



The Consequences of 'Not in My Back Yard'

By Cris Partridge

On 10th May 2021, the three-month-old, 37,000 DWT container ship 'X-Press Pearl' loaded containers in Jebel Ali. The vessel then called at Hamad Port in Qatar and Hazira in India. The vessel arrived off Colombo, Sri Lanka on 19th May and anchored 9.5 nm NW of the port awaiting a berth.

By 4th June, the vessel had been declared a Constructive Total Loss (CTL) and was sitting on the seabed having been completely gutted by fire. The entire cargo of 1,486 containers and their contents were also lost.

The incident has raised many questions that will be the subject of detailed investigations. In this article we briefly look at whether the loss could have been prevented and the long-term environmental effects of the loss.

To understand whether the incident could have been avoided by timely and appropriate intervention, we first need to look back to November 2002 and the 'Prestige' incident.

When the Master of 'Prestige', a tanker laden with a cargo of more than 60,000 mt of HFO, became aware that his vessel was structurally failing during adverse weather off the Atlantic coast of mainland Europe, he requested permission to take the vessel into a Port of Refuge to save the vessel and contain the leakage of cargo thus minimising the potential geographical extent of the pollution.

A vessel's Master is required to always act to preserve his vessel and crew whilst protecting and preserving the environment.

Spain, Portugal and France all refused entry and the Spanish authorities ordered the vessel be towed out to sea away from the coast. This was a decision that has since been described as a criminal act and is primarily the reason why such a large area was polluted. The escaped oil polluted more than a thousand beaches across those same countries that had refused the ship refuge.

After the 'Prestige' and subsequent incidents there was much discussion about Ports of Refuge and how States responded to potential major marine pollution incidents.

The containers on the 'X-Press Pearl' contained consignments of hazardous chemicals including 25mt of nitric acid, ethanol, lead ingots, dust urea, frilled urea, high and low-density polyethylene (46 containers), epoxy resins (349 containers), sodium methoxide, caustic soda (42 containers), aluminium processing by-products, raw materials for cosmetics, food items and general cargo. The ship also had 278 mts of bunker oil and 50 mt of MGO in her bunker tanks.

After leaving Jebel Ali and prior to arrival in Qatar, the crew noted that one of the containers of Nitric Acid was leaking. One of the hazards of Nitric Acid is that it reacts with water releasing

large amounts of heat.

The Master requested permission from Hamad port authorities for assistance with, or to discharge the leaking container. Authorities refused and the vessel had no choice but to keep the container onboard as it headed to India. Again, a similar request was made to Hazira Port by the Master and refused so the container remained on the vessel as it headed to Sri Lanka.

On 20th May, whilst at anchor, the vessel reported smoke coming from the forward cargo. A day later a fire was well established in the deck cargo. Despite firefighting by the crew, specialised fire teams and firefighting tugs, the blaze grew in intensity and significant explosions occurred on 22nd and 25th May. Due to the unsafe condition of the vessel, the vessel was abandoned on 25th May.

An attempt by salvors to tow the vessel out to deeper water failed and on 2nd June the vessel's stern settled on to the seabed followed by the slow settlement of the forward end. The vessel was completely gutted by the fire and is sitting upright in 21m of water with the topsides visible above the surface.

Fires on container vessels are not an uncommon occurrence. Marine insurer GARD estimates that there are fires on container vessels about every two weeks. They outlined three main reasons for the fires seen historically. Ranked second is chemicals incorrectly

packaged and/or declared. It is estimated that the contents of around 150,000 containers are mis-declared by shippers each year.

In a major incident in 2018, the Ultra Large Container Ship (ULCS) 'Maersk Honam' caught fire in the Indian Ocean. Sadly, five crew lost their lives trying to fight the fire. The fire resulted in the total loss of a significant portion of the

removed after the end of the current SW monsoon season.

All these however, will pale into insignificance when the potential claims for environmental damage and compensation are assessed. This figure will likely run to several hundreds of millions. The Sri Lankan government has already issued an initial claim for US\$40 million in respect of the first 10



vessel and its cargo resulting in claims running into many hundreds of millions of dollars. This fire likely originated in a consignment of mis-declared cargo. The vessel was towed to Dubai Dry-Docks for salvage works to be completed with the forward third of vessel being dismantled and recycled within the UAE.

On 7th July, 2021, a small feeder container ship suffered a fire at the forward end at Jebel Ali port. From the initial footage showing twisted containers and debris strewn across the quayside, there would appear to have been an explosion of significant force likely originating in the cargo. Investigations remain ongoing.

The value of the cargo lost on 'X-Press Pearl' is estimated to be worth between US\$30 and US\$50 million. Additionally, insurers will be facing pay-outs in respect of the value of the ship, potential crew claims and the wreck removal. The wreck will likely be

days of the incident.

As a result of the reported refusal by two ports to provide assistance to 'X-Press Pearl', a third country (Sri Lanka) is paying a high price in terms of environmental, social and economic costs. By June 7th, cargo residues and debris had affected some 150km of Sri Lanka's shoreline. The local fishing fleets along that coastline have been banned from operating, causing economic hardships to low-income communities reliant on the income from fishing.

78 mt of containerised nurdles (small plastic pellets) have entered the marine

environment. Billions are being washed onto the local coastline between Galle and Kalpitiya, but many more will travel on ocean currents across a much wider geographical region. The pollution caused will be long-lasting. Each nurdel takes 500 to 1,000 years to decompose.

These nurdles along with the cocktail of an estimated 49 different chemicals on board the 'X-Press Pearl' that leaked into the seas off Colombo are having a significant effect on marine life. The Sri Lankan authorities have already reported that more than 50 sea turtles and six dolphins have been found dead on the local coastline since the accident. Dead fish are being found with nurdles blocking their gills. These nurdles will be further ingested and accumulate within those mammals feeding on contaminated fish and eventually lead to their demise.

It can be concluded that the probability is, had those authorities which had been requested to provide assistance done so, this environmental disaster could have been avoided. States are not only responsible under the precautionary principle in international environmental law but also morally responsible. They ought to have taken appropriate measures in helping as requested to mitigate the risk of environmental pollution.

Has anything really changed since the 'Prestige'? Despite international agreements and conventions, rather than viewing these incidents in the context of the global consequences they may have if left unresolved it is apparent that NIMBY (not in my back yard) mentality still influences the thinking of authorities.

Cris Partridge is MD of Myrcator Marine and Cargo Solutions FZE and BBG Abu Dhabi Committee Member.

