

Working at the interface

Tankers are at greatest risk when in harbour waters. Traditionally, the prime focus at the ship/shore interface has been on coordinating the efforts of all those in the responsibility chain to improve safety. Now, growing emphasis is also being placed on maritime security and environmental protection

Coastal and port zones represent the most hazardous areas of operation for tankers. Of the 20 largest tanker oil spills over the last 30 years, all but five occurred within sight of land.

The largest tanker spills in nearshore waters have occurred as a result of collisions and groundings, and over the past decade a considerable amount of work has been carried out to update charts, dredge channels, improve communications and navigational aids and introduce vessel traffic systems. In addition, for a number of ports situated in areas of particular natural beauty or with tricky approaches to navigate, tug escort services have been introduced.

Tankers are also at considerable risk when tied up at the jetty and transferring cargo. Loading and discharge operations pose the risks of coupling breakaways and overfilling, leading to spills and possible fires, due to poor ship/shore communications, equipment failures and human error. The fact that most terminals have cargo-handling capabilities inferior to those of a modern tanker adds to the risks.

In general terms, the tanker industry has managed these risks increasingly well and the ship/ shore interface safety record for the past decade is a good one, characterised by steady improvement. Nevertheless, expectations are higher than ever before, and pressure for continued improvement is intense. In addition, the tanker industry now has the issue to maritime security to accommodate as well as the proliferating tendrils of an increasingly rigorous environmental protection regime.

EU port action

Reflecting the strengthening focus on port environmental protection, the European Commission is drafting a new Directive on Civil Liability from Environmental Damage in Ports which is based on the principle that polluters will pay for damage caused. The Directive, set to cover soil, water and biodiversity damage, would provide greater clarity on the questions of liability and responsibility in cases of environment damage. The initiative highlights the importance, for port authorities and port users, of raising their awareness of civil liability when developing their port environmental management policies. Following the Exxon Valdez grounding in Alaska's Prince William Sound in 1989, the US already has robust liability controls covering oil spill damage in place.

Many individual ports have found that advantages accrue from the practice of rewarding port users for their environmental commitment. The latest such initiative is the Spanish government's decision to introduce, under its new Ports Law, tariff discounts of up to 10 per cent for port users who implement environment practices which go beyond the current legal obligations. The new rulemaking is expected to enter into force in January 2004.

The thrust of the EC Civil Liability Directive and other port-related initiatives is to not only open up the competitiveness between ports but also to alert port authorities to the growing social pressure for sustainable development at ports.

Ports of refuge

The issue of liability is also a vital one with respect to the draft guidelines on places of refuge for ships in need of assistance prepared by IMO over the past year. The guidelines will be submitted to the IMO Assembly in November 2003 for adoption. At its 87th session in October 2003 the IMO Legal Committee considered whether the existing maritime liability and compensation regime adequately covered places of refuge situations. Following a survey of individual countries' practices in relation to liability and compensation for potential places of refuge situations, the Comité Maritime International (CMI) has produced an interim report.

Although a fuller report will be submitted to CMI in due course, it is evident that the liability and compensation conventions in force have not been specifically developed to address port of refuge situations. The IMO Legal Committee has agreed that four general questions merit further careful study, i.e.

1. Does a state violate its obligations under international instruments if it allows a ship to enter a place of refuge without proper insurance?
2. Even if the ship concerned holds the proper insurance, does the state which allows the ship to enter a place of refuge have any liability in the event the insurance cover fails?
3. If the shipowner loses the right to limit liability as a result of Civil Liability Convention provisions on breaking the limit, does the state which allowed the ship to enter a place of refuge have any liability?
4. Does the current regime permit the payment of fixed costs?

For the time being, the draft guidelines will be submitted to the IMO Assembly with the following caveat: "These guidelines do not address the issue of liability and compensation for damage resulting from a decision to grant or deny a ship a place of refuge."

Port security

The entry-into-force of the new International Ship and Port Facility Security (ISPS) Code and associated amendments to the Safety of Life at Sea (SOLAS) Convention on July 1, 2004 is going to have a major impact on ships and terminals worldwide in terms of time, cost and workload. A total of 50,000 ships and 15,000 ports will have to be "made secure".

Security plans for vessels and terminals are having to be completed, and security personnel for vessels and port facilities designated, trained and certified. In addition, ships are having to be fitted with automatic identification system (AIS) equipment. In the US, for example, where the provisions will be somewhat more stringent than those laid down in the ISPS Code, the cost of implementing the new measures for all applicable ships and terminals will be some \$8.8 billion, with by far the largest share being born by ports. While ships cannot expect any assistance, US ports have requested \$400 million in grants from the US government in 2004 to help with the introduction of the new measures. Less than one-third that sum is likely to be forthcoming.

Shipping is seen to be the poor relation compared to the airline industry in the US, where some \$20 billion in federal funds has been made available for enhancing security measures.

IMO security work

Having adopted the ISPS Code at the end of 2003, IMO has since been working to fine tune all the outstanding items in its new security regime. At its 77th session in May 2003 the Maritime Safety Committee (MSC) agreed that neither floating production, storage and offloading units (FPSOs) nor floating storage units (FSUs) should be subject to the provisions of the ISPS Code. However, they should have some security procedures in place.

Single buoy moorings (SBMs) attached to an offshore facility will be covered by the facility's security regime. If it is connected to a port facility, the SBM will be covered by the port facility security plan (PFSP).

It was agreed at MSC 77 that, as an interim measure, the International Ship Security Certificates (ISSC) will be accepted as prima facie evidence that training has been conducted in accordance with the ISPS Code. The ship's flag state is responsible for deciding how that training is to be conducted, and if any additional certification is required. If a port state control inspector detects a lack of training, the port state can take further action.

MSC 77 instructed the IMO Sub-committee on Standards of Training and Watchkeeping (STW) to develop training and certification requirements for ship security officers (SSOs) and to include in its agenda the development of training requirements for company security officers (CSOs) and port facility security officers (PFSOs).