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Oil has become the new tobacco

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When Tony Hayward, **BP**'s chief executive, testifies to the US Congress on Thursday about the company's oil spill in the Gulf of Mexico, he will be only the latest corporate leader in the Washington hot seat.

A lot is made in the UK of the fact that Mr Hayward is British and runs a UK-listed company, as if it accounts for the political anger that has exploded at BP over its failure to cap the gusher left behind by the Deepwater Horizon rig. In reality, nationalism has little to do with it – the sound and fury would be just as intense had it been **ExxonMobil**.

The heads of **Goldman Sachs**, **Moody's**, **Toyota** and other corporate sinners have been paraded in Congress in recent months, with little sign that being a US company confers an advantage. Lloyd Blankfein of Goldman was born in the Bronx but he was treated as contemptuously as if he had worn a monocle, top hat and tails.

The contest on show on Thursday – also evident in President Barack Obama's televised address to his nation from the Oval Office this week – will not be Americans against Brits but US politicians, channelling the mood of voters, versus big corporations.

For a time, it looked as if public anger over the financial crisis of two years ago would be confined to Wall Street banks. But the gulf spill raises a broader threat to companies and shareholders. Oil is becoming the new tobacco and other industries could well be next.

If chief executives were brought to Washington merely to be humiliated, investors would not care. But the pressure on BP to suspend dividends to shareholders and put $20bn into an escrow fund for compensation and clean-up before anyone knows what it will cost is ominous.

It has echoes of the 1998 tobacco settlement in which the industry paid $246bn to states following legal action by their attorneys-general. Only 5 per cent of that money was spent on tobacco-related initiatives, with Virginia, for example, investing in higher education, fibreoptic cables and research into energy.

Willie Sutton, the robber, sagely observed that he raided banks because that was where the money was, and US politicians know this lesson well. The voters do not have a lot since they are recovering from a loss of paper wealth in the housing bust and governments around the world (as well as US states) face yawning budget deficits.

Who does have cash? Large, dividend-paying corporations such as BP. They include energy producers and utilities; consumer goods brands; food, drink and drugs companies – all of the mature businesses that cluster in indexes such as the FTSE 100 and the Standard and Poor's 500.

Adam Posen of the Bank of England monetary policy committee has pointed out that UK companies hold financial surpluses equal to 8 per cent of gross domestic product. Industrial companies in the S&P 500 had a record $836bn in cash in March, according to Howard Silverblatt, an S&P index analyst.

Cash matters to investors. The S&P's "Dividend Aristocrats" index of reliable dividend payers in the S&P 500 includes Exxon, **McDonald's**, **PepsiCo** and **Walmart**, and S&P estimates that dividends have made up a third of total shareholder returns since 1926.

These reserves also make corporations what lawyers call "deep pockets" – defendants that are worth suing because they can afford to pay large sums in compensation. The tactics of Congress and Mr Obama against BP are reminiscent of tort lawyers, who are big funders of the Democrats.

It is now clear that BP not only took needless risks before the rig explosion, but was unprepared for the environmental disaster that followed. It is responsible for cleaning up the damage and for meeting fair compensation claims, as it has readily conceded.

Instead of sticking with the 1990 Oil Pollution Act, passed after the Exxon Valdez disaster, Washington has moved to impose punitive damages. At one point, politicians were telling BP to pay wages to all oil workers laid off as a result of Mr Obama's suspension of gulf drilling, including those employed by others.

Meanwhile, in his address, Mr Obama proposed an effort to reverse decades of gulf coast environmental degradation that had nothing to do with BP. If the tobacco settlement is any guide, that will not stop states trying to raid the escrow fund – BP's initial payouts to Alabama, Florida and Mississippi already have a pork-barrel flavour to them.

Other companies may look at all this and believe that they and their investors are liability-free because they have not spilled oil in the gulf, sold cigarettes, made cars that do not brake or constructed synthetic collateralised debt obligations.

That would be a mistake. Many of S&P's dividend aristocrats rely on the goodwill of consumers and politicians to keep accumulating cash for payouts. The mood following the bail-out of Wall Street is now so hostile to corporations, and public budgets so strained, that any slip would make them vulnerable.

Robert Reich, the former US labour secretary who wants the US government to put BP into temporary receivership although many of its investors are UK-based, defines the affair as a "contest between citizenship interests and shareholder interests".

That sounds good but most people are both. Investors and pensioners, both in the UK and the US, depend on BP and other dividend aristocrats for retirement. If politicians strip the aristocrats' assets, the citizens will eventually pay for it.

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