

# Implementation of EU regulations and post “Prestige” measures

**Propeller Club,  
Geneva  
25th September, 2003**

**Dieter Terno  
Regional Marine Manager  
Europe Central Region**



For the benefit of business and people

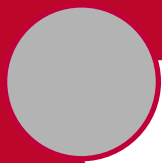
- **Single-hull oil tanker**
- **Deadweight tonnage : 81,000**
- **Age : 26 years, built in 1976 at Hitachi (Japan)**
- **Flag : Bahamas**
- **Classification and statutory inspections : ABS**
- **ISM Audits : Bureau Veritas**
- **Owner : Mare Shipping Inc. ( Liberia)**
- **Operated by Universe Maritime (Greece)**





- **13 November 2002** : the tanker ran into serious trouble off the coast of Galicia and was towed out to sea into heavy weather
- **19 November** : the tanker broke in two and sank in a depth of some 3,500 metres about 133 miles from Spanish coast
- **Casualty investigation** carried out by the Flag State (Bahamas)
- **Possible causes of the accident**
  - > **Initial damage of the structure caused by :**
    - **Corrosion, inadequate repair, fatigue (likely)**
    - **a floating object (unlikely)**
  - > **Access to a port of refuge refused by Coastal authorities**
- **Massive pollution of the coasts of Spain, France and Portugal**
- **Damages estimated to EUR 1 billion**

- **3 December 2002** : Communication from the Commission to the EU Parliament and to the Council
- **5-6 December 2002** : EU Council of Transport Ministers
- **20 December 2002** : Proposal from the Commission on the carriage of heavy fuel-oil and early withdrawal of single-hull vessels
- **13 January 2003** : Proposal from the Commission on training and skills of seafarers
- **5 March 2003** : Proposal from the Commission on criminal sanctions for ship-source pollution
- **19-20 March 2003** : Public hearing of the European Parliament on the loss of the « Prestige »
- **27 March 2003** : Spring EU Council of Transport Ministers
- **2 May 2003** : Complementary proposal for a Council Framework decision adopted by the Commission on penal sanction

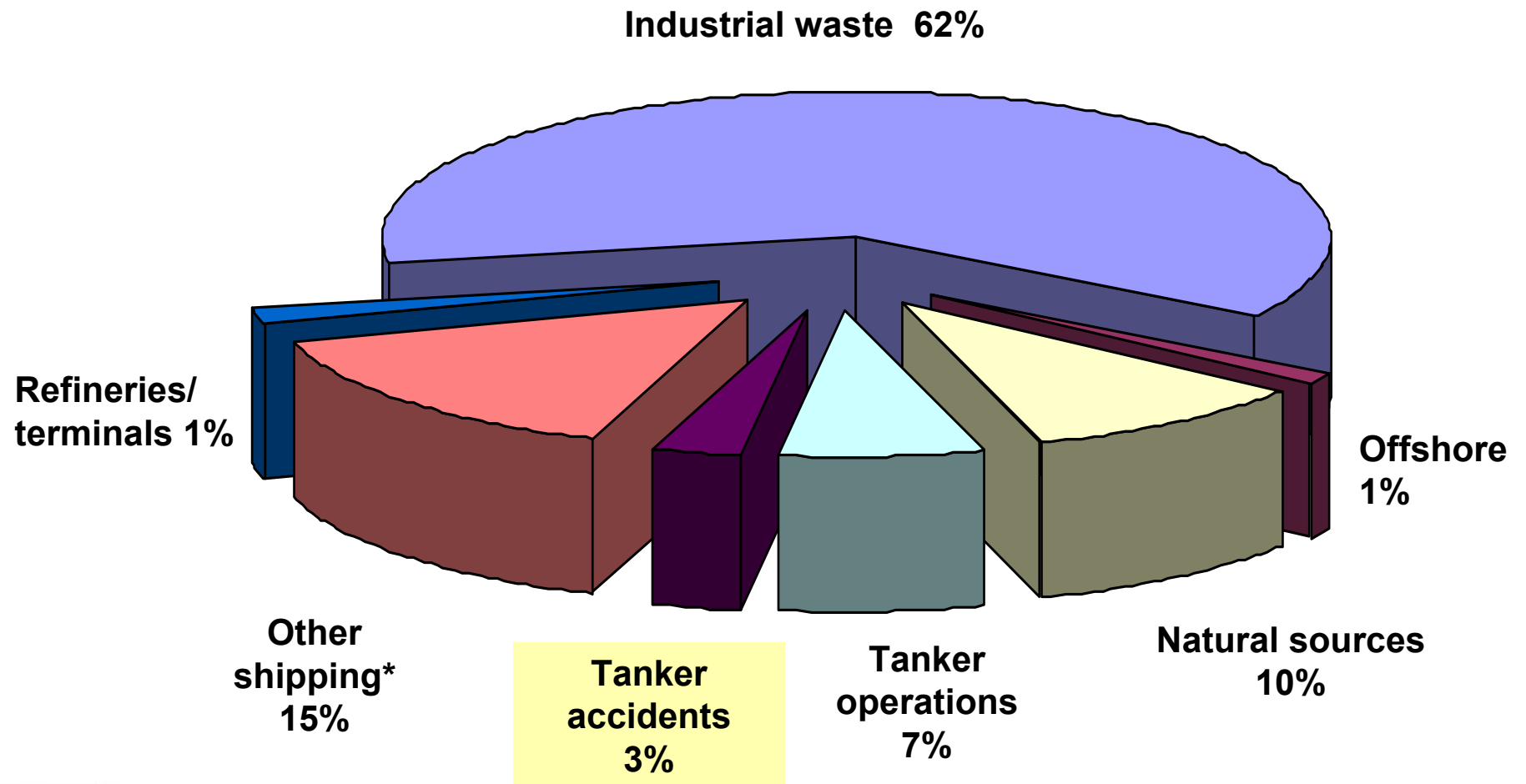


- A. Earlier application of the measures in the Erika I and II packages**
- B. Additional measures proposed by the Commission**
- C. Action at international level**

- 1. Earlier establishment of the European maritime Agency (EMSA)**
- 2. Blacklist of substandard vessels**
- 3. Places of refuge**
- 4. Uneven transposition by Member States of the Erika I et II packages**
- 5. State aid in the maritime transport sector**
- 6. Voluntary agreement with oil companies**
- 7. Agreements with neighbouring countries**
- 8. EU and IMO**



- 1. Specific measures for the carriage of heavy fuel oil**
- 2. Training and skills of seafarers**
- 3. Penal sanctions**

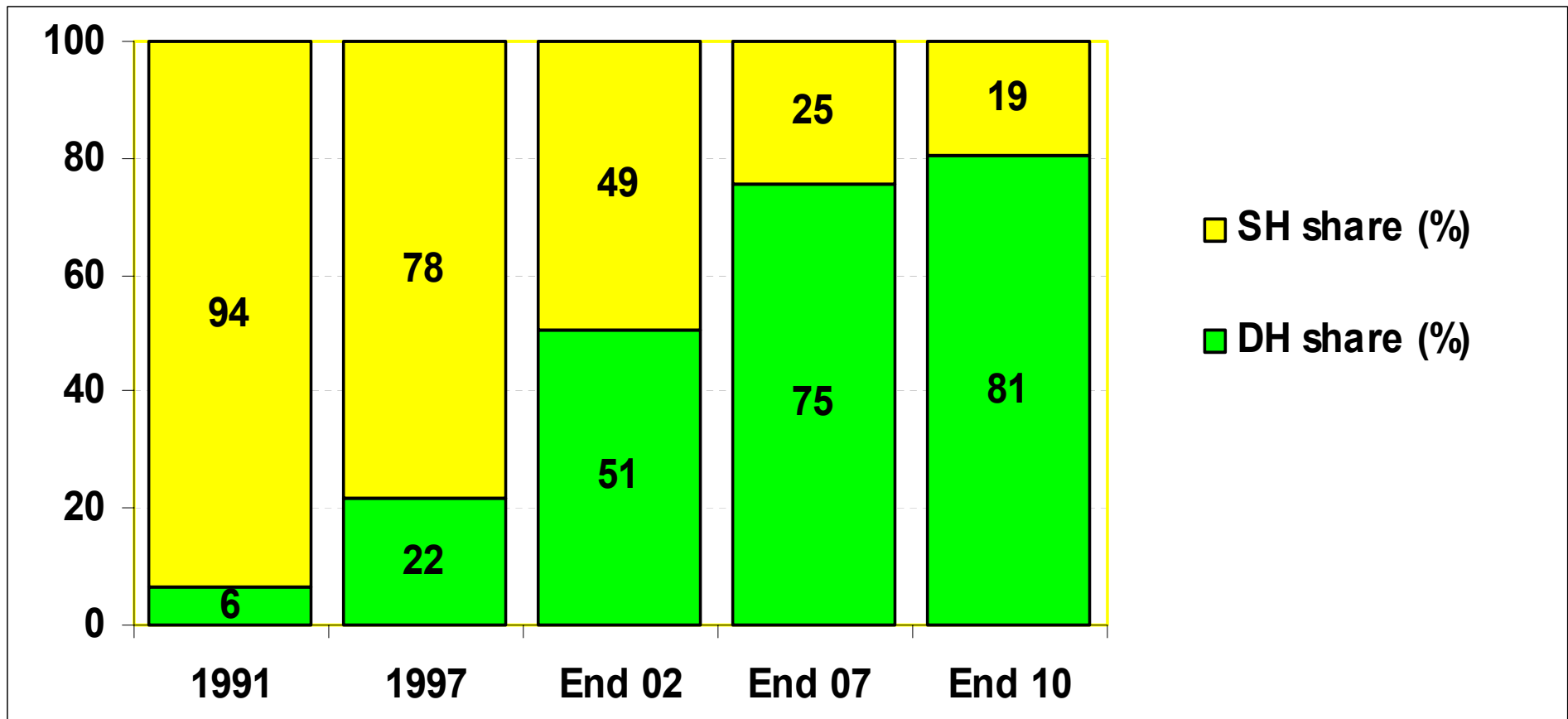


\* Non-tanker accidents, bilge and fuel oil, dry-docking

Source : UN Environmental Programme (UNEP)

- **Over the last 3 years, the share of double-hull tanker tonnage of the world fleet has increased from 30% to 50% (250 million tons)**
- **60 million tonnes of double-hull capacity in shipyards' order books**
- **The European tanker industry, which to a large extent has already anticipated the application of the existing phasing-out scheme**

## TANKER FLEET BY HULL



(Source : INTERTANKO)

- **Draft Regulation (EC) n°417 presented by the Commission :**
  - **Prohibiting the transport of heavy grade of oil in single-hull oil tankers bound for or leaving EU ports**
  - **Acceleration of the current phasing out scheme of single-hull tankers**
    - Category 1 tankers : 2005 (23 years) instead of 2007 (28 years)**
    - Category 2 tankers : 2010 instead of 2015**
  - **Earlier compliance with and broader application of the Condition Assessment Scheme (CAS) for all single-hull tankers**
    - Category 2 tankers : 2005 (instead of 2010) from 15 years of age**
    - Category 3 tankers : 2005 from 15 years of age**
- **Adoption by EU Council of Ministers on 27 March 2002**
- **If EU Parliament takes a position in line with the Council, the proposal could take effect by July 2003**
- **IMO has received a set of formal proposals from all 15 EU Members States to amend MARPOL convention by further accelerating the phase-out of single-hull tankers**

## 1

## NEW EU REGULATIONS

## SINGLE-HULL TANKERS

	Existing rules	New proposed rules
Heavy grade of oil : fuel oil, heavy crude oil, waste oils, bitumen and tar	No rules	<b>Banned from EU ports</b> All shipments of heavy grades of oil to be carried by double hull tankers to or from EU ports, regardless of their flag <b>When</b> : immediately from the day of entry into force of the proposed rule except for small tankers between 600 and 5,000 dwt (2008)
All grades of oil	<b>Banned from EU ports</b> <b>When</b> : age limit between 26 and 30 years with end phase-out being : Cat. 1 : 2007 Cat. 2 : 2015 Cat. 3 : 2015	<b>Banned from EU ports</b> <b>When</b> : over age limits between 23 and 28 years of age with end phase-out being : Cat. 1 : 2005 Cat. 2 et 3 : 2010
CAS compliance	<b>Needed to enter EU ports</b> Cat.1 : 2005 Cat.2 : 2010 Cat.3 : not applicable	<b>Needed to enter EU ports</b> : Cat.1 : not applicable (phase-out) Cat.2 : 2005 from 15 years of age Cat.3 : 2005 from 15 years of age



- **Proposal for a directive on the recognition of seafarers' certificates of competency in order to guarantee a minimum level of training**
- **Objectives :**
  - **Introduction of a Community-wide assessment and recognition system for non European countries complying with the requirements of the STCW convention**
  - **To ensure systematic use of English as the language for communications between vessels and the authorities on shore**
- **A political agreement was reached at the Transport Council on 27 March 2003**

- **Proposal for a Directive 2003/0037 on ship-source pollution and on the introduction of sanctions, including criminal sanctions, for pollution offences**
  - **Pollutions of the seas is regarded as criminal offence**  
**Any person who has been found by a court of law responsible for illegal discharge of waste or accidental pollution shall be subject to sanctions, including criminal sanctions**
  - **Person means natural or legal person : ship master, shipowner, ship manager, charterer, cargo owner, class society or any other person concerned (insurer, banker, broker ?)**
  - **States and public administrations are not among legal persons**
  - **Sanctions may include in the most serious cases the deprivation of liberty**
- **A complementary proposal for a Council Framework Decision was adopted by the Commission on 2 May 2003.**  
**This deals with the aspects relating to the harmonization of criminal law measures**

- 1. Active support for the European Community's membership of IMO**
- 2. Requests to apply Community legislation on maritime safety internationally**
- 3. Revision of the international regime on liability for oil pollution**
- 4. Improved level of compensation for victims of pollution**
- 5. Modification of the law of the sea**

- ▶ **Liability regime for oil pollution is defined in the CLC Convention**
  - **Strict liability of the shipowner (registered owner)**
  - **Limitation of liability**
  - **Liability channelled on the shipowner**
- ▶ **The Commission considers that there is a need for**
  - **a better balance between the responsibility of the players involved in the transport of oil by sea and their exposure to liability**
  - **application of the polluter pays principle**
- ▶ **Member States should support proposals aimed at**
  - **restricting the right of shipowners to limit their financial liability if the accident is due to their actual fault**
  - **removing the de facto immunity of other key players (charterer, operator or manager of the ship) from compensation claims other than from recourse claims by the registered owner**

- ▶ **There is a need to improve the level of compensation for victims of pollution**
  - **CLC 92 : Maximum 85 M €**
  - **FIPOL 92 to complete until 185 M €**
  
- ▶ **The Commission has proposed to create a new fund (COPE Fund) able to compensate until 1 billion Euros**
  
- ▶ **Finally IMO diplomatic Conference adopted on 16 May 2003 a new Protocol**
  - **Establishment of a voluntary fund of 1 billion € for future victims of oil spills**
  - **opened to any member of the existing IOPC Fund**
  - **contributions made by oil receivers of the participating States**

## MAIN OBJECTIVE

Monitoring and limitation of the navigation of tanker of 15 years old, single-hull carrying heavy grades of oil in the 200-mile exclusive economic zone of Member States and which do not comply with safety standards

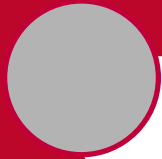
## DOUBLE ACTION

➤ **Modification of the MARPOL convention**

The Commission supports proposals of France, Spain, Portugal, UK and Ireland at IMO for creating « particularly sensitive sea areas » in their EEZ

➤ **Modification of the UNLOS Convention**

The Commission calls for coordinated action by the EU Member States to analyse and address various ways to take measures to protect their coastal waters from ships which represent a threat to the marine environment



**ERIKA : December 1999**

- **EU Commission determined**
- **EU Ministers hesitant**
- **Wish to work through IMO**

**PRESTIGE : November 2002**

- **EU Commission determined**
- **EU Ministers more determined**
- **No inclination to work with IMO**

**CONSEQUENCES FOR MARINE COMMUNITY**

- **Risks of fragmentation of the international safety regime and risk of regional regulations**
- **Some regional decision in conflict with international instruments (conventions MARPOL, UNLOS)**
- **Unilateral measures taken by some coastal States limiting freedom of navigation within the 200-mile zone (EEZ)**
- **IMO is weakened on the international scene**

