

## Shipping is easy target

**Shipping is an easy target for the US government to hit with prosecutions and to levy increasingly large fines because companies are perceived as having lots of money and will pay rather than fight, warns US lawyer, Michael Chalos.**

"If you are a big fish you are going to get investigated," he told a forum on criminalisation in the maritime context organised by the UK P&I Club. Addressing the US side of the criminalisation of maritime accidents and Marpol violations, Chalos said prosecutions have jumped in the last three years.

The US government has no jurisdiction over discharges by foreign flag vessels in international waters so it depends largely on investigating and prosecuting false oil record book entries. From the US government's side prosecutions are seen as good publicity since the Bush administration has been considered by environmentalists to be "soft". No other sector has been targeted so much, he said, calling it a "win-win situation for the US government."

But the shipping industry has no political constituency, no organised political muscle and no dialogue with the authorities, he said. Painting a gloomy picture for shipping companies, Chalos said the US Department of Justice and Coast Guard are well organised with task forces to investigate and prosecute owners, operators, managers and seafarers for Marpol violations.

Security demands are increased, with at least \$1m in the form of a bond being required, while the cost of keeping crew housed while an investigation is underway for anywhere from 90 to 120 days is an additional burden.

Though owners may, in good faith, do everything within their power to comply with regulations, "you are at the mercy of the stupidest and dirtiest employee you have in the engine room," said Chalos, the lawyer who defended the master of the Exxon Valdez. Often there is a bad environmental culture among seafarers and it is hard to change their attitudes and ways, while one of the US government's biggest weapons is the whistleblower, he said.

"My main complaint is that the US government believes the whistleblower blindly," Chalos said. He pointed out that under US law the whistleblower can win an award of up to 50% of the fine against the shipping company.

The lawyer also warned that owners, company directors and officers based outside the US are not safe from prosecution and may find themselves unable to enter the US if their names are entered in the homeland security computer records.

The industry must organise itself to have an open and frank dialogue with the Coast Guard and the Department of Justice and, if necessary, challenge them by lobbying Congress and policymakers for fair treatment, Chalos said. He called on owners to participate in efforts being made by US maritime lawyers to find ways and means to reach agreement, but concluded that prosecutions in the US will continue.

By **Gillian Whittaker in Athens**

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