



Briefing note

**Survey of environmental liability  
insurance developments**

June 2014

## Introduction

This paper responds to the consideration by the European Commission (EC) of a possible EU-wide compulsory insurance system relating to the Environmental Liability Directive (ELD). Insurance Europe has undertaken a survey across EU insurance markets to identify the availability of environmental liability insurance.

The survey shows that many different insurance solutions are available in EU member states to cope with market demand. It also clearly demonstrates that a voluntary free market is working in this challenging area, with different products and approaches available, and that a “one size fits all approach” at EU level would not be feasible. On the contrary, such an approach could impede the current encouraging development of insurance products in the member states.

## Key findings

Different consumers and markets demand different policies and levels of cover, and insurers in the individual member states are responding to their markets’ needs. The market is at differing stages of development in different countries, but there continue to be positive developments in providing environmental liability insurance across the EU.

The key findings of the survey are:

- In most markets, cover is available for all ELD risks (primary, complementary and compensatory remediation measures).
- There is a diverse range of solutions, which reflects the differing needs in different markets.
- Cover for ELD risks is provided either as part of general liability policies or stand-alone environmental liability products that are provided by individual insurers or environmental liability pools.
- The majority of ELD cover is between €1m and €5m, with uptake dependent on market demand.
- Available capacity for environmental liability in some markets is up to €50m, or can be even higher on request.
- Different risks are covered by different markets, with some risks, such as environmental damage, being more standard across the member states, whereas others, such as business interruption, vary.
- Over half of the countries surveyed offer products on a multi-national basis.
- There are few reports of ELD insurance claims.

The survey indicates that an EU-wide compulsory insurance system would not benefit the differing needs of customers in different member states. This means that “one size does not fit all”. Mandatory cover would remove the freedom to contract and has the potential to increase cost and decrease consumer choice. In addition, there is market capacity to expand the amount of environmental liability cover available should customer demand increase.



### **The Environmental Liability Directive (ELD): A brief history**

ELD “polluter pays” legislation was adopted by the EU in April 2004 (Directive 2004/35/EC). While the ELD is fully implemented, questions remain in relation to restoring damaged environment and the role insurance should play. The EC reported to the European Parliament in 2010 that the available information did not allow for concrete conclusions to be drawn about the effectiveness of the Directive.

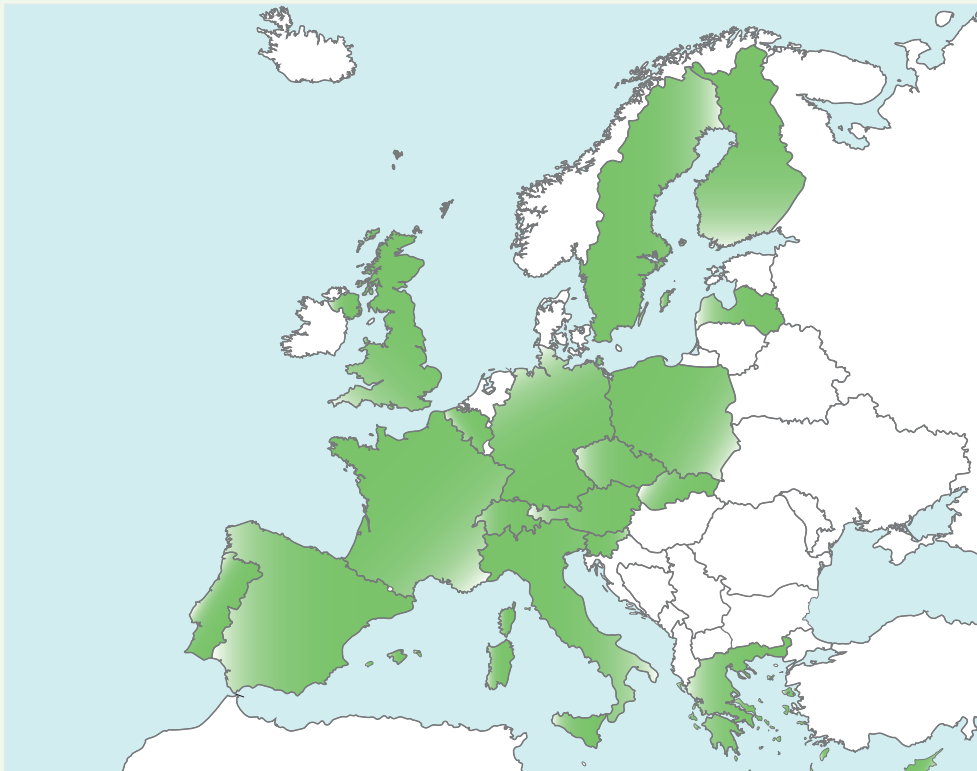
In 2013 Insurance Europe responded to a Bio Intelligence Service Study commissioned by the EC, highlighting developments made in the insurance industry since implementation, including:

- the continual growth of environmental liability pools
- the introduction of non-binding insurance models for ELD cover
- an increasing number of stand-alone environmental products

The EC is due to submit its report on the effectiveness and application of the Directive to the European Parliament and EU Council and undertake a review by the end of 2014. A key element the report will cover is whether there is a need for EU-wide compulsory ELD insurance and an extension of activities falling under strict liability.

### **Countries that participated in the survey**

18 Insurance Europe member countries responded to the survey, representing a range of economies and differing customer demand for environmental liability insurance products.



*Survey respondents: Austria (AT), Belgium (BE), Cyprus (CY), Czech Republic (CZ), Finland (FI), France (FR), Germany (DE), Greece (GR), Italy (IT), Latvia (LV), Poland (PL), Portugal (PT), Slovakia (SK), Slovenia (SI), Spain (ES), Sweden (SE), Switzerland (CH), United Kingdom (UK)*

## Detailed survey results

### Type of environmental liability risks covered

In most markets surveyed, cover is available for all ELD risks:

- primary remediation
- compensatory remediation
- complementary remediation

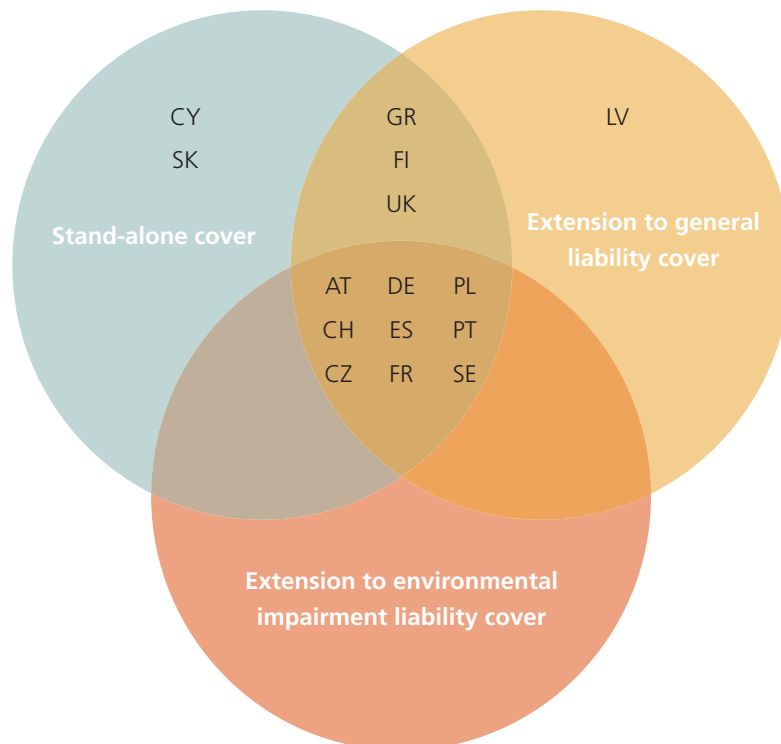
Environmental liability cover is available and provided on demand, in part by foreign insurers on a freedom of services basis. Overall, the responses show that countries are at differing stages, notably because of varying degrees of transposition and execution of the ELD by national authorities. However, there continue to be positive developments in providing the required environmental liability insurance across the EU.

### Types of insurance solutions

There are diverse environmental liability insurance solutions and these reflect the demands of the individual markets in which insurers operate.

Environmental insurance cover is offered as part of general liability policies or stand-alone environmental liability products either provided by individual insurers or environmental pools. The survey also found that whilst stand-alone products may have a single limit for environmental pollution, limits are harder to separate if environmental damage is covered under general liability or professional/public indemnity policies.

### Diversity of solutions reflects the needs of the markets



*Note: BE, IT and SI did not identify specific solutions. ES, FR and IT have environmental liability pools*



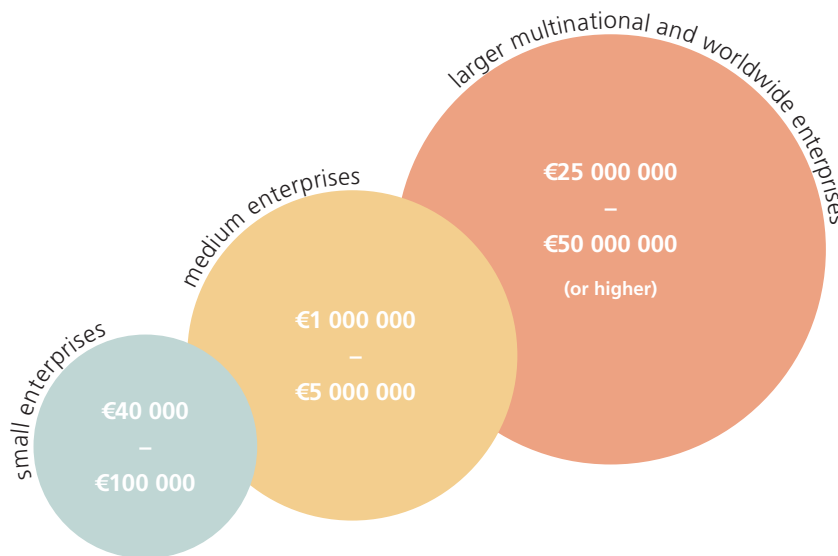
### Size of entities

Countries such as Germany, Portugal and the UK segment their market offerings to provide the cover needed by small, medium and large entities. In the UK, for example, the reported cover for smaller entities ranges from €1m to €5m, for medium entities €5m to €10m and for large entities €10m to €30m.

### Amount of cover

The amount of cover varies depending on the size of the economy and customer demand. Available capacity for environmental liability insurance in some markets is up to €50m, or can be higher on request. There is growing capacity, particularly in long-established environmental liability insurance markets, such as Germany, France and the UK, where capacity can exceed demand.

### Amounts vary depending on demand as well as market capacity



Respondents indicated that many insurers could have products available but that they can only increase what they offer if there is demand for it. In certain EU countries, demand is reported to be low due to there being few environmental incidents. In other countries, limited demand is attributed to low reporting of incidents or to the nature of the emerging market. The survey revealed that some markets access foreign insurers to generate or increase capacity.

### Why demand differs

There were several reasons cited as to why demand differs from country to country. These include:

- low reporting of incidents in some countries
- economic conditions in newer and emerging markets
- certain countries have fewer environmental incidents

Overall, the responses show that there is sufficient capacity in the differing markets and that specific countries tailor cover to specific market needs.

## Damages covered by policies

Of the countries surveyed, most offered a level of protection. 14 countries offered first-party damages, 16 third-party and 15 defence costs protection. There are a variety of different insurance products, ranging from first-party coverage to traditional liability insurance, reflecting the various different market needs. The products offered cover expenses for remediation of environmental damage that has occurred, either on the operator's premises (first-party cover) or beyond (third-party liability cover), environmental damage prevention and mitigation measures including defence and legal costs.

Other damages covered by policies vary more widely in both form and availability, however 13 of the countries surveyed offered one or more of, for example, the following policies; site monitoring, business interruption and mitigation costs.

## Geographic range

Some markets remain limited to domestic capacity, whereas others operate on an EU or multinational basis.

### Geographic range of products offered

Domestic	BE*	AT**	Domestic and multinational
	CY	CH**	
	CZ	CY	
	GR	DE	
	FR	GR	
	IT	ES	
	LV	FI	
	PT*	FR	
	SE	LV	
	SK*	PL	
		SK	
		UK	

\* Some products extend to one other country

\*\* Some products cover the remediation of environmental damage according to local legislation on a worldwide basis

## Environmental liability directive claims

According to the survey respondents, few ELD claims exist and they cite a number of potential reasons including:

- Member states' late implementation of the ELD into national law meaning that it is still difficult to gather sufficient statistical data for developing and pricing insurance products.
- Information about ELD cases might be incomplete due to a lack of reporting by national authorities.
- Due to the inclusion of ELD risks in other insurance policies (eg general liability insurance), environmental damage may be categorised as something else, such as property damage.
- ELD risks may be classified under pre-existing legislation, such as pollution to waterways or soil.

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