



The insurance sector's experience of ELD application

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Agenda items

Overview of presentation

1 Insurance Europe

2 France

3 Germany

4 Nordic countries (Finland, Sweden)

5 Baltic countries (Latvia, Lithuania)

6 Conclusions

Insurance Europe

Who?

- European insurance and reinsurance federation, founded in 1953

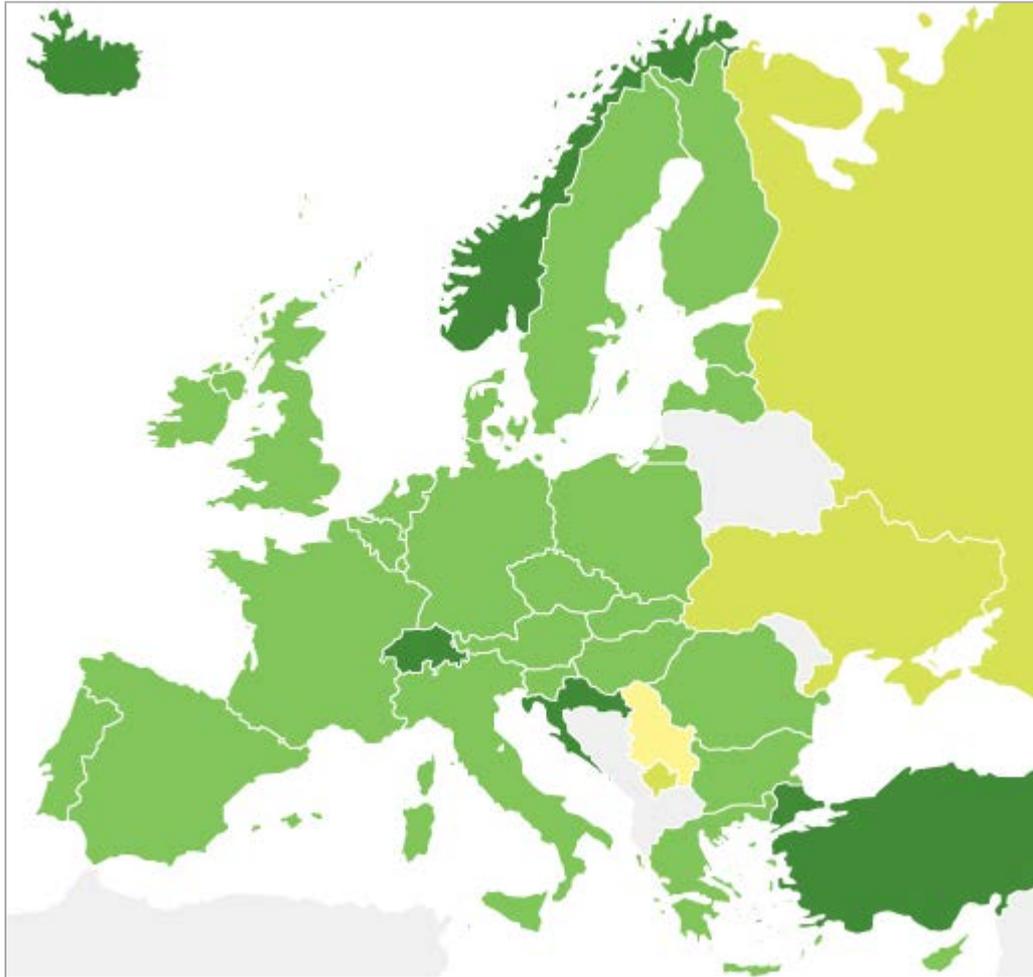
What?

- Represents around 95% of European insurance market by premium income

Why?

- Committed to creation of favourable regulatory and supervisory framework for insurers at European and international level.

Insurance Europe - Members



34 national associations

■ 26 EU member states

■ 6 non-EU markets

Croatia, Switzerland, Iceland, Norway, Turkey, Liechtenstein

■ 2 associate members

Serbia, San Marino

■ 3 partners

Russia, Ukraine, Kosovo

France

■ Cover available

- Since 2006 : ASSURPOL reinsurance pool
 - 30 years experience, 35 insurers
- Stand-alone policies or annex to GL policies (esp for SMEs)
- Guarantees :
 - **Costs** – Prevention and remediation costs due to “environmental damage” declared by French competent authority
 - **Scope** – Sites, contractors, professionals, transportation, and D&O responsibility (if any)
 - **Capacity** – Up to 50M€ for ELD (global environmental risks capacity of 75M€)

■ Risk assessment method

- Well-known risk assessment method for liability and 1st party
 - Analyse the potential sources of:
 - Damage
 - Mediums
 - targets
 - Examples – human health; 3rd parties; soil/water/biodiversity
- Work with experts for compensatory remediation analyses

France

■ Claims

- Accidents have occurred but none declared as ELD
 - Govt prefers pre-existing jurisprudential frameworks
 - Competent authorities require studies to be performed on long-term consequences to biodiversity

■ Legal framework issues

- Proposal to integrate "*ecological prejudice*" into French Civil Code
 - Despite lack of use, government considers that ELD *does not work*
 - Environmental damage claims may be raised by private parties (eg NGOs)
 - What are the risks?
 - Same environmental damage would be compensated twice
 - Increasing confusion between regimes
 - ELD specificity in terms of remediation not possible to apply

France

- Initiatives at French level
 - Numerous training sessions and informational meetings
 - By French-based insurers and ASSURPOL
 - By FFSA in French regions to raise ELD awareness
 - Publications for operators, professionals of insurance sector, experts, etc
 - FFSA
 - “Pedagogical brochure” for operators (SMEs), brokers, agents (in cooperation with ASSURPOL) – 2012
 - French ministry of environment
 - “The environmental liability law and its method of equivalence “ – 2012 (FFSA and ASSURPOL part of the working group dedicated to the guide)
 - MEDEF (French business association)
 - ELD practical guide (in cooperation with FFSA) – 2011
 - ASSURPOL/CNPP (French expertise center for prevention and risk control)
 - New edition of the “ environmental risks assessment and prevention guide” in order to include ELD - 2011

Germany

- Cover available
 - ELD-cover with optional add-ons
 - ELD-cover is standard in addition to EIL-policies due to clients needs
 - 100% industry operators have EIL **and** ELD-cover
 - Special terms/conditions for planning businesses or private transport
- Risk assessment method
 - GDV's Geographical Information System ZÜRS for individual risk assessment
 - Special risk engineers are employed or hired by insurance companies to support risk management
- Claims?
 - Significant experience with EIL-claims
 - Increasingly growing experience with ELD-claims

Germany

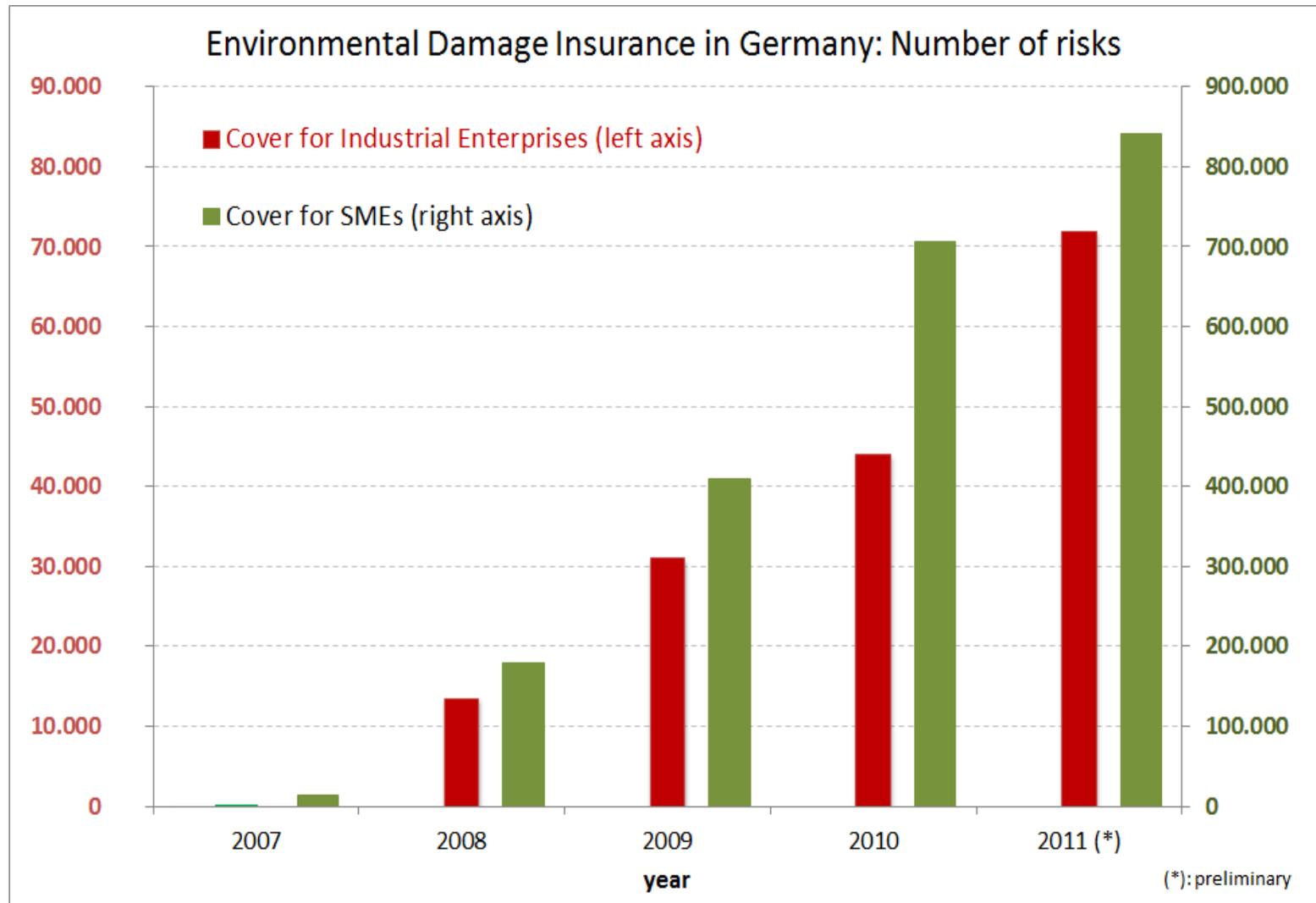
■ Claims experience

- Claims can fall under mixed forms of cover (TPL, EIL, ELD, BI, Property)
- Focus on four markets
 - Industry
 - Middle Market Business
 - Transport
 - Agriculture

■ Initiatives at German level

- GDV's non-binding insurance model-wordings (2007)
 - Widely used, but there exist also different varieties developed by insurers, brokers due to *specials needs* of industrial operators
- Workshops / seminars
 - Education about ELD risks for member companies
 - Model-wordings presented to industry associations

Germany



Nordic - Finland

■ Cover available

- *IF* Property & Casualty among first to develop ELD product
 - Operating markets – Finland, Denmark, Norway, Sweden
 - Cover designed according to ELD text as adopted in MS
 - Nordic customers in *other countries*
 - Cover issued per the minimum reqs of the ELD
 - Currently *very low* demand for this product
- Also – cover via endorsement to global liability insurance programs
 - More routinely requested

■ Legal framework issues

- FI Ministry of Environment working on guidelines
 - Focused on ELD claims process and roles of parties (eg competent authorities)
 - Insurers rather have guidance on actual *remediation measures* so as to more accurately price premiums
- Environmental Damage Insurance Act (1998)
 - Pool of primary insurers, public entities and a reinsurance pool
 - Only a few cases realised – *so scheme is currently under consideration by the Ministry of Environment*

Nordic - Sweden

■ Cover available

- Five insurance companies offering general cover for ELD:
 - including full ELD cover; *or*
 - cover excluding biodiversity
- Currently *very low* demand
- *Some* liability covered by property insurance (eg oil tank leakage from house heating)

■ Legal framework issues – Insurance fund scheme

- *Environmental Damage Insurance Act (1989)*
 - Second layer legislation to reimburse damage where polluter could not
 - 1999 – Legislation amended to include “clean-up” insurance, also as secondary
 - Problem – Act envisioned as *primary* insurance solution
 - Industry/municipalities disappointed when realised “polluter” still supposed to pay
 - Environmental liability cover available, but very few bought
 - 2010 – Swedish Government and Parliament withdrew the Act
 - *Insurance rarely used*, no need for mandatory insurance
 - Damage – few not reimbursed by polluter

Baltics

■ Latvia

- Cover for *sudden and accidental* pollution
 - Damage to habitats/protected species (eg flora, fauna) not covered if damage caused to state/state institutions (excl trees and fish)
 - Other damage covered

■ Lithuania

- Cover for most for *sudden and accidental* pollution
 - Only one domestic insurer with policy for gradual
 - Need to rely on int'l market
- Quasi-environmental liability cover available
 - State Environmental Ministry issues fine for pollution to air/water/soil based on strict mathematical calculations
 - Most fines on strictly sudden and accidental basis, though some gradual
 - Cover for above fines provided on a *limited basis*

Baltics

■ Estonia

- Cover for *sudden and accidental* and limited to:
 - Clean-up costs
 - Direct property damage
- ELD cover triggered if substantial adverse effect on:
 - habitat or species
 - protected area
 - special conservation area
 - species protection site
 - protected individual natural object
- Other cases covered as ordinary GTPL claims (no gradual, no ecological)
- Very few requests for cover (1-2x year)
- Chemical Act
 - First legislation to use environmental damage covered by insurance as guide
 - Competent authorities use Act to define environmental liability under other legislation (eg ELD) within context of compulsory liability insurance
 - Industrial operators tend to take minimum cover
 - Demand limited to sudden and accidental



Information and publications accessible via Insurance Europe's website, www.insuranceeurope.eu

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