

Rural and Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Budget Estimates May 2010

Infrastructure and Transport

Question No.: AMSA 01

Division/Agency: Australian Maritime Safety Authority

Topic: Dispersant usage during Montara oil spill response

Hansard Page/s: 125 (26/05/10)

Senator Siewert asked:

Senator SIEWERT—I want to go to the Montara issue first, you would be surprised! I want to go back to the issue of dispersants first and sort of pick up where Senator Back left off. I asked you previously about dispersants that were used, and they are on the website. You gave them to me and subsequently they have been put on the website. What I still have not been able to ascertain is how much of each dispersant was actually used. At the time you gave me what had been used to date—that was before the incident finished—and you gave me the name of the dispersants that had been used. Can you give me the amount of each dispersant that was used—in other words, the Slickgone, I have forgotten the second one and the two Corexits that were used. Are you able to give me, for each specific dispersant, the actual amounts used?

Mr Peachey—We do not have that information with us, but we would be happy to provide it on notice.

Senator SIEWERT—If you could, that would be appreciated. That is not available on your website, as far as I can tell. Am I correct in that?

Mr Kinley—We are still calculating that, from the actual count of the empty containers. We are just doing an audit to make sure we have exact figures.

Senator SIEWERT—Do you have any preliminary figures?

Mr Kinley—I have only the total figures with me. I can actually say the number of containers at the moment, but that is not going to give you the volumes.

Senator SIEWERT—That will give me a start.

Mr Kinley—For example, we have a total of 43 empty containers of Slickgone NS-205 from one load and then another 48 from another load. So I have numbers here, but they are really meaningless unless we give you the actual size of those containers. We will give you that on notice.

Answer:

- A total of 184,135 litres of dispersant were applied to treat the Montara oil spill.
- Seven types of dispersant were used; Slickgone NS, Slickgone LTSW, Tergo R-40, Shell VDC, Corexit EC9500, Corexit EC 9527A and Ardrex 6120.

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- The quantities of each dispersant used during the response are as follows:

Dispersant	Amount Used (litres)
Tergo R-40	1,000
Slickgone LTSW	38,000
Shell VDC	5,000
Corexit EC9500	17,000
Slickgone NS	63,415
Ardrox 6120	32,000
Corexit EC9527A	27,720

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Division/Agency: Australian Maritime Safety Authority

Topic: National Plan Guidelines for Acceptance of Oil Spill Dispersants

Hansard Page/s: 125 (26/05/10)

Senator Siewert asked:

Senator SIEWERT—My question is: have you reviewed how you have established the toxicity of a particular dispersant under the national plan? Because it seems to me that approach is quite generous, in that I think half the adult fish are killed over a period of 95 hours. That is correct, isn't it?

Mr Peachey—We do not have the details of what that toxicity test is, but again we are happy to provide it. When we do the review of the national plan, I dare say issues like that will be looked at. This is probably an evolving science anyway, and why wouldn't we look at that into the future? Having said that, the people involved in this and the science behind it are pretty robust. I would be surprised if there are any doubts about the toxicity and the methodology they have right now.

Senator SIEWERT—I will go back to that in a minute. I would like to ask, though, in terms of whether the particular dispersants that were used have been tested also against fish larvae and coral spawn?

Mr Peachey—I do not have the details of the testing methodology with me, but again we will chase that up and give it on notice.

Answer:

For the acceptance of oil spill dispersants under the National Plan, each manufacturer/distributor must provide written documentation and test results to AMSA about the Oil Spill Dispersant to show that it complies with the AMSA Guidelines.

Only dispersants that pass a specified minimum level of effectiveness and a specified maximum level of acceptable toxicity are approved for use in Australian waters and purchased for National Plan stockpiles.

“Effectiveness” is assessed using a process known as a “Mackay Dispersant performance test”, which uses a chamber containing an amount of sea water with air circulated to generate turbulence and simulate ocean conditions. Oil is added to the chamber, and the dispersant is then applied. To pass this test, the dispersant must be assessed as more than 75% efficient at an application ratio of 20:1.

“Toxicity” is assessed as the degree to which the dispersant is able to produce illness or damage to an exposed organism. These tests – known as LT₅₀ and LC₅₀ - are undertaken in recognised and accredited testing laboratory involving two temperate and two tropical marine fauna species. The dispersant tested under the current protocol shall have a 96 hour LC50 value on the order of magnitude of 10 mg/litre (ppm) as derived from the 96 hour semi static exposure regime.

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The dispersants are also tested for biodegradability according to test protocols described in Australian Standards 4351 and 6.3.2.

Also required are full Material Safety Data Sheets (MSDS) that include occupational health and safety requirements and product spill clean requirements, dangerous goods storage requirements, emergency procedures in the event of skin or contact, and protective clothing requirements.

Following the Montara incident AMSA is currently reviewing the National Plan Guidelines for Acceptance of Oil Spill Dispersants.

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Division/Agency: Australian Maritime Safety Authority

Topic: Assessment of Oil Spill Dispersants Approved for Use in Australia

Hansard Page/s: 126 (26/05/10)

Senator Siewert asked:

Senator SIEWERT—Could we then talk about the process. If a particular dispersant has been banned in other countries, do you then subsequently look again at that dispersant?

Mr Peachey—I would be hazarding a guess, because I have not actually been directly involved in those sorts of discussions, but you would expect the science and the scientists involved in that to have regard to international practice.

Senator SIEWERT—The scientists involved in determining what dispersants are used under the national plan?

Mr Peachey—Dispersants used generally, whether under our national plan or internationally. There is an international community which does get involved in this. They do actually meet regularly and I am sure these sorts of issues will come up. Again, if you want further details I am more than happy to provide information about what sort of testing is done and what regard we have for international standards and practice.

Answer:

The Australian Maritime Safety Authority (AMSA) manages the National Plan to Combat Pollution of the Sea by Oil and Other Noxious and Hazardous Substances (the National Plan).

For the acceptance of oil spill dispersants under the National Plan each manufacturer/distributor must provide written documentation and test results to AMSA about the Oil Spill Dispersant to show that it complies with the National Plan Guidelines for Acceptance of Oil Spill Dispersants. These Guidelines are currently being reviewed.

The National Plan committees and working groups, and AMSA continually review the international practice of dispersants, and is certainly interested in the outcomes of dispersant use during the BP spill in the Gulf of Mexico. The issues regarding dispersants arising from this incident will be considered by the National Plan.

Australia is also represented at the International Maritime Organization's (IMO) OPRC-HNS Technical Group. The Technical Group assists IMO in developing manuals, guidance documents and training material on international preparedness, cooperation and response to maritime oil and chemical spills. The IMO Dispersant Guidelines are scheduled to be discussed at its next meeting in London on 20-24 September 2010.

Question No.: AMSA 04

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ANSWERS TO QUESTIONS ON NOTICE

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Division/Agency: Australian Maritime Safety Authority

Topic: Location of Samples sent to Montara Inquiry by Senator Siewert

Hansard Page/s: 127 (26/05/10)

Senator Siewert asked:

Senator SIEWERT—I appreciate that. I appreciate the very hazardous process from a scientific point of view that people will say that samples have gone through. My question then was: what samples were taken in a scientifically rigorous process to establish whether the oil that was there in the water was Montara oil?

Mr Peachey—We will take that on notice. I do not have the information with me. I do not have the details of the sample, whether they are from our waters or from Indonesian waters. So I will take that on notice.

Answer:

AMSA notes that three oil samples provided to Senator Siewert were analysed by the Montara Commission of Inquiry. Two samples were confirmed to be Montara crude oil. The GPS positions for these samples fall within the Australian Exclusive Economic Zone (EEZ). The third sample was within the Indonesian EEZ but was confirmed by the laboratory as being a hydrocarbon, but it was not Montara crude oil.

During the response to the Montara oil spill, response officers conducted daily aerial surveillance flights to obtain situational awareness and direct response operations. Aerial surveillance was conducted along the Indonesian coastline during the response. No oil was observed to impact the coast of Indonesia and to date AMSA has seen no evidence that oil from the Montara Wellhead impacted the coast of Indonesia.

Question No.: AMSA 05

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ANSWERS TO QUESTIONS ON NOTICE

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Infrastructure and Transport

Division/Agency: Australian Maritime Safety Authority

Topic: “Window of Opportunity” to Spray Oil Spill Dispersants

Hansard Page/s: 129 (26/05/10)

Senator Siewert asked:

Senator SIEWERT—I understand that. The point, as I understand it from some of the evidence, is that oil was sprayed further away from the rig than would have taken 48 hours to get there, so my question is: is that process being reviewed and what is the standard practice? Is it 48 hours or is it longer? And if the standard practice is different will there be modifications to practices and responses in the future?

Mr Kinley—The practices of using dispersant in each incident are actually dependent upon the characteristics of the oil being released. The oil that was being released in the Montara incident was very amenable to being dispersed. Our experience of the impact of the dispersant was that it was very effective on the oil and the conditions were such—it was so benign up there—that the oil maintained those characteristics for quite a period of time. I do not actually have that data about the 48-hour incident, but I will go away and investigate what particular case that was. But my understanding, from those involved in the incident, was that we were very lucky it was very amenable to being dispersed and it reacted ideally to the application of dispersant.

Answer:

The dispersant application practices utilised during the Montara oil spill response were considered standard practice.

The majority of dispersant applied during the Montara response was within approximately seven nautical miles of the platform. The furthest distance recorded for application of dispersant from the platform was approximately 37 nautical miles. If the oil moved at a conservative speed of 1 nautical mile/hour, over a 48 hour period, it could be expected to move a distance of 48 nautical miles.

Dispersants were only applied on oil that was considered to be dispersible. There were a number of occasions during the response where dispersants were not applied due to an assessment that the oil encountered on those days was weathered to such an extent that those patches of oil would not be dispersible. It was the intention of AMSA throughout the response to only spray dispersants where there would be a net environmental benefit.

Question No.: AMSA 06

Rural and Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

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Infrastructure and Transport

Division/Agency: Australian Maritime Safety Authority

Topic: Reported location of *Ady Gil* and *Shonan Maru 2* collision

Hansard Page/s: Written Question

Senator Siewert asked:

Report from the Australian Maritime Safety Authority (AMSA) entitled "Fact finding report into the reported collision involving the New Zealand registered craft *Ady Gil* and the Japan registered whaling ship *Shonan Maru No. 2* in the Southern Ocean on January 6th, 2010."

Can AMSA please explain why on page four, the report states that the incident did not occur in Australia's territorial seas yet the GPS position from the *Bob Barker* only a few hundred meters away from the *Andy Gill* has the position at 64 Degrees 2 minutes and .835 seconds South and 143 Degrees 5 minutes and .52 seconds East. This is inside the Australian Antarctic Economic Territorial Zone.

Why does the report say the incident occurred in international waters?

Answer:

The investigation established that the collision occurred outside Australia's territorial sea adjacent to Antarctica.

Question No.: AMSA 07

Rural and Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Budget Estimates May 2010

Infrastructure and Transport

Division/Agency: Australian Maritime Safety Authority

Topic: Location of the *Ady Gil* collision relative to the AATZ

Hansard Page/s: Written Question

Senator Siewert asked:

On page six of the report, the position of the collision is stated as taking place 1300 nautical miles South of Tasmania and 170 nautical miles North of the Antarctic coast. This places the incident within the 200-mile Australian Antarctic Territorial Zone (AATZ) yet the report states that the incident did not occur in the AATZ.

Why?

Answer:

AMSA's inquiry established that the incident occurred outside of both Australia's territorial sea and exclusive economic zone. The incident did not involve any Australian flagged vessel, but it did occur in Australia's search and rescue region.

Question No.: AMSA 08

Rural and Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Budget Estimates May 2010

Infrastructure and Transport

Division/Agency: Australian Maritime Safety Authority

Topic: Witnesses to the *Ady Gil* collision

Hansard Page/s: Written Question

Senator Siewert asked:

Can AMSA please explain why the report said that the investigation was hampered by lack of witnesses, yet the entire incident was witnessed by six crewmembers on the *Ady Gil* and numerous crewmembers from Sea Shepherd and television film crew onboard the nearby *Bob Barker*?

Answer:

AMSA did not conduct face-to-face interviews with any parties involved in, or witness to, the collision. Logistical and jurisdictional limitations prevented AMSA from satisfactorily communicating with the relevant parties to establish facts that would allow the drawing of justifiable and definitive conclusions at this time.

Question No.: AMSA 09

Rural and Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Budget Estimates May 2010

Infrastructure and Transport

Division/Agency: Australian Maritime Safety Authority

Topic: Quality of video in *Ady Gil* collision

Hansard Page/s: Written Question

Senator Siewert asked:

Can AMSA please explain why the report said that the investigation was hampered by the “quality” of the video yet there were three video angles, two of which were taken by professional cameramen, one on the *Ady Gil* and the other on the *Bob Barker*. The third angle was taken from the Japanese vessel *Shonan Maru 2*.

This means that there was video from the ship struck, the *Ady Gil*, from the ship striking, the *Shonan Maru 2* and position of cameraman observer on the *Bob Barker*?

Answer:

The analysis of the video footage by an independent expert was not able to provide any firm conclusions on the authenticity of the footage or decisively assist in determining the cause of the collision.

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ANSWERS TO QUESTIONS ON NOTICE

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Infrastructure and Transport

Division/Agency: Australian Maritime Safety Authority

Topic: Difficulty of interviewing witnesses in *Ady Gil* collision

Hansard Page/s: Written Question

Senator Siewert asked:

Can AMSA please explain why the report says that the investigation was hampered by the difficulty of interviewing witnesses yet all six crew on the *Ady Gil* were interviewed?

Answer:

AMSA did not conduct face-to-face interviews with any parties involved in, or witness to, the collision. Logistical and jurisdictional limitations prevented AMSA from satisfactorily communicating with the relevant parties to establish facts that would allow the drawing of justifiable and definitive conclusions at this time.

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Division/Agency: Australian Maritime Safety Authority

Topic: Cooperation with the Australian Federal Police and Japan in the *Ady Gil* collision investigation

Hansard Page/s: Written Question

Senator Siewert asked:

Can AMSA please explain why in page four of the report it states that this report is not related to the investigation by the Australian Federal Police on Japan's request into the collision. In other words, Japan is not cooperating with the AMSA investigation into the collision but has requested that the Australian Federal Police investigate Sea Shepherd on their behalf?

Answer:

The AMSA inquiry was not related to any AFP inquiries into this incident. Such inquiries would be a matter for the AFP.

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Division/Agency: Australian Maritime Safety Authority

Topic: *Shonan Maru 2* response to mayday call following *Ady Gil* collision

Hansard Page/s: Written Question

Senator Siewert asked:

On Page 11, the AMSA report stated that the *Shonan Maru 2* remained in the area but did not respond to the mayday signal by the *Ady Gil*. The *Bob Barker* responded and rescued the crew. The report contains the testimony and the video footage from the *Ady Gil* crew and video footage from the *Bob Barker*. The Japanese refused to provide video or testimony.

Is it true that Australia is assisting Japan in their investigation against Sea Shepherd, but Japan refuses to assist Australia in their investigation of the actions of the *Shonan Maru 2*?

Answer:

Japan and New Zealand, as the flag States of the vessels involved, have exclusive jurisdiction under international law over their vessels in relation to incidents of this kind. Both countries are conducting investigations into the collision. The Australian Federal Police offered to provide assistance to their investigations.

Question No.: AMSA 13

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ANSWERS TO QUESTIONS ON NOTICE

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Division/Agency: Australian Maritime Safety Authority

Topic: Questioning of Captain of *Shonan Maru 2* after *Ady Gil* collision

Hansard Page/s: Written Question

Senator Siewert asked:

The captain of the *Shonan Maru 2* rammed and destroyed a multi-million dollar vessel and almost killed six crewmembers of which one suffered rib injuries so why has no one from Australia, New Zealand, or Japan questioned this captain?

Answer:

Under international law, the flag States for the vessels, Japan and New Zealand, have exclusive jurisdiction over their vessels in relation to incidents of this kind and can institute proceedings and conduct investigations in relation to the collision, including interviewing the crew. AMSA is not in a position to comment on the status of the Japanese or New Zealand investigations.

The report states that both parties to the collision were given the opportunity to provide information to AMSA.

Question No.: AMSA 14

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Infrastructure and Transport

Division/Agency: Australian Maritime Safety Authority

Topic: Discrepancies in the account of the *Ady Gil* collision

Hansard Page/s: Written Question

Senator Siewert asked:

The *Ady Gil* had the right of way because the *Ady Gil* was on the starboard side of the *Shonan Maru 2*, but there is no mention of this in the report. Instead, the report states that the video appears to show the *Shonan Maru 2* returning to offer assistance to the *Ady Gil*. This did not happen, and the report is prejudiced by the wording “appeared,” and further still there is no mention that the *Shonan Maru 2* “appeared” to be to the port side of the *Ady Gil* despite the fact that the video clearly indicates that it was the vessel that should have given way. Instead the *Shonan Maru 2* can be seen to alter course to starboard and not to port, a course change that led to the collision that cut the *Ady Gil* in half. The *Shonan Maru 2* is also seen in the video training their water cannon on the crew of the *Ady Gil* before, during, and after the ramming of the *Ady Gil*. Yet there is no mention of this. Instead the report states that the *Ady Gil* was harassing the Japanese fleet, implying that because of that the *Ady Gil* may have been responsible.

Can you please explain these discrepancies?

Answer:

The report states that an independent expert analysed the video footage of the incident posted on the Sea Shepherd Conservation Society’s web site and other media news services.

That analysis was not able to decisively assist in determining the cause of the collision.

Question No.: AMSA 15

Rural and Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

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Division/Agency: Australian Maritime Safety Authority

Topic: Extra resources to AMSA to regulate commercial vessels

Hansard Page/s: Written Question

Senator Nash asked:

I understand that AMSA will be provided with extra resources to allow it to regulate all commercial vessels –

- a) How much does this total in the current 2010-2011 Budget?
- b) And for each of the forward estimates?
- c) What precisely is it budgeted that this money be spent on in 2010-2011?
 - i) Employing more staff?
 - ii) Administrative costs?
 - iii) Acquiring capital assets?

Answer:

- a) \$5.148 million was provided in the 2010-2011 Budget for the establishment of the National Transport Regulator for all commercial vessels.
- b) Other than 2010-11, no funding has been provided for in the forward estimates.
- c) Currently the budgeted funds will be expended on:
 - i. Employee costs - \$1.13 million (includes 10 full time equivalents and staffing on-costs)
 - ii. Administrative costs - \$4.018 million (includes legal and regulatory advisors, legislative drafting, consultations with state/NT maritime agencies, NMSC, industry and the general public, business case for national database)
 - iii. Acquiring capital assets - \$0

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Division/Agency: Australian Maritime Safety Authority

Topic: Australia's involvement in the Indonesian Transport Assistance Program

Hansard Page/s: Written Question

Senator Nash asked:

- 1) What is it budgeted that the \$14.5 million on joint Indonesian operations under the existing MOU be spent on?
 - a) How many training safety inspectors will be trained?
 - b) How many accident investigators will be trained?
 - c) How many joint search and rescue exercises will be undertaken?
- 2) What is the scope of Australia's role in this project?
- 3) Will this additional funding be used to help secure our borders and prevent people smuggling?

Answer:

- 1) The budget is divided between DITRDLG as lead agency, AMSA, CASA, Airservices and ATSB. AMSA has been allocated \$0.740m per year for 4 years.
 - a) Priorities for Phase II are being discussed in the next few months and will be determined during this design phase.
 - b) Accident investigation was broad topic included in the Harbour Master training. However, detailed investigation training was allocated to ATSB.
 - c) Priorities for Phase II are currently under discussion with the Indonesian Search and Rescue Authority, BASARNAS.
- 2) Improving transport safety is an important element of ensuring sustainable growth in Indonesia, and is helping to address development challenges, including reducing vulnerability to accidents and disasters. The Package will make an important contribution to Indonesia's Medium Term Development Strategy and Australia's aid policies articulated in the draft Country Program Strategy. The Package is based on building capacity of public sector agencies in Indonesia, and the mode of delivery will further strengthen partnerships and sustainable linkages between the two countries.
- 3) No.

Question No.: AMSA 17

Rural and Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

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Division/Agency: Australian Maritime Safety Authority

Topic: Proposed increase to shipowners liability costs

Hansard Page/s: Written Question

Senator Nash asked:

I refer to the announcement in August 2009 that the Australian Government has initiated proceedings at the International Maritime Organisation (IMO) to increase the limit to shipowners' liability for cleanup costs,

- 1) What is the current status of proceedings?
- 2) What are the details of the proposal?
 - a) What was the proposed increase in liability?
 - b) What consultation was undertaken in determining this proposal?
 - c) Who was consulted in determining this proposal?
- 3) When will proceedings be finalised?
- 4) How much did AMSA collect in levies from industry in the Pacific Adventurer oil spill in the 2009-2010 financial year?
- 5) When will the increased levy rate to fund the Pacific Adventurer clean up costs be lowered to the original rate of 11.25 cents per net registered ton (from 14.25 cents)?
- 6) How much income has AMSA collected from 1 April 2010 to date?

Answer:

1. Australia introduced a work item on the IMO Legal Committee agenda for discussion at the 96th IMO Legal Committee meeting from 5-9 October 2009.
2. a) The proposal is to increase the liability to the maximum allowable under the amendment procedure spelt out in the Convention on the Limitation of Liability of Maritime Claims. This will be one of the matters for discussion at the 97th Legal Committee (LEG) meeting in November 2010 and is expected to be discussed again at the 98th LEG meeting in April 2011.

b) and (c) AMSA and the Department of Infrastructure and Transport consulted widely within Government and with other State parties to the LLMC 1996 in relation to having the new item added to the work program of the Legal Committee. The matter was raised with industry at a meeting on 4 November 2009 of the AMSA Advisory Committee, which represents key sectors of the maritime industry. AMSA and the Department are continuing to have discussions with industry representatives, including Australian Shipowners Association, government agencies within Australia and relevant international agencies, such as insurance industry representatives, in finalising Australia's proposal.
3. The proceedings will not be finalised until the IMO has considered and agreed on an increase in the liability limits. It is not possible to estimate when this will be completed.

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4. For the 2009-2010 financial year (as at 31 May 2010), the amount of levy revenue collected from this increase is \$0.916 million.
5. The levy will be amended when all clean-up costs above the amount recoverable from the funds paid into court by the shipowner, Swire, have been recovered. Until such time as the private sector claims have been received, substantiated and validated, AMSA is not in a position to accurately quantify the total liability.
6. See response to question 4.