

**Speech by Robert Ho
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Ship Source Pollution & Criminalisation of Seafarers- A Shipowners' View

Minister Constantinides, Commissioner Barrot, Secretary General Mitropoulos, Friends,
Ladies and Gentlemen,

Why should the subject of oily water separators and the subject of oily waste management aboard our vessels be of interest to this audience here today? Typically, this would be a matter for the Superintendents or Technical managers. But, today I am here to tell you that this should be equally your concern.

Since Marpol 73/78 was introduced in 1978, like many of you, I was delighted that finally legislation was introduced to help protect the environment. Ideally, owners would have to adopt bilge management systems. The era when vessels would flush dirty bilges into open seas would be over. Since then, this issue was no longer a point of concern, as like many of you, my primary focus shifted to many other complex and competitive challenges faced by our industry every day.

But one day in October 2003, I received a call from my office advising me that one of our vessels was under arrest pending investigation for an illegal by-pass. The US Coast Guard had not found anything wrong with the bilge management systems. What had happened was that a whistle blower had informed the Coast Guard and provided evidence of the mal-practice. Four engine staff including the Chief Engineer were arrested. But after a plea bargain, they collaborated with the whistle blower and were made material witnesses. We were fined a large sum for falsified entries in the oil record book. We have entered into an Environmental Management System and Compliance Plan which is audited by the U.S. Government.

Many vessels purchased recently in the second hand market have poorly configured waste handling systems, illegal pipes and by passes, indicating that poor practice appears to still be common place on many ships.

Why are by passes happening even today? The existing oily water separators and bilge water operations on board most vessels are installed simply to comply with Marpol regulations introduced in 1992. A bit of history, from the periods of 1978-1992 it was the regulation for new buildings and existing ships to have sufficient holding tanks in place to naturally

separate the dirty oily water created by vessels. The dirty oil was incinerated after natural separation and the remaining water was flushed into the open sea. Some vessels were equipped to ensure that the water discharged was no more than 100 parts per million.

In 1992 new regulations required new oily water separators that, ensured what was being emitted into open sea was of a standard requirement of 15 parts per million.

Many vessels in the second hand market or even new buildings do not have effective processing systems and sufficient holding tanks to naturally separate the contaminated water in the first place; thereby, burdening the crew in ensuring that the quality of water going through the oily water separator complies with the requirements. The systems and the equipment that the crews are working with are deficient. As responsible shipowners we cannot blame the operational failures of deficient layout and equipment solely on officers and crew.

Under the current system and regulations, the oily water separators available and shipyard criteria to maximize cargo capacity, have sacrificed engine room layouts and the actual holding tanks.

Some have the impression that the oily water separator actually separates the oily substances from the water. This is a fallacy! The function of the oily water separator is to simply monitor and allow water to be processed to ensure it does not exceed 15 parts per million before discharging.

Most vessels that comply with Marpol have poorly layed out waste handling systems and insufficient holding tanks, forcing in many cases, officers and crew to find alternate ways to overcome this problem - some properly, some illegally. Because of a failure to be aware of the inefficiencies on board vessels, crews are faced, on some occasions, with having to clear dirty water out of the system over a ten hour period. This valuable time, in their opinion, is better spent on more important operational issues.

Another issue our "Marpol" machinery has to contend with, is the deteriorating quality of fuel all our vessels are subjected to. Most of the Marpol equipment today has not evolved sufficiently to tackle the lowest grade of fuel available to our industry.

So what we are faced with here, has been and is our Achilles heel. I am certain a majority of shipowners and managers are oblivious to what is going on operationally surrounding this

system, unaware that they are engaged in a game of “ Russian roulette “ as to who will be caught by the authorities.

Another point which shipowners have to realize is that it is very easy to blame the officers and crew for not adhering to SMS and other operational procedures should such equipment fail to perform. It is the easy way out. But from our investigation, is it justified to place all the blame on the crew when clearly the equipment and systems onboard just comply with regulations, but are not actually equipped to do the job? I strongly believe that shipowners are ultimately responsible and should universally investigate and correct the situation by enhancing the layout and equipment currently onboard, particularly when it is our own men serving us who are in the front line facing the risks of criminal prosecution from this action of deliberate dumping.

If we take a good look at history and the new regulations confronting our industry today :

1. The EEC’s new directive to criminalize accidental spills;
2. The United States clean water act (part of OPA);
3. Canada’s Bill C 15 which has criminalized accidental spills ;
4. The strict liability regime of Australia.

All these recent inclusions of accidental spills are primarily introduced upon laws which were already in place for negligent and deliberate discharge of oil into our seas.

I believe that most shipowners and managers are genuinely striving hard to better their operations, image, and are concerned about the environment. But rather than just continuing to lobby and complain about the recent legislations introduced in many countries, it is the view amongst many Asian Shipowners Associations, that our industry and stakeholders interests can be better served if we are willing to work together to address the issues the industry faces, such as finding a solution to eradicate the illegal practice of dumping bilge waste which only reinforces public opinion of the industry as irresponsible.

Companies have to extensively enhance the bilge management systems onboard their vessels, to help the crew manage the problem so that it is easier to comply than not to comply. There are numerous solutions to achieve this goal and these should be made known to all companies who need to be encouraged to pro-actively retrofit vessels under their management and ownerships.

In April this year, during the Asian Shipowners Forum, all members and associations of the forum formally declared that there should be zero tolerance of this practice. It was suggested that in order to stop this practice once and for all, the following recommendations should be immediately worked on amongst various associations:

- a) That shipowners associations through a formalized body work with IACS, shipyards and equipment manufacturers to develop solutions and equipment that actually work and serve the stakeholders and shipboard personnel properly, and not provide equipment which just complies for purposes of a regulation. Better improved equipment should be thoroughly investigated and introduced to vessels at least for deliveries in 2008.
- b) That existing ships should be thoroughly investigated by shipowners and managers in collaboration with classification and or advisors to correct the inefficiencies onboard their existing vessels and not have to wait until the owners or managers are caught out and forced into a correction, as we have.
- c) That a special supplementary exam on the Environment, Waste Management Procedures and Marpol Regulations be introduced as an added criterion to the STCW exams. It is our recommendation that this supplementary exam be a condition to the license of officers and crews. Because Marpol regulations in many jurisdictions introduce and encompass whistle blowing provisions, heavy fines, criminalization and imprisonment, mind you, not only to shipboard staff but extending the offense to officers and directors of companies, we feel the necessity to have a separate exam from the STCW addressing all aspects of Marpol and the environment as an essential element of license issuance.

There are suggestions from various owners and associations to continue the pressures on governments to further enhance dirty oily water reception facilities at their ports. This was one promise by governments made after the introduction of Marpol 73/78. It appears that some governments have failed to keep their promises. In our experience, bilge water and sludge can be off landed on shore with proper planning but most importantly at a price. To some this is too costly; but should the systems onboard become inoperative the situation can easily tempt companies or the crew members to illegally discharge their bilges.

Recently, it has been suggested that the aforementioned proposals be voluntary. But we must remind everyone here today that over this 25 years period, MARPOL compliance has in fact been ad hoc. The failure to adhere to MARPOL full heartedly has tarnished our industry badly. The strict liability fines are no longer USD 10,000 fines as in the past but are now ranging from USD 400,000 to the highest known fine of USD 25 M, inclusive of

criminalization and jail terms in the case of proven negligence. In Canada they have gone as far introducing strict liability, with criminal sanctions without the defense of presumption of innocence. This introduction of reverse onus is being contested as it is against fundamental rights of every person in a democratic country. Essentially most governments and public opinion towards our industry are fed up. Governments are under pressure to have a political agenda to improve the environment for the benefit of our future generations. Our Hong Kong Shipowners' Association believes that these conditions [*a) new buildings immediate review of layout and equipment / b) existing ships mandatory corrections / c) Marpol exams as part of officer/crew licensing*] must be mandatory, and implemented as soon as possible in order for our industry to be taken seriously, in order for all of us to ensure and maintain a sustainable industry.

Under the UN study of GESAMP (Group of Experts, Scientists on Marine Pollution), and for your interest, sources of marine pollution are, 45% from land based discharges (automobile, municipal, and sewage), 33% from atmospheric discharge (industrial, automobiles, trucks, planes), 1% from off shore exploration, and 12% marine (operations from vessels, including deliberate and accidental incidents.), 9% from natural oil seepages from the sea beds.

It should be noted that of the 12% marine industry's operational contribution to pollution of the seas, 68% is attributed to deliberate dumpers. Even though 12% may appear to some as a modest contribution to our oceans' pollution, it is clear that with all our efforts we are able to further reduce our industry's impact on the seas.

I am addressing this issue today as a lobby to all shipowners, that this is an operational issue which we must address and correct!. Most importantly, individually and corporately, it is simply the right thing to do! It is a simple question of focused unity, determination and money. The environmentalist, the public, and many governments have little trust in the industry to self regulate and clean up our act. If all of us can be united and clean up this practice and introduce zero tolerance through the suggestions above, we would be sending the proper message to our respective governments, and the various interest groups who have viewed our industry with great skepticism.

If in two years all our companies, our industry, are able to correct the procedures surrounding this waste management, and stop bilge dumping, the laws in place involving deliberate or negligent discharge become redundant and out of place, leaving accident spills isolated in context of the laws and permitting us to question the merits of including accidental spills in the criminalization process.

In closing, I would also like to take this opportunity to suggest that a “think tank” be formed by one of our leading associations, be it in BIMCO, Interanko, Intercargo or International Chamber of Shipping. Such a “think tank” would join hands with equipment manufacturers, governments and environmental interest groups to search for machinery or technology to better serve the shipping industry. In this economic cycle, it is very obvious that we cannot depend solely on fossil fuels. Our company is, for example, looking at technologies and innovations which will clean dirty bilge water and convert the waste into hydrogen..... Is this a possible replacement to drive our generators? Solutions are available to the industry. We have to be ahead of the game, but individual shipowners can’t do it alone. A consolidated effort for the advancement of technology in this specific area must be made in the interests of industry, government and above all, our environment.

Thank you for your attention