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**LONDON INTERNATIONAL
SHIPPING WEEK
12 SEPTEMBER 2017**

**“BIGGER AND BETTER?
CHALLENGES OF
SUPERSIZED VESSELS AND
FULLY AUTONOMOUS
OPERATION”**

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CRISIS MANAGEMENT
HFW LLP**

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Andrew is a former Royal Navy officer and specialises in "wet" shipping cases, including salvage, collisions, fire and explosion, total loss and wreck removal. He also advises on both civil and criminal pollution liabilities, marine insurance coverage disputes and the full range of other shipping-related commercial and contractual disputes. Andrew served at sea with the Royal Navy and also had a stint with the Hong Kong Squadron. He left the Royal Navy in 1990 and joined HFW in 1994, having trained at Richards Butler (now Reed Smith).

He was promoted to partner in 2003 and has been heavily involved in many of the largest casualties of recent years, including, "*BP THUNDERHORSE*" (2005), "*MSC NAPOLI*" (2007), "*MSC CHITRA*" (2010), "*COSTA CONCORDIA*" (2012), "*FLASH*" (2012), "*KULLUK*" (2012), "*SMART*" (2013), "*NORMAN ATLANTIC*" (2014), "*MAERSK SEOUL*" (2015), "*CHARLTON*" and "*BURGOS*" (both in 2016). Andrew lectures regularly on salvage, wreck removal and casualty response and is an acknowledged expert in the field.

Andrew is consistently ranked in the top tier for Shipping in Chambers and Legal 500 and "what he doesn't know about shipping isn't worth knowing" (Chambers UK 2017). Andrew is qualified in England and Wales.





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OUTLINE

- **Context – ever larger and untested ships –mega container vessels, VLBC, cruise ships, other “supersized” marine assets**
 - MSC NAPOLI / MSC CHITRA / RENA – US\$300m – US\$500m ea
 - COSTA CONCORDIA – US\$2 billion
 - 20,000 TEU and beyond
- **Political/Legal, Environmental and Technical Challenges**
- **Other trends: a perfect storm?**
 - Decline of global salvage industry
 - Ports of refuge
 - Wreck Removal costs rising exponentially
 - Global recession, ever larger and untested ships, environmental concerns, increasing public and govt. awareness of casualties, zero tolerance from coastal states



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MSC NAPOLI (2007)





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MSC CHITRA (2010)





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RENA
(2012)






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MSC FLAMINIA (2012)



CONTAINER SHIP COMPARISON

	NAPOLI	CHITRA	RENA
			
Vessel dimensions			
LOA	275.66	230.99	236.00
LBP	261.40	216.01	-
Beam	37.10	32.26	32.20
Draught	13.50	13.02	12.00
GT	53,409	33,113	37,209
Net	21,088	13,412	16,454
DWT	62,277	58,339	47,230
Container capacity			
No. of Holds	7	6	7
Total containers	4,688	2,312	3,352
Reefers	250	150	121



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CONTAINER SHIP COMPARISON

	LUCIANA	EMMA MAERSK	TRIPLE E MAERSK CLASS
			
Vessel dimensions			
LOA	363.57	397.71	400.00
LBP	348.00	376.00	-
Beam	45.60	56.55	59.00
Draught	15.00	16.02	14.50
GT	131,771	170,794	-
Net	60,239	55,396	-
DWT	130,804	282,715	165,000
Container capacity			
No. of Holds	-	23	-
Total containers	11,312	15,550	18,000
Reefers	960	1,286	600



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LEGAL CHALLENGES

- LOF ? – best endeavours and risk
- SCOPIC
- Salvage or wreck removal? A "seamless transition"
- Salvaged Values of US\$500m – US\$1 billion and more = huge logistical challenges
- Near misses (MSC LUCIANA, CMA CGM LIBRA, UMM SALAL, CSCL INDIAN OCEAN, CSCL JUPITER) but commercial solutions won't always be available
- Rising claims and disproportionate clean up costs
- Port of refuge issues
- Near impossibility of disposal/recycling – London Dumping Convention 1976/1996 Protocol and OSPAR Convention



POLITICAL CHALLENGES

- Huge political and logistical challenges, demarcation of responsibility between salvage and disposal of damaged/worthless cargo
- Increasing public awareness, social media, environmental lobby and Govt. management of casualties – the "NAPOLI" effect
- Port of Refuge concerns – NIMBY-ISM IS BACK! Echoes of the PRESTIGE. IMO Directives seemingly having little effect, took 6 weeks for POR for MSC FLAMINIA to be sorted
- Massive political challenges, e.g. MSC NAPOLI dealing with: consortium of 3 salvors; SOSREP; MAIB: MCA Counter pollution division; Portland and Weymouth Coastguard; The Environment Group headed by the Environment Agency; Marine and Fisheries Directorate; Natural England; East Devon Council; West Dorset Council; Devon and Cornwall Police; Health and Safety Executive; Department for Transport; DEFRA; Environment & Heritage Service (Northern Ireland)

TECHNICAL CHALLENGES





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MSC NAPOLI - LAST OF DECK BOXES





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CONTAINER “HOSPITAL”





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CARGO DEBRIS





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LEARNING NEW SKILLS





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BANG!



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TOW TO BELFAST



ENVIRONMENTAL CHALLENGES

- Lost containers and cargo debris



MSC CHITRA



RENA



ENVIRONMENTAL ISSUES

- Uncertain legislative framework for clean-up operations of cargo washed up on beaches
- Where do salvors' responsibilities end?
- Strict liability for owners?
- Clean-up claims subject to limitation of liability?
- Contractual clean-up v. responding to reimbursement claims from authorities?
- Dealing with dangerous goods and local authorities
- Pressure to remove all dangerous cargo as a priority
- Dangerous goods tend to be a focus of the media and authorities
- Potential lack of control through intervention of the authorities and an escalation of costs
- Certain jurisdictions will insist on military presence



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ULTIMATE REMOVAL OF WRECK

- Complete removal required for MSC NAPOLI, COSTA CONCORDIA
- Partial Reduction negotiated for SMART
- BUT increasing zero tolerance from coastal states





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ULTIMATE REMOVAL OF WRECK

- MSC CHITRA was taken out to sea and dumped





DUMPING AT SEA

- **UNCLOS**

- Article 210 - Requirement to adopt laws and regulations to prevent, reduce and control pollution by dumping – only permitted – "*in an appropriate case*"

- **London Dumping Convention 1976 and Protocol**

- Protocol introduced a "precautionary" approach
- Originally there was a list of materials which could be dumped – the Protocol is much more restrictive
- Any application to dump must show full consideration given to re-use, offsite recycling, destruction of hazardous constituents



DUMPING AT SEA

- **OSPAR Convention**
 - Geographical limits
 - General prohibition that Contracting States shall take all possible steps to prevent and eliminate pollution by dumping
 - 2 exceptions:
 - In case of force majeure when the safety of human life or of a vessel is threatened (Article 7) – Circumstances beyond the control of the party seeking to rely on the force majeure provision
 - In an emergency (Article 9)

- Political and bureaucratic



SIZE MATTERS.....

- VLBC also had plenty of issues – VALE BEIJING (2012), STELLAR DAISY (2017)
- SMART – Richards Bay 2013 – losses and claims in excess of US\$150m
- Cruise Ships
- Other non-conventional marine assets
- Increasing public awareness, social media, environmental lobby and Govt. management of casualties – the "NAPOLI" effect
- Port of Refuge concerns – NIMBY-ISM IS BACK! Echoes of the PRESTIGE. IMO Directives seemingly having little effect



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SMART (2013)





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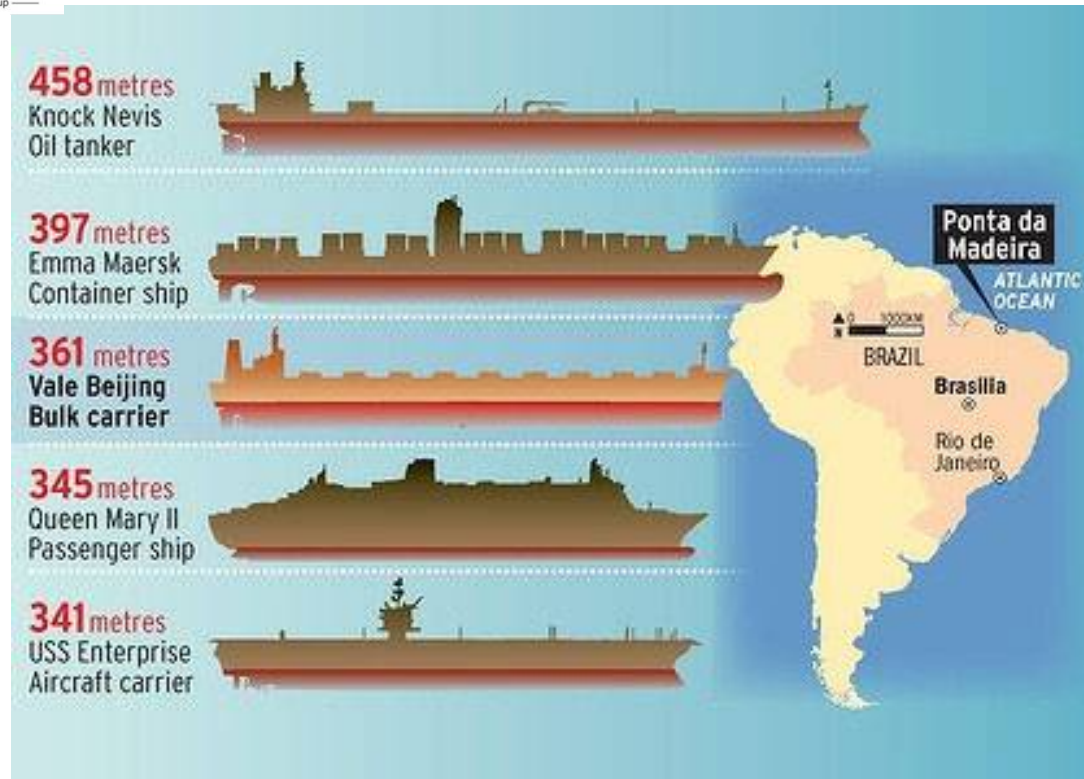
VALE BEIJING
(2011)





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VALE BEIJING



**COSTA CONCORDIA
(2012)**





COSTA CONCORDIA

- Ran aground and capsized Friday 13 January 2012
- Extensive bunker removal operation, January-May 2012 (SMIT Salvage B.V.), followed by.....
- Record breaking salvage (Titan Maritime LLC and Italian partners)
- May 2012 – September 2013, wreck brought upright
- On 23 July 2014, CC commenced its final journey under tow and a 14 ship escort at a speed of 2 knots to be scrapped in Genoa, where it arrived on 27 July. It remains moored at the port, awaiting dismantling processes
- Total cost circa US\$2 billion cf cut up in situ costed at US\$150m – US\$200m



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MONEY WELL SPENT...? (2012)





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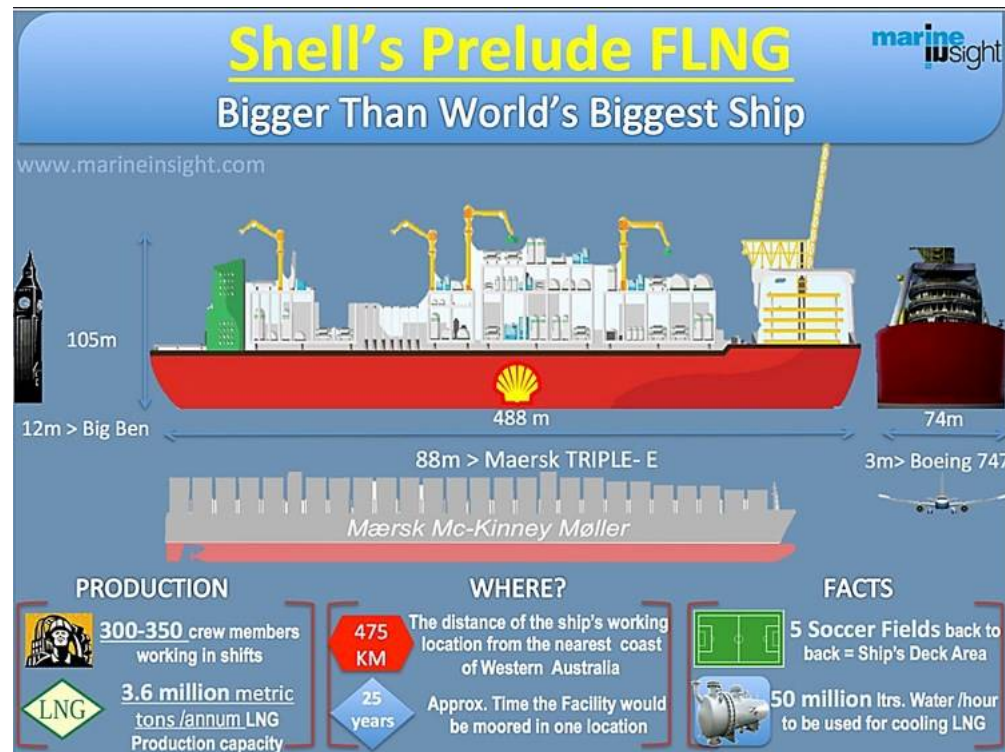
PIONEERING SPIRIT

- Unsinkable...?



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SHELL'S PRELUDE LNG PLATFORM





SO WHAT DOES THE FUTURE HOLD?

Conclusion: A Perfect Storm?

- Are ships just too big? Issues reminiscent of late 60s/early70s oil tanker casualties
TORREY CANYON, AMICO CADIZ
 - Port size/capacity
 - Quality of seafarers – autonomous vessels, remote monitoring e.g. Carnival Corporation
 - Increasingly demanding political and legal environment fuelled by social media
 - Ever greater public scrutiny and awareness
 - Potential for salvage on an epic scale = massive logistical challenges and correspondingly huge claims
 - Salvage industry facing huge challenges
-
- Shipping will sooner or later face its "Deepwater Horizon" moment



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MSC LUCIANA



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MOL COMFORT





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**CSCL INDIAN OCEAN
(2016)**





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**CSCL JUPITER
(2017)**





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COSCO DEVELOPMENT



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FINAL THOUGHT

"Cassandra Syndrome" has been coined to be a reflection of those who deliberately ignore warnings and predictions of any kind of impending trouble or doom because of disbelief, ignorance, scepticism, or just plain stubbornness.....



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