

Claims Assessment

- ITOPF provides prompt & effective spill response
- Claims assessment an important component
- Claims from attendance on site & post spill involvement

Scope for Compensation

ITOPF involvement in oil pollution claims - four categories:

- Preventive measures – e.g. protective booming, clean-up
- Property damage – e.g. private yachts, fishing gear
- Economic loss – e.g. fishing, tourism
- Environmental damage




Assessment Basis

Technical assessments for P&I Clubs, lawyers, IOPC Funds

- What would the cost of a reasonable response have been?
- What are reasonable losses?
- Reasonable - based on objective criteria:
 - Response should seek to prevent or minimise pollution damage
 - Incur costs or losses that are appropriate - local context
 - Scientific evidence

Assessment Criteria

- Based on text of the Civil Liability & Fund Conventions and IOPC Fund 1992 Claims Manual
- Applied by ITOPF to all claims - consistency
- Irrespective of whether incident is in a CLC signatory state
- Irrespective of whether vessel is a tanker or other type
 - e.g. recent incidents involving:
 - cruise ship
 - container ship
 - ro-ro

Assessment Aims

- To provide clear & straightforward assessment
- Report and spreadsheet
 - costs recommended as reasonable
 - costs recommended for rejection
 - costs queried
- May have several iterations

CASUALTY at Axyz, Eabxde - 1st November 2007				
Government claim				
	Claimed	Rejected	Queried	Assessed
Government resources				
SeaFence Boom	€ 28,000.00	€ 0.00	€ 28,000.00	€ 0.00
Personnel	€ 8,438.24	€ 0.00	€ 0.00	€ 8,438.24
Skimmer	€ 7,000.00	€ 3,500.00	€ 0.00	€ 3,500.00
Sorbent particulate	€ 5,832.00	€ 2,916.00	€ 0.00	€ 2,916.00
Sorbent Boom	€ 4,510.00	€ 0.00	€ 0.00	€ 4,510.00
Other purchases	€ 1,108.68	€ 0.00	€ 0.00	€ 1,108.68

Assessment process

- Time delay
 - electronic copy
 - raw invoices
 - lack of information
 - narrative, maps, photographs, minutes etc.
- Analysis of supporting information
- Speed verses detail – overview or full assessment – flexibility
- Work with correspondents / surveyors - guidance
 - local knowledge of incident
 - resources / rates
 - language
 - large claims
- ERIKA – French State claim ~250,000 pages

Preventive Measures

Claims Assessment

- On-site verification
 - did actions take place?
 - were losses incurred?
- Audit
 - does the claim reflect these actions/losses?
 - do sums add up?
- Reasonable
 - were the actions taken and costs reasonable?

Preventive Measures

Questions asked:

- What?
- Why?
- Where?
- When?
- By whom?
- How much?

Record keeping – ITOPF will work with potential claimants to advise on best methods to record expenditure.

Preventive Measures

- Actions judged on the basis of circumstances and decisions made at the time – not hindsight
- Claimant's actions must be justified
- Reference to markers – verbal & written

Preventive Measures

Examples where actions and associated costs may be considered not to be reasonable:

- Spraying dispersant on heavily weathered oil
- Mobilising at-sea response vessels after oil has stranded on-shore
- Booming fast-flowing rivers
- Large scale removal of sand beaches

Preventive Measures

Clean-up claim components - rates

- Labour – contractors, local government, military, volunteers etc.
 - waged verses salaried - overtime
- Aircraft – commercial rates
- Vessels – commercial rates / SCOPIC
- Specialised equipment - value of item over expected life
- Non-specialised equipment – market rates

Element of profit - commercial verses government
Fixed costs verses additional costs

Reduced rates for stand-by, cleaning, repairs etc.


Memorandum of Understanding – Singapore MPA

Disposal – legislative requirements

Property Damage

- Boat hulls
- Nets
- Mariculture facilities
- Water intakes
- Roads / Paths

- Cleaning, r
- Survey of c
- Account is
- Betterment
- ITOPF wo
- e.g. civil / hi



ability

analysts



Economic Loss

Tourism

- Oiled beaches or other tourist facilities
- Public perception – holidaymakers



Economic Loss

Fisheries

- Oiled fishing gear / facilities
- Tainting of stock
- Fishing or harvesting bans
- Public perception – consumers

Economic Loss

- ITOPF role dependent on incident
- Assessment of claims based on previous years' financial records / tourism or fish market data
- Voluminous claims – work with specialist consultants
- ITOPF to place observations in context of the overall incident e.g. extent of oiling, impact on claimant

Environmental Damage

Claims expected under several regimes:

CLC & Fund States

- Reasonable & justifiable restoration accepted
- The costs should be in proportion to the damage and expected benefits

Environmental Damage

National legislation

e.g. valuations based on abstract quantifications
calculated from theoretical models

Methodika
Jeddah method
Constanza method

- Quantity spilled
- Area impacted
- Environment type
- Environment use
- Species impact

ITOPF analysis to determine basis of actual costs / losses

ITOPF provides technical assessments

- Costs incurred for purely political or public relations reasons are beyond the scope of a technical assessment
- ITOPF assessment is a recommendation and is only one opinion
- Support for case handler in negotiations with claimants