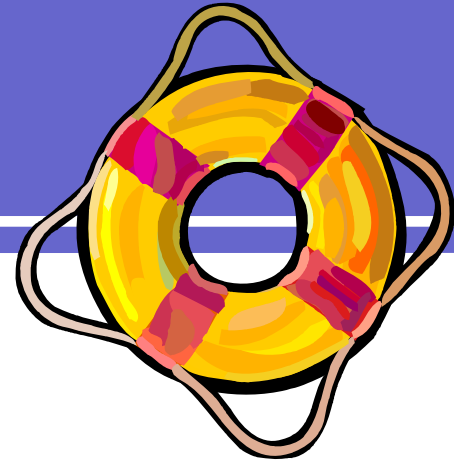


Places of refuge



- Port or place of refuge is a shelter for a ship in a damaged condition endangering life, health and/or environment



CS may not want to accept a ship in distress

- Erika
- Prestige
- Castor etc



- Better on someone else's doorsteps!

- Does a coastal State have an obligation to admit a vessel in distress into a safe harbour?
 - Right of access to ports under international law
 - Decision-making procedure in the CS
 - Financial issues faced by the CS

International law

- LOSC does not expressly speak of access to ports or places of refuge
- LOSC confirms sovereignty over internal waters and territorial sea
- Access to ports generally: up to the port State to prescribe and enforce conditions of access

- Art. 25(2) LOSC

- “In case of ships proceeding to internal waters or a call at a port facility outside internal waters, the coastal State also has the right to take the necessary steps to prevent any breach of the conditions to which admission of those ships to internal waters or such a call is subject”.

- Art. 211(3) LOSC: port States may
 - Establish particular requirements for the prevention, reduction and control of pollution of the marine environment as a condition for the entry of foreign vessels into their ports or internal waters”
 - assuming they give due publicity to such requirements and communicate them to the IMO

- If **life** is in a danger:

- Duty to organize effective rescue and search operations at sea
- LOSC and SAR Convention (Maritime Search and Rescue)
 - Bilateral and regional agreements on search and rescue

- **What if the ship endangers environment?**
- IMO Guidelines on Places of Refuge
 - "ship in need of assistance"
- EU Directive 2002/59 (last amended by 2009/17) on vessel traffic monitoring

- IMO Guidelines & EU Directive adopted functional approach to places of refuge
- Decision-making procedure by the port State
 - Independent decision-maker
- Accommodation plans and designating places of refuge

Financial implications

- Substantial losses of economic character can be incurred as a result of the decision to accept the vessel
- Dilemma for port authorities: who will compensate the economic losses?
 - Can discourage them from accepting a ship in distress altogether

Status quo for financial liability

- Internationally:
 - Liability rules are fragmented and do not cover all situations (limitation of liability, limitation by type of polluting substance)
 - LLMC 1976/1996
 - Bunkers
 - HNS
 - CLC/Fund

- In the European Union, 2009: Erika III package
 - Including compulsory insurance by virtue of Directive 2009/20
 - To be implemented by 1 January 2012
- Directive 17/2009:
 - The absence of insurance certificate shall not itself lead to refusal of port of refuge