
Management and Control of Marine Casualties

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SYNOPSIS

The UK has a Secretary of State Representative (SOSREP) who is vested with extensive powers, which enables him to deal with a marine casualty when it occurs. The system has been highly successful since its inception in 1999. Other nation states have different systems that, in some cases, might increase rather than reduce the risk of pollution and human safety. Could the SOSREP system work globally, what are the prime hurdles and would parties involved with, and affected by, a casualty, benefit?

This paper looks at marine casualty management and control with the above question in mind, and compares the casualty management systems of various nation states. It draws upon personal experience in attending numerous marine casualties worldwide, and highlights problems that confront the various key parties involved.

INTRODUCTION (David Pockett)

At first sight, readers might think this paper will be about how salvage contractors manage and control a casualty. In fact it is not. Whilst it is readily accepted that a salvage master is, and should be, in overall control of a salvage or wreck removal operation on location, in reality the numerous authorities of maritime nation states play an influential role, quite often not welcomed and detrimental to the progress and success of a marine casualty and worse still, to the marine environment.

Marine casualty management and control has been of great interest to me for some time, due in no small part to the advent and success of the SOSREP system. My interest has also been enhanced by personal experience attending numerous marine casualties on a global basis over the past 30 years or so, and seeing for myself how authorities of different maritime nation states manage and exercise control. In many instances, this has been very efficient and maximum co-operation and assistance has been afforded.

However, in some instances, I have found that the very thing a salvage or wreck removal contractor (and also the liability insurer) is trying to prevent, or at least reduce, ie damage to the marine environment and/or ensuring safety of navigation can be restored, meets with systems steeped in bureaucracy or even blatant obstruction. In turn, the risk to human safety and the marine environment can be increased to the detriment of all parties. Moreover, with the growing concern of soaring costs in salvage and wreck removal operations, one reason for this can be put squarely at the door of one or more authorities party to a casualty.

There are some who say that this has to be accepted as part and parcel of salvage or wreck removal and we

have to work together to solve the problems as they arise. Of course, that is a must where systems are such that salvors are prevented from carrying out their task by being hampered by red tape.

However, in my view, with a concentrated effort, I see no reason why initiatives cannot be taken with global maritime nation states to adopt more commonality in the management and control of a marine casualty and give greater recognition and co-operation to those who respond, namely the salvage or wreck removal contractor, who, after all, is there as part of the solution and not part of the problem.

SCOPE OF PAPER

This paper is twofold. First, it sets out to consider the SOSREP system and in particular the powers vested in the SOSREP. It then considers management and control systems adopted by government authorities used elsewhere, and their effectiveness. Examples are provided where such systems properly and sensibly facilitate a salvage or wreck removal operation. Examples are also given where systems can result in delays in emergency response and associated consequences. Finally, it is argued that a globalised SOSREP system has to be favoured and also a 'freedom of movement' for salvage contractors given their crucial emergency response role.

Nick Sloane, director of Svitzer, South Africa, and a front-line salvage master with many years of first-hand experience, provides examples he has experienced from the salvor's viewpoint where casualty management and control has had an important impact on safety and the marine environment. In particular he draws upon his experiences on the wreck removal of *Tasman Spirit* in Karachi and *CP Valour* in the Azores.

THE SOSREP (David Pockett)

I am sure that many of you will be familiar with the SOSREP system adopted in the UK in 1999. In summary, it arose out of the Lord Donaldson Report following the casualty involving the tanker *Sea Empress* in Milford Haven. It was recommended that there should be a sole person acting for the Government who has complete power and control over a casualty in UK territorial waters. Robin Middleton was the first SOSREP and he remained in this position for nine years during which time he was actively involved with more than 400 marine casualties. With incredible fortitude and resolve, he was able to design the SOSREP role and shape it into one which was highly respected by all who were to become involved. Today, Hugh Shaw is the SOSREP and he continues with the same powers as those vested in the initial SOSREP. In effect, he represents two UK government ministers, the Transport and Energy Secretaries of State. They are kept advised of actions taken by the SOSREP but do not exercise any political interference.

The SOSREP system has been attempted by other nation states – Australia for example, but there is still political involvement and therefore the system is not nearly so effective.

SOSREP IN PRACTICE

A key factor in the SOSREP role is the liaison and co-ordination of the various authorities affected by a casualty. Robin Middleton demonstrated only too well his powers when the container ship *Napoli* was purposely put aground on the south west coast of the UK in January 2007. I wonder how many other maritime nation states would have allowed this to have happened so readily, if at all?

I attended a relatively small casualty on the south coast of the UK a few years ago. A coaster had run up a beach and was hard aground in the full public eye on Camber Sands in Sussex – a very popular beach locally. The salvage contractor invoked SCOPIC and I was appointed SCR. The SOSREP was present of course and unlike many other casualties I have attended, it was clear to see from the outset that, without compromising the salvage master in any way, he was in total charge of the situation regardless of all other authorities present. We met on a daily basis and SOSREP set the agenda, listened to the various authorities present, and in particular the environmental agencies, and then made his conclusions. The salvage programme was set out, measures for protecting the environment laid down, safety measures for keeping the public away put into effect via liaison with the local police force, and the salvage contractor was able to get on with the job in hand without let or hindrance, despite the thousands of sightseers and other interests on the scene.

The salvage was a success, and carried out entirely according to plan. SOSREP maintained control until the salvaged vessel was safely afloat and under tow to a port of repair on the continent. For me, the experience was a

rare luxury – a clear chain of command, fluent channels of communications, and clearly defined requirements or requests from SOSREP and others through SOSREP. The salvors were able to set about their work unhindered, the master and crew were given proper support, and other authorities co-operated without hampering operations and making individual demands aside of the SOSREP.

EXAMPLES OF MANAGEMENT AND CONTROL BY A MARINE AUTHORITY

I was involved in the salvage operation of a casualty in Viana do Castelo in Portugal, first as the relief SCR and later as the client representative for part of the subsequent wreck removal. Oils were removed but it was not possible to refloat the casualty which was exposed to the full force of North Atlantic weather.

The maritime authority was the Portuguese Navy and the local port captain assumed command of the situation from the outset. Daily meetings were held in his office attended by the owner's representative, salvage master or a deputy, P&I representatives and various other authorities. The meeting was chaired by the port captain. All parties were thus aware of operational progress, difficulties faced and proposed solutions. The authority chain of command was clearly established.

The wreck removal method was innovative. It involved cutting the wreck into sections and pulling these over the breakwater for further scrapping. All scrapping was done on site, out of the public eye. There was no impact on the public at large or the town at all. Trucks loaded with scrap departed the site at night for the final destination without any adverse reactions or interference from any authority or the local population.

From day one until final completion, the port captain remained in clear command locally and there was no interference from any other authority. In effect, the contractor was shielded from other authorities and requirements or demands by the naval authority. Consequently, the task of wreck removal was made much easier and concluded in a shorter period of time than otherwise would have been the case had there been outside interference, political or otherwise.

Robson Bight, on the west coast of Canada, is world-famous for the annual migration of the whales as they briefly rest there, during their transit north, to rub themselves on the shingle beaches and take advantage of the salmon runs. The recovery of logging equipment items on the seabed at a depth of over 350m made this an exacting challenge and the tender process was necessarily rigorous in ensuring that salvors were aware of the very real threat to the environment. They were required to ensure that every step was taken to satisfy both the responsible authorities and the community at large. A multi-national salvage team was utilised within a very tight time frame and both the Canadian immigration and customs departments helped to ensure that neither personnel or equipment were delayed during the mobilisation. Time was of the

essence to ensure that the work was completed before the seasonal transit of the killer whales.

It was clear from the initial enquiry stage that the ministry of the environment and the Canadian coastguard were working closely together to ensure a rapid conclusion to the salvage. The close co-operation and mutual respect for the views expressed by the various disciplines was both refreshing and made the chain of command clearly visible to the benefit of salvors, observers, media, local community groups, contractors and the authorities.

Salvors were able to work without interruption after minuted briefings were held with all interested parties and agreed in good time, well ahead of operations. This ensured that there was no delay during salvage planning and execution. More importantly, and as a result, the exposure to the environment to any possible risk was kept to an absolute minimum.

The salvors carried out the final lifts from the seabed to the surface under the full scrutiny of the authorities and observers. The agreed planning and final execution of the complicated underwater lifts was undertaken without delay or obstruction, ahead of schedule, and without any damage to the environment, to the entire satisfaction of all parties.

Importantly, the continued close co-operation of the authorities ensured that all personnel, craft and equipment was demobilised without any delay. This is very often the case after a salvage or wreck removal when delays in demobilising equipment can be unnecessarily lengthy and very costly indeed.

CP VALOUR (Nick Sloane)

I had the honour of leading a salvage team responding to a grounded ship on the NW coast of the Island of Faial, in the Azores in 2007. **CP Valour** had grounded during what should have been a routine deviation for some engine maintenance. Unfortunately the location that the master chose was extremely exposed, and initial response to the grounding was unsuccessful, with the exposure to northwesterly winter gales leading to the ship being declared a CTL.

The plan to remove the ship from its location was based on utilising the weather-window of the summer months, when a lightering operation could be possible to recover the cargo of containers, remove the heavy main engine and associated equipment from the engine room, and hopefully re-float the ship and remove her from the grounding location.

To have the Portuguese Maritime Authority (PMA) assess the plan, and allow the ship to remain in her grounded condition through the balance of the harsh winter and into spring, was a key factor to the success of the plan.

It must be extremely difficult for the PMA in a situation like the **CP Valour** to inform the other governmental

departments, such as the Department of Fisheries and Environmental Affairs of the Azores, as well as the public, that nothing shall be done on a grounded ship until the summer months. In our opinion, any attempt to work on the ship in the winter, was, apart from placing our salvage team in danger, a complete waste of the liability underwriters' money.

The remote location of the grounded ship meant that at least six weeks were required to mobilise the marine spread and equipment to the Azores, and then to prepare the equipment for the operation in the shelter of the Port of Horta, on the Southern coast of Faial.

The operation on site was subject to placing a jack-up crane-barge alongside the grounded ship. This required sub-metre swells to be predicted for the day of the transit, from Horta on the south of the Island, to the casualty, and then place her in position and jack the barge up clear of the sea. This was required to provide an air-draft/gap, to ensure the crane-barge could be used 'safe' from the impact of the North Atlantic swells that the bay was exposed to.

The delay to the operation awaiting this weather-window was hard for the salvage team to stomach, much less the ship-owner and liability underwriters, but we received support from the PMA on location who fully understood that it was prudent to await suitable weather.

The success of the operation could have been negatively impacted upon, had the PMA insisted that we attempt this first step of the operation, only due to a time-line milestone being presented for a certain day in the initial presentation of the plan. Damage to the barge or the extended crane-boom could easily have been caused had we been pressurised to attempt the transit in anything less than ideal conditions.

Throughout the lightering operation, and into the final phase of the re-floating operation, we received support from the PMA, even when other departments and the public became sceptical of the chance of success.

The seven-month-long operation required that the local authority believed in the plan, and also had sufficient knowledge in their monitoring team to continuously monitor and assess the progress of the operation.

THE DEPARTMENTAL SYSTEM, OR 'DESIGN BY COMMITTEE' APPROACH (David Pockett)

Picture, if you will, a casualty with leaking bunkers and loss of cargo close to a navigation channel leading to a busy port. Pollution, although not as widespread as the media and authorities would have one believe, did exist. From the owners' and insurers' side, all efforts were focused to rid the casualty of bunkers and oils as the first step and effectively seal the casualty. The next obvious step was to remove the casualty and its cargo in a timely manner so that the nearby port operations could continue without further risk.

It stands to reason that to solve the problems, maximum co-operation from all parties would be of paramount importance. The salvage contractor could explain the plan, obtain approval and get on with the job. The Navy was the maritime authority with the prime responsibility for the casualty management – or so it first seemed. However, and here is the rub, the influencing authorities in addition to the Navy were the Port Authority, environmental agencies, immigration, customs, various ministries with their legal departments all very powerful, as well as a variety of other interests such as diving unions, tourism, fishing and local lobby groups. Any one of these could make life very difficult for the salvage operation – and some indeed did. In simple terms, with so many parties involved and with many on an equal footing to the maritime authority, co-ordination was a nightmare.

Time was lost in obtaining salvage plan approval. Much-needed salvage equipment was delayed by customs for weeks not days, not only at the airport but also in other ports where containerised equipment was mobilised to for collection; foreign divers were eventually banned from entering the water; working visas were either delayed or denied for some personnel; excessive measures were handed down in respect of oil spill response and which was to fall under the responsibility of the salvage contractor with the cost of course, being passed on to the insurers. There was other red tape as well but these were the main problems.

Against the above background, it is hardly surprising that salvage and wreck removal costs in some maritime nation states are so high. The costs of a needless but massive oil spill response organisation can account for 10-20 per cent of the overall operation. Indeed, a recent salvage operation in Scandinavia saw costs for pollution clean-up being 10 times the cost of the salvage operation due to over-reaction and political interference.

What were the consequences of a committee style of management outlined above? Pretty obvious really, although not appreciated by the authorities and those who sought to present hurdles throughout. It took much longer to completely arrest the leakage of oil from the casualty and hence the risk to the marine environment was affected accordingly. Impractical requirements for oil spill response were forced upon the contractor with no end of 'spies' to make false reports or ill-judged observations which were taken completely out of context. 'Spies' were also in place to check if foreign divers did enter the water when difficult recovery operations were under-way.

Considerable improvisation was required to overcome the substantial delays caused by customs' continuous failure to grant inward clearance. This added significant time to the operation despite the salvage contractor's noble efforts. Diving operations, so crucial to the salvage, were hampered by the preclusion of specialist salvage divers which again added significant time to the operation (not to mention cost). Highly experienced divers and other salvage personnel were prevented

from working on the operation, exposing lesser experienced personnel to risks for which they had not been properly trained. The additional costs of the salvage increased by at least 20 per cent.

Who benefited from the delays? Other than locals who saw the casualty as a cash cow, no-one. Indeed, the marine environment and safety of navigation was exposed to a greater risk for a much longer period of time than should have been the case.

The above tale is based on a true story but is not an isolated one by any means. The system suffers from what I would call plateau management with no one authority, or rather, person, in overall control.

I could write for a week about other typical examples and still be far from finished. For reasons best known to some authorities, the problem in their own back yard, unwelcome as it is, seems to provide an ideal opportunity to create as many problems as possible to ensure that the problem remains as long as possible! It is mind-boggling to be sure.

Here is another example which hit the headlines for a considerable period of time:

TASMAN SPIRIT (Nick Sloane)

In 2003/4, I lead a large salvage team responding to the grounded, and badly damaged casualty, *Tasman Spirit*, in Pakistan. *Tasman Spirit* grounded in July on her final approach into the port of Karachi. The initial salvage response was hampered from the start, with local authorities claiming jurisdiction to respond to the incident, and preventing owners' appointed salvors from accessing the casualty. After four days with no success in removing the casualty from her grounded location, salvors finally obtained access to the ship. Vital lightering salvage equipment was however stuck at the airport, awaiting customs clearance, with little prospect of being released within weeks of the incident.

With the NW Monsoon in full force, and the ship exposed to the swells rolling up her stern, the ship broke her back, spilling more than 30,000 tons of crude oil into the sea, and exposing the tidal wetland areas to a major pollutant. You can imagine the response.

The local authorities were not in a position to respond to such an incident, and the oil pollution was substantial. The response of the authorities was to blame the ship's master, and seven of the ship's crew, along with the salvage master, were detained – becoming known as the 'Karachi-Eight'.

Our experience of the local authorities was equally harrowing, with continual interference from customs/ Central Board of Revenue (CBR), the courts, and the bureaucratic systems that prevail in Pakistan, delaying the operation and driving up the costs.

We were assured that we had exemption from importation taxes on our marine spread and the salvage

equipment, but were to learn during the earlier stage of the operation that this exemption had been temporary, and with import taxes due, now being assessed at over US\$14m. It stopped the whole operation while trips were made to Islamabad, and the situation resolved with guarantees in place that we would leave with all equipment within six months – a timeline that did not allow for further delays to the operation.

We were then stopped again by the CBR, halfway through the re-floating operation of the bow section. The CBR wanted import taxes paid on the value of *Tasman Spirit*, before she was moved from her location. This stopped the operation again – we had to hold a tender process for the sale of the bow section, and then for the successful buyer to settle the required taxes with the CBR. Firstly, we had to prove that the bow section qualified for duties to be applied at the prevailing rate for the importation of scrap steel, rather than the full value required for a sound ship. Twelve days later, we were allowed to continue with the operation and the bow-section was delivered to Gadani Beach for scrapping.

The aft section was sold by public tender, and successfully re-floated and delivered to Gadani Beach, not far from the bow section.

We were then summonsed to court, charged by the Sheriff of the Court, for conducting an illegal sale of *Tasmin Spirit*. Evidently the Sheriff (who had been on hajj during the earlier sale-by-tender), was extremely upset that no charges had been placed on the tender documents, which monies would have been his. Fortunately we won the case as the owners still had ownership of the casualty, even though they did not want to appear themselves in the country.

We were allowed to demobilise about two thirds of the marine spread and salvage equipment that had been used for the re-floating of the forward and aft sections, on the proviso that we retain a recovery team/sheer-leg to recover any remaining debris on the sea bed. *Tasmin Spirit* had lost a large part of her bottom-plating, with about 60 per cent remaining on the sea bed. Again, local authorities interfered, with the owners and liability underwriters representative fleeing the country in the early hours of the morning, as he had conducted the sale of the bow and aft section on behalf of the owner, and had now been declared the owner – needless to say he has not returned since.

I was placed on the Departure Control List (DCL) which meant that I could not board a plane without someone signing off on my departure – that someone never being available.

During my seven months in Pakistan, I was constantly aware that the whole *Tasmin Spirit* incident would have been expedited, and even possibly avoided, had a SOSREP system been in place. The ‘Karachi-Eight’ were finally released – but the billions of dollars claimed, and the court cases, still continue.

A PREFERRED SYSTEM OF MANAGEMENT AND CONTROL (David Pockett)

I argue that where a SOSREP-type system can be employed, it would create a far better way of exercising management and control over a casualty and ensuring that a salvage contractor can move ahead without let or hindrance, much more to the benefit of all parties and importantly, maritime safety and the marine environment. By having a clearly identified ‘chain of command’ and a ‘boss’ who can agree, approve, and above all, over-rule to see that a casualty can be managed and controlled without the need for endless delays and further risk to life, the marine environment and safety of navigation has to be the preferred method. I appreciate that the maritime nation states have different models of democracy and forms of government. Some are far from ready to accept a system such as the SOSREP. It also has to be said, sad as it is, that in certain maritime nation states, the SOSREP would be a very rich man indeed, which would defeat the whole object.

The professional salvage contractor is an emergency responder (as indeed is the responsible insurer and their advisers). Much-needed equipment is already packaged and readily available for immediate mobilisation. Salvage personnel are on call 24/7 and can, and do, move at the drop of a hat. Importantly, they have ‘been there before’ and are only too well aware of the risks to human safety, the marine environment and the safety of navigation.

With a ship capsized in, or very close to a channel, leaking oil, cargo being released and its very presence posing a risk to navigation, the last thing one wants is to have delays due to immigration and customs – so often the first cause of delays. Also, in those nations where there are so many different authorities and/or stakeholders who appear to have equal status, and therefore an equal say in how casualty management and control can be effected, I suggest that such a system needs serious consideration and revision. Hopefully the Marine Casualty Management guidelines being prepared by the ISU might assist in this process in the future.

FREEDOM OF MOVEMENT FOR THE SALVAGE CONTRACTOR

Those fortunate enough to have diplomatic status and a form of legal immunity granting safe passage and not susceptible to lawsuits or prosecution under a host nation’s laws (although they can be expelled), would do well as salvage contractors. Just imagine the swift passage through immigration and onward, trouble-free mobilisation of salvage personnel to the scene of the casualty. Imagine too, the prompt delivery of any and all salvage equipment with minimal delays. Just think about the last time you heard or saw an ambulance, fire engine or police patrol car with flashing blue lights coming from behind. All traffic moves aside, or at least tries to, recognising that an emergency situation exists and the responder needs a clear passage.

Might it be too much to imagine as well the same co-operation with salvage craft, and issues such as cabotage can be waived. Perhaps this is too much to hope for, but I ask you to imagine it anyway. With a stricken vessel either spilling or in danger of spilling oil, wouldn't it be better to allow a foreign flag vessel to act as lightering vessel, without the need to go through endless bureaucracy to accommodate such a requirement or wait for the home state flagged tanker to be available? To me it is a 'no brainer' but sadly, to some governments, notwithstanding the dire condition of a casualty, 'laws are laws and that is that' – or put another way: "To hell with maritime safety and the marine environment – laws are laws and must be obeyed no matter the cost and risks involved".

I fully appreciate the difficulty in setting up a system whereby salvage contractors can obtain what I have termed a 'freedom of movement' status. There are pitfalls of course, and it will be open to abuse. However, until the management and control of a salvage or wreck removal operation can be extended beyond the actual casualty location and include all aspects such as mobilisation, ease of obtaining work visas, prompt inward and outward clearance, and a greater recognition of the skills and experience of the reputable salvage contractor is afforded by the relevant authorities, the risk to the marine environment will increase.

The same applies to the 'on site' operation. Of course local, state and international laws, rules and regulations have to be respected and a salvage/wreck removal

contractor and other parties involved in operations should be no exception. However, it should be remembered the salvage or wreck removal contractor is not responsible for putting a casualty there in the first place. They are responding to rid the location of the casualty and its consequences. In order to do this in a prompt and efficient manner, it must surely make sense to afford the contractor maximum support and co-operation, as well as protection from local influences, many of which can be government driven and sadly, often with entirely inappropriate objectives. After all, the winners will be the local populace, the marine environment, and local and national governments.

THE CHOICE (David Pockett)

In my opinion, there is a clear choice ahead. Live and let live, so that those maritime nations with excessive bureaucratic forms of management and control, and with no clear chain of command, continue to exacerbate marine casualties at the expense of the marine environment and to 'protect their own'. Alternatively, influence and encourage a positive change of attitude in the management and control of casualties.

Such change will herald something akin to the SOSREP system and enable the salvage contractor to set about his business and respond promptly and efficiently without hindrance. It will increase the protection of our marine environment, at significantly reduced cost, and draw maritime nations together in order to seek a common minimum standard of casualty management and control.