Key skills communication
Level 4 – Oil Tanker Spillage

Tuesday 14 June 2005

Source Booklet

- This booklet contains source material for the level 4 communication test, Oil Tanker Spillage.
- The test questions will be based on this material.
- You must hand in this source booklet at the end of the test, along with your test paper and answer booklet.

The level 4 communication test will assess your ability to:

- evaluate and synthesise information from different sources
- communicate relevant information with accuracy, effectively using a form, structure and style that suits your purpose
- organise and clearly present relevant information, illustrating what you say in ways that suit your purpose, subject and audience
- vary your use of vocabulary and grammatical expression to convey particular effects, enable fine distinctions to be made, achieve emphasis and engage the audience

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DOCUMENT 1

Flying Flags of Convenience

FLYING "flags of convenience", as the phrase suggests, refers to the registration of ships in countries with which they have little or no real link. These are usually 'tax haven' countries that require no substantial connection between ship and state, and who are happy to benefit from the foreign revenue earned. All ships must be registered and fly the flag of one country or another. Just two of these flag of convenience states, Panama and Liberia, account for 30% of the world's shipping tonnage, with the next four largest flags, including the Bahamas where the oil tanker Prestige was registered, bringing the total to around 55%.

The principal motivating force for ship owners registering in a "flag of convenience" state is commercial. Owners can expect low taxes, minimum red tape, weaker employment standards (allowing cheap crewing), and a relaxed approach to enforcement of vessel safety and environmental protection regulations; in short they offer a favourable climate for doing business. It is even possible to buy a navigation licence without any experience at sea. In this obscure system it is hard to determine who is ultimately responsible for a ship. The Prestige was registered in Liberia, sailed under the flag of the Bahamas, was controlled by a Greek organisation, yet it was used by a Russian oil-trading company based in Switzerland!

Flag of convenience users also benefit from the "flag of convenience" state doing everything it can to protect the interest of shipping companies at the International Maritime Organisation (IMO), the United Nations (UN) agency responsible for the regulation of global shipping. They carry considerable weight within the IMO and use their influence to block more stringent regulations for sea-going ships.

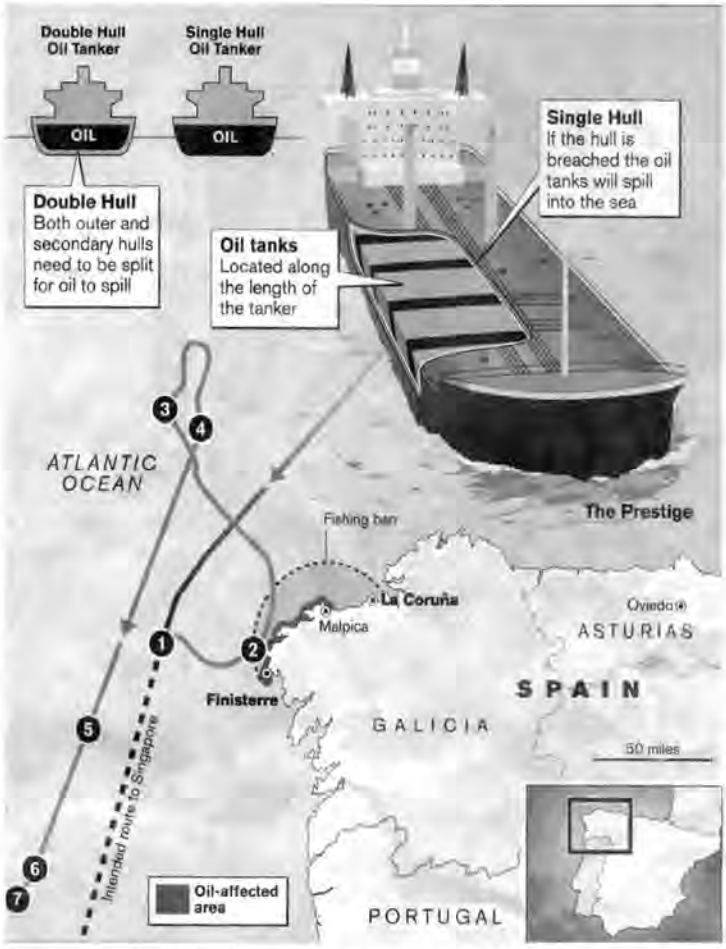
Source: Flying flags of convenience, Kust en Zee, 1 July 2002

A saga of single hulls, double standards and too many flags of convenience

HOW THE PRESTIGE DISASTER UNFOLDED

The International Maritime Organisation acted to phase out single hull tankers after the Erika oil spill off northern France in 1999. Under the May 2001 agreement, Prestige would have stopped trading by 2005. But other single hull tankers that meet certain anti-pollution standards can stay until 2015 or their 25th birthday, whichever comes sooner.

1. **Wednesday 13th November**
   Tanker begins taking on water and starts to drift towards the Spanish coast. Some fuel oil seeps out.
2. **Thursday 14th**
   17 Sailors are evacuated. Four tugs drag it away from the coast.
3. **Friday 15th**
   Tanker is 65 miles from Spanish coast with a 50 ft crack in hull, trailing 10 mile oil slick. Captain and rest of crew are evacuated and he is arrested.
4. **Saturday 16th**
   Tanker drifts southwards threatening to break in two.
5. **Sunday 17th**
   Tugged tanker drifts further south
6. **Monday 18th**
   Portugal bars tanker from its ports. Tanker is 100 miles from coast.
7. **Tuesday 19th**
   Tanker splits in two and sinks, 130 miles from the coast.



PRESTIGE, which broke up yesterday off the north-west coast of Spain, was just one of many such vessels mass-produced in Japan during the seventies. So was Erika, which sank off the coast of Brittany in late 1999, losing 30,000 tons of oil in the process. So was the Braer, cause of an 85,000-ton spill off the Shetland Islands in 1993. So was the Aegean Sea, which grounded in almost the same Spanish waters as Prestige, a decade ago, gushing out 74,000 tons of crude.

In the seventies, Japan's emerging shipyards were in the business of turning out technically unsophisticated vessels as quickly and as cheaply as possible. Of course the internationally agreed regulatory standards of the day were met… but only just.

Erika was one of a batch of eight tankers produced in Japan between 1974 and 1976. While Erika eventually perished, at least three others in the series are known to have experienced structural problems. Seafarers serving on one complained of dangerous loose steel plates. In other words, had these tankers encountered the type of force nine gale found in the Bay of Biscay in winter while fully laden, they might well have added their names to the roll call of casualties. According to Lloyd's Marine Intelligence Unit, pre-1980 vessels make up about 300 of the 1,800-strong world oil tanker fleet.

Some tankers are even older. The design life of a merchant ship is usually thought to be 20 to 25 years. But a considerable minority of owners readily work vessels for as long as they find willing charterers. Tankers dating back to the fifties are still out there.

It's time for the authorities to act. In particular, great hopes have been placed in the double hull design, proved to have greater ability to withstand impacts. Last year, the International Maritime Organisation, a UN agency not generally noted for moving with

alacrity, ordered the gradual phase-out of all single-hull tankers of the Erika or Prestige type. But that could not be done overnight. Replacement double-hull tankers obviously take time to build. Moreover, owners of older vessels successfully pleaded that they built their ships to the standards applicable at the time and to order their early demise would penalise them unfairly.

Under the resultant compromise, single-hulled tankers will go out of service between 2003 and 2007. Prestige, for instance, could not have traded beyond 2005. Other single-hull tankers that meet certain anti-pollution standards can stay until 2015 or their 25th birthday whichever comes sooner. Meanwhile single-hull tankers still make up the majority, about 60% of the total.

And double-hulled tankers are not a miracle cure. While they should reduce the frequency and extent of oil spill disasters, they will not eliminate such problems. Some naval architects point to the (so far theoretical) danger of gas build up between the two skins of a double-hulled ship, which could result in an explosion.

After the Exxon Valdez incident of 1989, the United States introduced tough legislation that leaves the oil industry liable for clean-up costs. Oil companies have become rather more sniffy about the ships they are prepared to charter in US waters, and have introduced tougher vetting procedures. Their European counterparts have recently followed suit.

Another important contribution to marine safety would be an end to the ultra-secrecy surrounding the flag of convenience system. Often it is impossible definitively to establish exactly who controls a ship registered to a brass plate company in Panama or Liberia, deemed legally to be owned by whoever is carrying the "bearer shares". The so-called "corporate veil" meant it took several weeks before the name of the owner of the Erika was publicly known, and there are similar problems in identifying the Greek shipowning dynasty believed to control Prestige. Where ownership cannot be established, the law cannot effectively be enforced.

Source: Adapted from 'A saga of single hulls, double standards and too many flags of convenience' by David Osler. The Independent, 20 November 2002

DOCUMENT 3

Ageing begins early for double hull crude carriers

Doubts about the safety of double hull tankers were brushed aside by legislators stampeding to get the US Oil Pollution Act 1990 (OPA 90) on the statute books. There were plenty of voices raised about the dangers of explosions in the double hull spaces once such tankers started to get a bit old.

But those warnings were not listened to. The International Maritime Organisation (IMO) followed the lead of the OPA 90 with amendments to the International Convention for the Prevention of Pollution from Ships, and effectively committed the industry to using double hull ships.

Now the number of large double hull tankers is growing quite rapidly. Although few such vessels are more than a few years old, problems are becoming apparent, which are likely to prove headaches for the ship repair industry.

It seems that some double hull tankers had experienced serious corrosion problems in the cargo tank bottoms. Corrosion problems have been noted for many years in single hull tankers, and remedial action taken has been to weld-fill the corroded areas. The problem has been attributed in the past to a combination of sulphur in the cargo mixing with water residues in the tanks after ballast transfer or washing, and a carry over of high oxygen levels from flue-gas supplied inert gas systems. But other actions have also been identified as causing corrosion in cargo tank bottoms. Microbial infestation in crude oil is also responsible for this type of damage. The conditions found in most cargo tanks are ideal for the proliferation of microbial activity. A high temperature, the presence of water and nutrients will all support growth.

The problem posed by corrosion and eventual small leaks is far more serious in double hull tankers than single skin ships, as ingress of oil into the ballast spaces can lead to an explosive mixture being formed. To carry out effective repairs the ship may have to be withdrawn from service and enter a repair yard. The obvious way to combat such corrosion is to coat the bottom section of the tank. This is best done at the new building stage as coating after a cargo has been carried may entrap microbes, which in turn can start to degrade the coating system. But plenty of double hull tankers have been built with uncoated tank bottoms so the yards will face the prospect of exacting and time-consuming coating work at the bottom of cargo tanks.

It may be a year or two before the implications of accelerated cargo tank corrosion in double hull tankers sink into the collective consciousness of the tanker industry. But once it does these ships are likely to have to undergo rigorous surveys and, possibly, extensive remedial work. The repair yards may well end up seeing more of the new generation of tankers, and at an earlier stage in their careers, than the old single hull ships.

Source: Adapted from Shipping Times, 27th October, 1997

DOCUMENT 4

The prescription and enforcement of pollution standards

IN DISCUSSING this question it is essential to keep constantly in mind certain distinctions. First, it is necessary to distinguish between a state's competence to prescribe legislation for individual ships (legislative jurisdiction), and its competence to enforce legislation thus prescribed (enforcement jurisdiction). Secondly, the legislative or enforcement jurisdiction that a state has in respect of a particular vessel varies depending on whether it is a flag, coastal or port state. A flag state is the state whose nationality a particular vessel has. A coastal state is the state in one of whose maritime zones a particular vessel is. A port state is the state in one of whose ports a particular vessel is.

As far as legislative jurisdiction is concerned, under customary international law a flag state can prescribe anti-pollution rules applicable to its vessels, wherever in the world they might be. Under the Territorial Sea Convention a coastal state may prescribe any legislation relating to pollution that it wishes for foreign vessels in its territorial sea, provided that such legislation does not hamper innocent passage. As regards port states, a state can adopt anti-pollution legislation for foreign vessels in its ports and even make the observance of such legislation a condition of entry to its ports.

As far as enforcement jurisdiction is concerned, a flag state can exercise jurisdiction in respect of violations committed anywhere by its vessels. The flag state can arrest its vessels when they are on the high seas or in its territorial sea or ports; where the vessel is in the territorial sea or port of another state, the flag state may not arrest it, but may nevertheless institute criminal proceedings against it before its own courts provided the shipowner is within, or the vessel returns to, the flag state. Customarily, international law permits a coastal state to enforce violations of its pollution legislation committed in its territorial sea by foreign ships by arresting suspected vessels and instituting legal proceedings against them. A port state may inspect a vessel, and if the inspection indicates a violation of the Maritime Pollution Convention (MARPOL), the flag state shall be informed and again must take legal proceedings.

This framework for the prescription and enforcement of pollution standards is less than satisfactory. Many flag states, especially flags of convenience, have been lax in enforcing the provisions of conventions to which they are parties. The failures of flag states to take proper enforcement action have been compounded by the fact that these states are the only states which can take enforcement action against a vessel polluting the waters beyond the territorial sea, which is where most pollution from vessels occurs.

The Law of the Sea Convention obliged flag states to adopt pollution regulations for their vessels, but there is no evidence that this has been enforced. However, where a flag state is lax in taking enforcement action, port and coastal states can now step in. If an accident does occur, the question arises as to what measures a state can take to prevent or reduce pollution from a stricken vessel in the vicinity of its coasts. If the vessel is in the territorial sea, the coastal state can take any measures it considers appropriate. The question of what powers the coastal state has if the vessel is beyond the territorial sea was posed in the case of the Torrey Canyon, which although on the high seas, was bombed by the United Kingdom authorities in the hope of reducing pollution from the vessel by setting its cargo of oil on fire. Doubts about the legality of its action led the United Kingdom to refer the question to the IMO, and a subsequent amendment allowed this action as long as "excessive measures" were not taken.

While the primary aim of the international law should be to prevent pollution, a subsidiary aim should be to facilitate the bringing of compensation claims by those who have suffered damage where pollution has occurred. A person who has suffered damage from pollution may face difficulties in bringing an action for compensation against the shipowner. First, he may find it difficult to prove fault on the part of the shipowner, and secondly, he may find it difficult to bring an action before the courts of his own state when the shipowner is a foreign national, because the courts may be reluctant to assume jurisdiction; and even if he succeeds, it may be difficult to enforce the judgement. Thirdly, the compensation awarded to the victim of pollution may exceed the financial resources of the shipowner. In this latter case compensation will be paid to the victim from the International Oil Pollution Compensation Fund. The Fund's income is raised by a levy on oil imports, in order that the oil companies who own the cargo should also bear a share of the liability and not merely the shipowner.

The owner of a ship carrying more than 2,000 tons of oil must maintain insurance or other financial security sufficient to cover his maximum liability for pollution damage under the Civil Liberty Convention. A victim may also bring an action for compensation in the courts of the state in whose territory the damage occurred.

Source: Adapted from 'The prescription and enforcement of pollution standards' by R R Churchill & A V Lowe, The Law of the Sea, 1988

DOCUMENT 5

Spain and Portugal clash over responsibility for sinking

FEUDING and finger pointing engulfed the European Union last night over responsibility for the sinking of Prestige.

Spain and Portugal were at each other's throats, while France – the last European country to suffer from a major oil spill – accused the EU of failing to implement a new system of maritime checks. The French President, Jacques Chirac, had harsh words for the EU, criticising the "inability of officials, in particular European, to take the necessary measures to fight against the laxity that allows the development of these rust buckets".

Spain and Portugal enjoy prickly relations at the best of times, but the sinking of the Prestige has prompted a fierce dispute between the neighbouring maritime nations, each of which is desperate to avoid taking responsibility for the disaster that threatens to engulf them both.

Portugal's Prime Minister, Jose Durao Barroso, said it was "absolutely sure and confirmed by the navy" that the tanker was in Spanish waters.

Spain, however, considers that the tanker, which has now disappeared beneath the waves, is outside its jurisdiction, and that it bears no responsibility for it. Portugal's Defence minister, Paulo Portas, discussed the accident and its potential consequences on the sidelines of a meeting in Brussels with Spanish officials. "The accident occurred in Spanish waters and that has a certain legal weight," Mr Portas was quoted as saying.

Mr Chirac said a "draconian" maritime policy was now needed by the 15 EU countries. He noted that the EU had acted to phase out unseaworthy tankers after a similar disaster off northern France in 1999 when the tanker Erika split in two. "Measures are being put in place, but it is too slow," he said.

Source: Adapted from 'Spain and Portugal clash over responsibility for sinking' by Elizabeth Nash & Anne Penketh, The Independent, 20 November 2002.

DOCUMENT 6

Exxon Valdez

WHAT HAPPENED?

At four minutes past midnight on March 24 1989, the Exxon Valdez, loaded with 1,264,155 barrels of crude oil, ran aground on Bligh Reef in the northeastern portion of Prince William Sound, Alaska. About one-fifth of the total cargo, 11.2 million gallons, spilled into the sea. After three days of calm weather and smooth seas, strong north-easterly winds arose and dispersed the oil beyond any hope of containment. The oil came ashore along an approximate 470 miles trajectory that ran from Prince William Sound to the southern Kodiak Archipelago and Alaska Peninsula.

WHAT DID IT COST?

A civil settlement between the Exxon Corporation and the State of Alaska and the Federal Government was reached in October 1991. Exxon had to make ten annual payments totalling $900 million for injuries to natural resources and services, and for the restoration and replacement of natural resources. The last payment was due in September 2001. A memorandum of agreement between the State and the Federal government defined how the civil settlement funds were to be spent, and a trustee council was set up.

Source: Adapted from, Exxon Valdez Fact Sheet 6, March 1999