

**NATIONAL SEMINAR  
ON LIABILITY AND COMPENSATION  
FOR OIL POLLUTION DAMAGE**

**Tunis, Tunisia  
9-10 July 2002**

**R E P O R T**

**DECEMBER 2002**

**NATIONAL SEMINAR**  
**ON LIABILITY AND COMPENSATION FOR OIL POLLUTION DAMAGE**

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**R E P O R T**

**INTRODUCTION**

1. The two-day National Seminar on Liability and Compensation for Oil Pollution Damage was organized by REMPEC in close co-operation with the Ministry of Environment and Physical Planning, Republic of Tunisia, on 9 and 10 July 2002 in Tunis, Tunisia. The Seminar aimed at senior officers and administrators, representing a whole range of national and local authorities, services and organizations, as well as the representatives of oil and shipping industry, non governmental organizations and other entities designated to take part in the Tunisian national system for preparedness and response to accidental marine pollution.

2. The Seminar was organized as part of REMPEC's activities aimed at assisting the competent national authorities of the Mediterranean coastal States to develop their national systems for preparedness for and response to accidental marine pollution, in conformity with the request put forward by the Tunisian delegation in the Meeting of REMPEC Focal Points, held in Malta in October 2000 (REMPEC/WG.18/14). It was financed by the funds made available for this purpose by the Mediterranean Trust Fund.

3. In the Meeting of Focal Points the Tunisian delegation solicited the Centre's support in the process of strengthening its national capacities for dealing with marine pollution emergencies, and subsequently the competent national authorities requested REMPEC to examine the possibility of organizing during 2001 in Tunisia a seminar on liability and compensation for oil pollution damage. Due to the Centre's very heavy workload of activities planned for 2001 and to an unexpected shortage of staff it was agreed that the suggested activity would be organized in 2002.

**ORGANIZATION OF THE SEMINAR**

5. In the preliminary contacts between REMPEC and the Ministry of Environment and Physical Planning it was agreed that the national authorities would be responsible for the invitation of the participants, for providing refreshments for the participants during coffee breaks, for providing local transport for the speakers and for assisting REMPEC in identifying and hiring the adequate conference room equipped with audio-visual equipment. The Ministry was also responsible for copying and distributing the written documents prepared by the speakers.

6. REMPEC identified, selected and invited the external speakers in the Workshop and prepared the programme of the Seminar. The Centre covered all the costs of the organization of the Seminar including the simultaneous interpretation from English into French and vice versa, necessary interpretation and audio-visual equipment, rental of the conference room, as well as the travel expenses and DSA of its own staff and of an external speaker.

7. The costs related to the participation of the speaker from the IOPC Fund were fully covered by his respective organization.

8. The Seminar was conducted in English and in French languages, and the simultaneous interpretation from English into French and vice-versa was provided for its whole duration.

9. The venue of the Seminar was the Conference Room of the Centre de Tunis des Technologies de l'Environnement (CITET).

10. The Seminar was inaugurated and officially opened on Tuesday, 9 July 2002 at 08.15 by H.E. Mr. Mohamed ENNABLI, the Minister of Environment and Physical Planning. In his opening address Mr. ENNABLI welcomed the participants to the Seminar and thanked REMPEC for its support in organizing it and to the representatives of IOPC Fund and ITOPF for accepting to provide the key speakers. The Minister emphasized the importance of the question of liability and compensation for oil pollution damage for Tunisia, which was a country having 1300 km of the coastline and was handling some 10 million tonnes of oil in its ports and terminals, but also had important natural coastal resources and economic activities in the coastal zone. He briefly outlined the activities taken within the country that eventually led to the development of a comprehensive national system for preparedness and response, and indicated that the issue of liability and compensation called for co-operation of numerous stakeholders from both public and private sector. Mr. ENNABLI concluded by stressing the fact that the Seminar offered an opportunity for discussing this issue in detail and for proposing improvements that could further strengthen the national preparedness and response system.

11. Mr. Darko DOMOVIC, Senior Programme Officer, REMPEC thanked the Minister for his kind words and welcomed the participants on behalf of the Director, REMPEC, as well as on behalf of UNEP/MAP and IMO. He confirmed the commitment of the Centre to continuous support to the capacity building at the national level in Tunisia, and indicated that the present Seminar was the first of its kind ever organized by REMPEC in the Mediterranean region. He expressed his hope that the Seminar would be a successful one and that this experience could be subsequently used in other countries of the region.

12. Mr. Malek SMAOUI, Deputy Director, Directorate General for the Environment and the Quality of Life, Ministry of Environment and Physical Planning introduced the Seminar and its objectives, as well as arrangements made for its smooth running.

13. A total number of 79 participants attended the Seminar, in addition to the speakers. They represented various Government Ministries and other Government agencies, regional and local authorities, non-governmental organizations, oil and shipping industries, port authorities, employers, coastal management bodies, legal offices and academic community. Most of the participants came from the government departments, agencies and services having a role in the national preparedness and response system. The list of participants is given in ANNEX I.

## **OBJECTIVES AND PROCEEDINGS OF THE SEMINAR**

14. During the preliminary discussions with the competent Tunisian national authorities it was agreed that the Seminar should focus on explaining the main principles of currently existing international systems for liability and compensation for oil pollution damage and on illustrating as much as possible the operation of these mechanisms in case of marine pollution incidents. The intention was to gather the representatives of all structures within the country which, in case of an oil spill, would play a role in responding to it or could be affected by its consequences, and therefore required knowledge on appropriate procedures leading to the compensation of damages. The Seminar was conceived in such a way as to permit an open exchange of views and experiences with the aim of reaching a good understanding of problems related to liability and compensation for oil pollution damages.

15. The objectives of the Seminar were to outline the main principles of the international regimes for liability and compensation of oil pollution damage, to demonstrate how these regimes work in practice, to familiarize the participants with the current situation in this field in Tunisia and to explain how to present claims in order to ensure timely and appropriate compensation of those who had suffered damage. However, a final objective was to discuss and recommend measures for improving the efficiency of the national preparedness and response system in the domain of liability and compensation.

16. In order to achieve these goals REMPEC prepared, in close collaboration with the Ministry of Environment and Physical Planning, the programme of the Seminar that included 11 presentations and a discussion. The final programme of the Seminar is given in ANNEX II.

17. REMPEC invited two foreign speakers representing the most prominent international organizations working in the field of liability and compensation. International Oil Pollution Compensation Fund (IOPC Fund) was represented by Mr. José MAURA, Head, Claims Department, and the International Tanker Owners Pollution Federation Limited (ITOPF) was represented by Mr. Richard JOHNSON, Senior Technical Advisor. They covered the following topics: international compensation regimes, causes, fate and effects of oil spills and their clean-up within the context of compensation regimes, compensation claims, oil spill response (objectives, how-clean-is clean, termination of clean-up operations, role of ITOPF), the cost of oil spills, recent (post Erica) developments in compensation regimes, and the preparation of compensation claims. In addition they presented several case studies of recent oil spill incidents.

18. Tunisian speakers included a representative of Tunisian International Protection and Indemnity Correspondent (TIPIC), Mr. Jalel ABDENNEBI, and the professor of maritime law at the Faculty of Law and Political Sciences of Tunis. Dr. Othman BEN FADEL. They addressed respectively the role of ships' insurers and P and I Clubs and the Tunisian experience in the field of liability and compensation.

19. The list of speakers is given in ANNEX III and the list of documents that were distributed to the participants in ANNEX IV.

20. On 9 July 2002 the Seminar was chaired by Maître Lofti CHEMLI who very ably co-ordinated the discussions that followed each presentation. Mr. Malek SMAOUI from the Ministry of Environment and Physical Planning chaired the second session of the Seminar on 10 July 2002 and carried out his task with a great competence.

## **DISCUSSION AND RECOMMENDATIONS**

21. Topics addressed by the speakers in the Seminar were discussed both after each presentation and during the general discussion that was held at the end of each day. The discussions concentrated on one hand on clarifying specific topics presented by the speakers, and on the other hand on the situation in Tunisia and the applicability of the existing international liability and compensation regimes at the national level. Some participants in the discussion suggested possible changes or improvements in the present international mechanisms, however since this went beyond the scope of the Seminar the Chairmen endeavoured to lead the discussion towards formulating certain realistic and applicable recommendations that could strengthen the national marine pollution preparedness and response system and the effectiveness of its implementation in case of an emergency.

22. After the completion of all presentations on 10 July 2002 a final round of discussion was held, in which the participants in the Seminar, national authorities involved in the preparedness and response to accidental marine pollution, as well as the speakers in the Seminar and REMPEC representative took part.

23. In addition to a genuine interest shown in various aspects of liability and compensation for pollution damage, the final discussion revealed *inter alia* a great concern of all participants for the protection of the marine environment in Tunisia. The comments made by the participants were therefore not limited only to the theme of the Seminar itself, but addressed also other aspects of prevention of, preparedness for and response to accidental marine oil pollution.

24. The participants in the discussion emphasized that a particular attention should be paid to ratifying relevant international Conventions and Protocols and integrating them into the national legal system. They also called for the strengthening the national legal framework as far as liability and compensation for oil pollution damage were concerned, for better promulgation and enforcement of existing regulations and for closer co-operation with international organizations specialized in this field. The need for training in matters related to preparedness and response and to the implementation of the National Contingency Plan was another point that the discussion highlighted.

25. On the basis of the suggestions put forward during discussions the Chairman, Mr. Malek SMAOUI, formulated a set of draft recommendations and presented these to the Seminar. In conformity with the initial remarks made by H.E. Mr. Mohamed ENNABLI, the Minister of Environment and Physical Planning, the recommendations of the Seminar primarily addressed further improvements of the national preparedness and response system, in particular in the domain of liability and compensation, and the facilitation of its implementation in case of emergency.

26. Draft recommendations were considered and unanimously adopted by the Seminar in the form reproduced in ANNEX V.

27. The Closing session of the Seminar was chaired by Mr. Khalil ATTIA, Director General, Agence Nationale de Protection de l'Environnement (ANPE). In his closing address Mr. ATTIA thanked REMPEC for organizing the Seminar and for its continuous support to the development of the Tunisian national system for preparedness and response. He expressed his thanks to all speakers in the Seminar and to the participants for their active and constructive contribution to its work. Mr. ATTIA also stressed the importance of such meetings for increasing the level of preparedness at the national level and for the improvement of the national preparedness and response system.

28. On behalf of REMPEC Mr. DOMOVIC thanked Mr. ATTIA for his closing address and for presiding over the closing ceremony. He also thanked the speakers for their excellent presentations, all those present for their active participation in the Seminar and for their suggestions, and the two Chairmen who skilfully guided the Seminar through its very condensed programme.

29. Mr. ATTIA declared the Seminar closed on Wednesday, 10 July 2002 at 14.30.

**ANNEX I**

**LISTE DES PARTICIPANTS**

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**ANNEX II**  
**PROGRAMME**

**JOUR 1: MARDI 9 JUILLET 2002**

07.45 – 08.15 Inscription

08.15 – 08.45 Ouverture du Séminaire

M. Mohamed ENNABLI  
Ministre de l'environnement  
et de l'Aménagement du  
territoire

M. Darko DOMOVIC  
REMPEC

08.45 – 09.30 Généralités sur le régime international d'indemnisation  
- Convention de 1992 sur la responsabilité civile  
- Convention de 1992 portant création du Fonds

M. José MAURA  
FIPOL

09.30 – 10.15 Généralités sur le sort, les effets et le nettoyage  
des déversements dans le contexte des régimes  
d'indemnisation  
- Sort des hydrocarbures en mer  
- Impacts des hydrocarbures sur les  
ressources côtières  
- Nettoyage des polluants en mer et à terre

M. Richard JOHNSON  
ITOPF

10.15 – 10.45 *Pause café*

10.45 – 11.30 Le rôle des assureurs de navires/ Clubs Protection &  
Indemnisation

M. Jalel ABDENNEBI  
TIPIC -Représentant  
de Clubs P&I

11.30 – 12.00 L'expérience tunisienne

Dr. Othman BEN FADHEL

12.00 – 12.45 Les demandes d'indemnisation des dommages  
par pollution d'hydrocarbures  
- Politique du FIPOL en matière  
de demande d'indemnisation  
- Critères de recevabilité des demandes  
d'indemnisation  
- Mesures préventives  
- Dommages à la propriété  
- Dommages à l'environnement  
- Préjudice économique  
- Évaluation des demandes d'indemnisation

M. José MAURA  
FIPOL

13.45 – 14.30 Table ronde

REMPEC – FIPOL  
ITOPF – Clubs P&I

**JOUR 2: MERCREDI 10 JUILLET 2002**

08.00 – 08.45	La lutte contre la pollution par les hydrocarbures <ul style="list-style-type: none"><li>- Objectivité</li><li>- Nettoyage propre ?</li><li>- Fin des opérations</li><li>- Rôle de l'ITOPF</li></ul>	M. Richard JOHNSON ITOPF
08.45 – 09.15	Coûts des déversements d'hydrocarbures <ul style="list-style-type: none"><li>- Facteurs affectuant les coûts</li><li>- Cas d'espèce</li></ul>	M. Richard JOHNSON ITOPF
09.15 – 10.00	Développements récents sur les régimes d'indemnisation (l'après Erika) <ul style="list-style-type: none"><li>- Groupe de travail inter-session</li><li>- Responsabilité de l'armateur du navire</li><li>- Fonds supplémentaire</li><li>- Dommage à l'environnement</li></ul>	M. José MAURA FIPOL
10.00 – 10.30	<i>Pause café</i>	
10.30 – 11.00	Etude de cas no.1 (pollution moyenne)	Mr. Richard JOHNSON ITOPF
11.00 – 11.30	Etude de cas no.2 (pollution majeure)	M. José MAURA FIPOL
11.30 – 12.15	Préparation et présentation des demandes d'indemnisation des dommages dus aux hydrocarbures <ul style="list-style-type: none"><li>- demande d'indemnisation des coûts de nettoyage</li><li>- demande d'indemnisation des dommages à la propriété</li><li>- demande d'indemnisation des pertes économiques</li><li>- demande d'indemnisation du dommage à l'environnement</li></ul>	M. Richard JOHNSON ITOPF M. José MAURA FIPOL
12.15 – 13.00	Discussion et recommandations	REMPEC –FIPOL - ITOPF – Clubs P&I
13.00 - 13.30	Clôture du Séminaire	M. Darko DOMOVIC REMPEC  M. Khalil ATTIA Directeur Général, ANPE

## ANNEX III

### LIST OF SPEAKERS

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## ANNEX IV

### LIST OF DOCUMENTS

1. J. Maura Regime international d'indemnisation (Power Point presentation)
2. FIPOL Textes des Conventions de 1992 sur la responsabilité civile et l'indemnisation pour les dommages dus à ;a pollution par les hydrocarbures (Edition de 2001)
3. FIPOL Rapport annuel de 2001
4. R. Johnson Marine oil pollution: cause, fate and effects (Power Point presentation)
5. J. Abdennebi Role des P & I Club lors d'un pollution marine
6. O. Ben Fadhel L'expérience tunisienne: Leçons à tirer d'une saisie d'un navire étranger pour cause de pollution
7. J.Maura Recevibilité des demandes d'indemnisation (Power Point presentation)
8. R. Johnson Response to marine oil spills: reasonableness and deactivation (Power Point presentation)
9. R. Johnson Factors affecting the cost of spills (Power Point presentation)
10. J. Maura Futur des conventions (Power Point presentation)
11. R. Johnson Etude de cas: Natuna Sea (Power Point presentation)
12. J. Maura Etude de cas: Erika (Power Point presentation)
13. FIPOL Le FIPOL et le sinistre de l'Erika (mars 2002)
14. FIPOL Manuel des demandes d'indemnisation (juin 2000);
15. J. Maura Preparation of claims (Power Point presentation)
16. R. Johnson Claims and cost recovery (Power Point presentation)

## ANNEX V

### RECOMMANDATIONS

1. Développer la réglementation nationale en matière de recherche et d'identification des contrevenants et des sanctions à imposer à ces contrevenants.
2. Activer l'élaboration d'un manuel de procédure du Plan National d'Urgence traitant entre autres des aspects liés à la responsabilité du pollueur (identification, mise en demeure, caution bancaire, contact avec les représentants légaux) et l'indemnisation (surtout structure d'aide et d'assistance à l'élaboration des demandes).
3. Prévoir des sessions de formation sur des sujets précis liés au Plan National d'Urgence destinés aux experts et structures concernés pour débattre des mesures et procédures en vigueur et essayer de les améliorer et de les parfaire.
4. Renforcer la coopération avec les structures internationales compétentes (FIPOL, ITOPF, IPIECA....) pour bénéficier de leurs programmes de renforcement de capacités dans leurs domaines de compétence.