible for environmental disasters.”

Greece has the largest merchant shipping fleet in the EU, making up about 50 percent of its tonnage, and controls more than 18 percent of tonnage worldwide.

Malta’s Deputy Prime Minister Tonio Borg said, “We acted to protect our national interest. On issues of justice and home affairs, the EU has the rule of unanimity, and Malta didn’t agree with the framework agreement being proposed.

“We have a very prosperous shipping register, one of the largest in the EU, and we had to protect our economic interests. We thought that the agreement being proposed was not in the best interest of our country and so we voted against it,” Borg added.

The sinking of the Prestige and its aftermath highlight the anarchic character of the shipping industry that is used by major corporations to avoid regulations and taxes, as well as the incompatibility of basic concerns for safety and pollution with a system based on the profit motive and national considerations.

Despite the professed concern of the European Union to introduce tighter regulations, 34 percent of the world’s fleet is controlled by European shipowners, the majority of whose ships are registered under flags of convenience so they can take advantage of lower fees, less restrictive laws and access to low-wage crews. And the threat to the European coastline still remains, even if the new legislation is enacted and observed, because old single-hull tankers can still pass through European waters so long as they do not dock.



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