



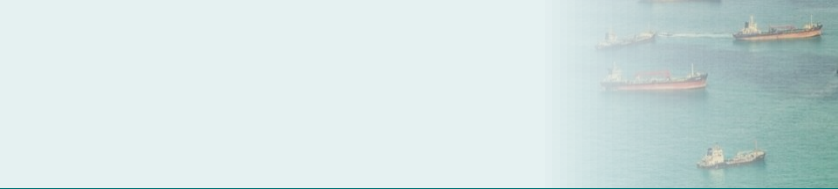
# EMSA Training on Civil Liability in the Maritime Domain

*Lisbon, Portugal*

## Economic losses

### Fisheries and Tourism sectors

13 December 2018



## Types of Claims

- Consequential loss
- Pure economic loss

## Admissibility Criteria



## Fisheries, mariculture and fish processor claims



## Tourism claims

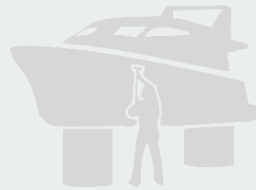
# Types of claims

## *Where we are*

1 Costs of clean-up operations and preventive measures



2 Property damage



3 Economic losses by fishermen or those engaged in mariculture



4 Economic losses in the tourism sector



5 Costs for reinstatement of the environment





### Consequential loss

Loss of earnings suffered by the owners or **users of property contaminated** as a result of a spill



### Pure economic loss

Loss of earnings sustained by persons whose **property has not been contaminated**



# Economic losses

## *Admissibility criteria*



Occurrence of an incident is not enough to receive compensation

There must be a sufficiently close link of causation between loss/damage and contamination





# Economic losses

## *Admissibility criteria*

Geographic **proximity** between the claimant's activity and the contamination

Claimant's **economic dependence** on the affected resource

**Alternative sources** of supply or business opportunities

Extent to which the business forms an integral part of the economic activity within the area affected





# Economic losses

## *Mitigation measures*



**Oil spills:  
Tackli  
worst  
disast**

**INFORMATION MAREE NOIRE  
«ERIKA»**

**Cette plage n'a pas été  
polluée à la suite  
du naufrage de l'«ERIKA»**

Claims may be accepted for the costs of **measures to prevent or minimise** pure economic loss (mitigation)



e.g. **Promotional campaigns** to restore a once-polluted coast's image as a tourism destination



# Economic losses

## *Mitigation measures*

The cost of the measures should be **reasonable**

The cost of the measures should **not be disproportionate** to the loss they intend to mitigate

The measures should be **appropriate** and offer a **reasonable prospect of being successful**

In the case of marketing campaigns the measures should **relate to actual targeted markets**







# Fisheries, aquaculture and fish processing claims

## *Mitigation of losses*

### Claimant's duty to mitigate losses

- Travel to alternative fishing areas
- Farm & Hatchery management
- Early harvesting of stock
- Re-location of cultivation facilities
- Resume normal activities ASAP
- Campaigns to allay market fears





### Factors to be considered:

- Whether produce is contaminated/tainted
- Likelihood that contamination would disappear before normal harvesting time
- Whether retention of produce affects further production
- Likelihood of produce being marketable at normal harvesting time



# Fisheries, aquaculture and fish processing claims

## *Subsistence (artisanal) fisheries claims*

Unlikely to have supporting documentation

Likely to be in need of urgent compensation

Interim payments made in hardship cases

### Sources of information

- Government statistics
- Field surveys of similar unaffected fishing
- Interviews





# Tourism claims admissibility criteria

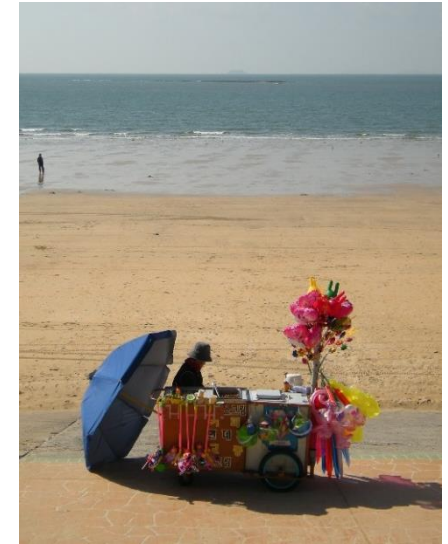
## *Degree of dependency*



Distinction is made between:

- a) Claimants who sell goods or services **directly** to tourists
- b) Claimants who provide goods or services to other businesses in the tourist industry but **not directly** to tourists

In the case of (b), it is considered that there is **not a sufficiently close link** of causation between the contamination and any losses





# Economic losses

## *Guidance for claimants*



## General guidance

- Claims Manual
- Fisheries Claims guidelines
- Tourism sector claims Guidelines





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