GI WACAF second webinar series on oil spill preparedness and response

How to claim for compensation in case of an oil spill?

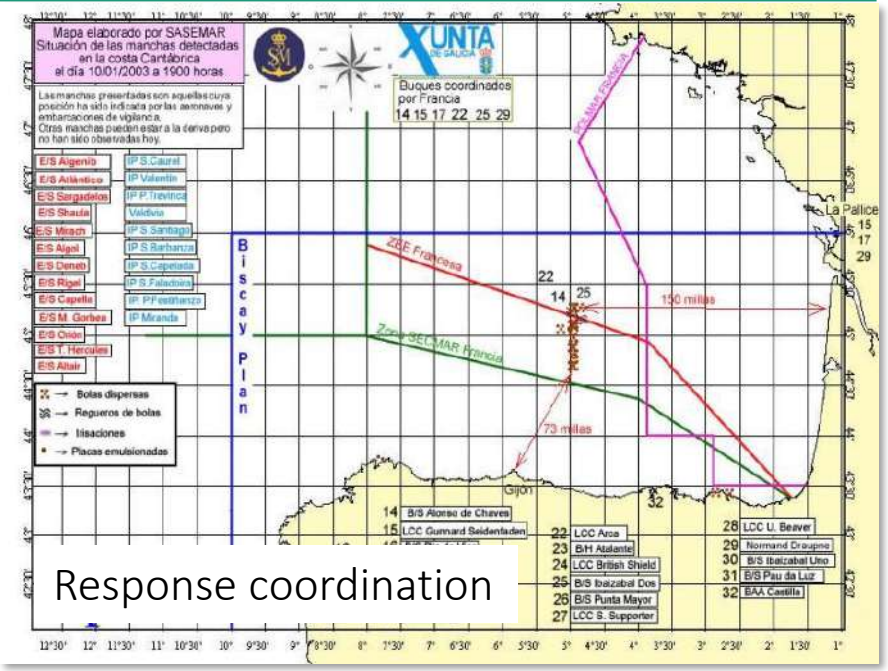
Christopher BLACK
Technical Support Coordinator, ITOPF

OVERVIEW – RESPONSE AND ENVIRONMENTAL DAMAGE

- Typical response activities with major incidents
- Clean-up termination
- Documenting a clean-up claim
- Preparation and Presentation of a claim
- Claims for environmental damage
- Post-spill studies
- Conclusions

RESPONSE ACTIVITIES

Aerial surveillance



Response coordination

At-sea recovery

Dispersant spraying

RESPONSE ACTIVITIES

Shoreline protection

Shoreline clean-up

Use of consumables

Waste management

CLEAN-UP TERMINATION

- Objectives / criteria achieved
- Response means would be more useful elsewhere
- Damage amplification
- Diminishing returns
- Clean-up costs out of proportion with sensitivity of area
- Waste production

RESPONSE COSTS

- Pre-spill contracts vs. spot market
- Daily/hourly rates
- Stand-by rates
- Public vs. private sector
- Fixed costs
- Overheads

FIXED COSTS

- Public sector personnel
- Expenditure incurred even if no incident (e.g. salaries)
- Additional costs are admissible
  - Must correspond to actual period of response
  - Must not include remote overhead charges
  - Only applies to personnel directly involved in response
    e.g. clean-up crews, supervisors and command and control staff
  - Personnel involved in documenting claims

EQUIPMENT COSTS

- Non-specialised equipment – market rates
- Standby equipment not deployed is assessed at lower rate (normally claimed at **50% of used rate**)
- Equipment costs **amortised over working life**
- Reasonable costs of **cleaning/repairing** clean-up equipment are admissible
- **Profit element** if commercial contractor
- Vessels - **market rates** or alternatively capital cost, amortisation and annual maintenance

CHARTER RATES FOR VESSELS

Determination of Hire Rates for Oil Spill Response Vessel (OSRV)

GUIDE

Capital

Name	**Response 1**
G.T.	650
DWT	1500
Engine Horsepower	2500
Year Built	1998
Cost of Vessel	**USD 4,500,000.00**

Maintenance

15 year lifespan	$300,000.00
Insurance	$60,000.00
Classification Surveys	$5,000.00
Repairs & Dockings	$200,000.00
Superintendency	$7,600.00

Fuel Costs at an average of 5000 litres per month at USD 0.30 per litre	$18,000.00
Victualling and Consumables at USD 2 700 per month	$32,400.00
Sub-Total	**$623,000.00**

Crew

Manning Costs

Master	$1,500.00	per month	$18,000.00
Chief Officer	$1,000.00	per month	$12,000.00
Chief Engineer	$1,250.00	per month	$15,000.00
Seaman	$800.00	per month	$9,600.00
Oiler	$800.00	per month	$9,600.00
Deck hand	$600.00	per month	$7,200.00
		Total	**$694,400.00**

Immobilisation time

Number of working days a year		365	days
minus	Holidays	13	days
minus	Weekends	110	days
minus	Repairs	20	days
	Total	222	days

Cost per day	USD 694,400.00 /	222	**USD 3,127.93** per day
Cost per hour (based on 10 hour per day)			**USD 312.79** per hour

SPECIALISED EQUIPMENT: RATES AND CHARGES

Typical claimed in use life expectancies:

- Offshore booms 90 days
- Coastal booms 30 days
- Skimmers 180 days
- Power packs 180 days (no oil contact)

Calculation of daily rate for a skimmer

$$= \frac{\text{Capital costs + \% annual maintenance/storage/training costs}}{180}$$

Key to have a transparent calculation of rates with justification

- What's included in the rate?
- Fuel, operators, insurance,
- Rates - in transit, standby, in use, awaiting cleaning, parts
- Original condition - age /depreciated value

OTHER ITEMS: COST RECOVERY

- Computers & electronic equipment
- Office furniture
- Standard write-off periods e.g. 3 years
- Calculation of residual value (Capital – realised amortisation)

PREPARING A CLAIM

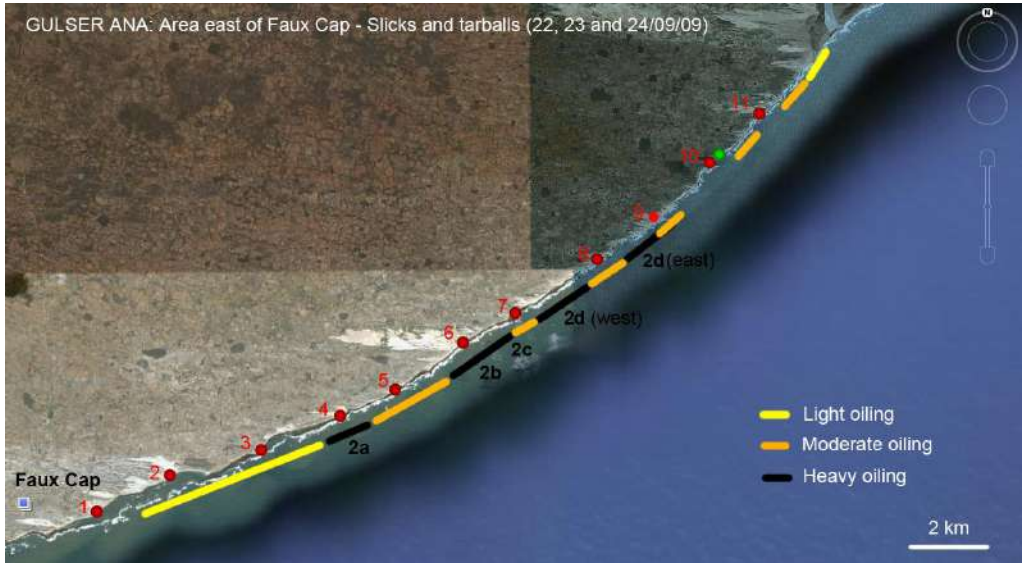
Documentation:

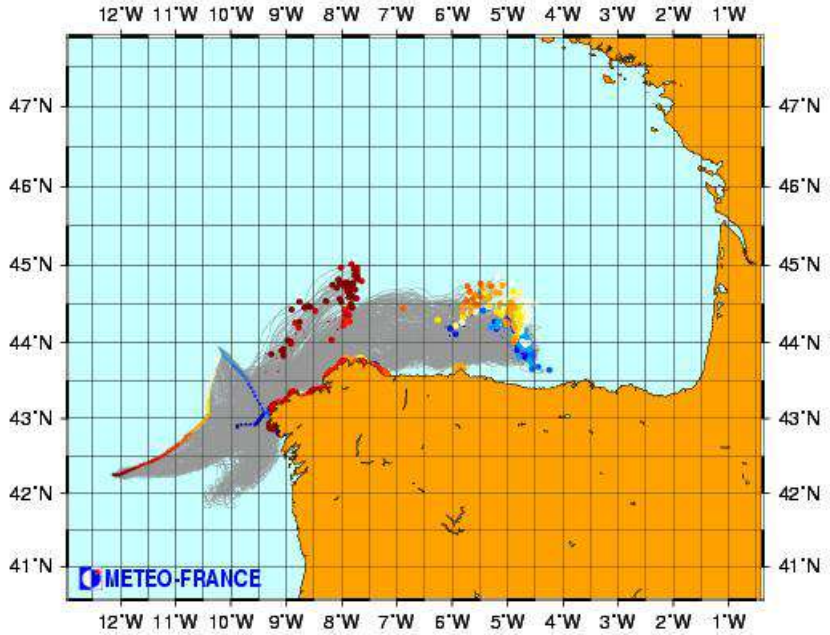
- Who can submit a claim?
  - Authorities / Administrations / State
  - Private entities
  - NGOs
  - Businesses / individuals
- Daily activity logs – Response organisation/ Contractors/ Worksheets
- Aircraft/ vessel logs - extracts from log books
- Beach masters – daily reports
  - Number of personnel
  - Type and amounts of equipment/ materials
  - Type and length of shoreline cleaned
  - Clean-up techniques used
- Purchase orders (invoices)

PRESENTATION OF CLAIMS

- Invoices insufficient by themselves
- Narrative describing response activities and linking these with expense
- Maps / Survey reports / Decision-making meeting minutes / daily reports / equipment lists…

Evidence provided must be sufficient for the P&I Club and IOPC Fund to form its own opinion of the losses suffered





CLAIMS FOR ENVIRONMENTAL DAMAGE

- Economic loss which can be quantified in monetary terms
  e.g. reduction in revenue for a marine park

- Costs of reasonable measures to reinstate the damaged environment
  e.g. planting of mangrove saplings

- Provided that measures should:

  - Accelerate significantly the natural recovery process
  - Prevent further damage as a result of the incident
  - Not result in degradation of other habitats or adverse consequences for other natural or economic resources
  - Be technically feasible
  - Costs should be proportionate to extent / duration of damage and benefits likely to be achieved

- Valuations based on abstract quantifications or calculated from theoretical models not admissible (Metodika / Jeddah method)

POST-SPILL STUDIES

- Funds may contribute to the cost of studies provided they relate to pollution damage
- Studies to establish nature and extent of environmental damage and whether reinstatement is necessary and feasible
- Studies are not required after all oil spills
- Studies should be carried out with scientific rigour and objectivity
- The costs of the measures should not be out of proportion to the extent and duration of the damage and the benefits likely to be achieved
- Examples:

  - Contamination / Exposure
  - Seafood safety
  - Affected population / species
  - Damage to salt marshes / mangroves…

CONCLUSIONS

- ITOPF provides/can provide technical advice and advice in relation to reasonableness of actions when on site (advisory role)
- Keep and submit good accounts linking action to expenditure
- Assessment based on technical criteria
- Provisional assessment to compensate victims promptly
- Revision of assessment if further information is provided