



REMEDE ELD Conference – 27th Nov. 2007

Financial Security and Insurance for the Environmental Liability Directive

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Agenda

- Introduction – current level of knowledge
- Traditional Insurance – what cover is available?
- Specialist Insurance
- ELD cover
- Country by Country



Development of Environmental Insurance in the UK

MOST environmental insurance purchasing in the UK has been prompted by concerns about liabilities associated with land contaminated from historical activities

BUT

MOST environmental incidents are caused by operations undertaken today and where ELD is of prime importance



SME Knowledge – major problem

A recent re-survey for the English/Welsh Environment Agency by consultants Atkins found:

- Only 15% of SMEs thought business could harm the environment
- <25% of SMEs could name relevant legislation they were impacted by



Role of Traditional Insurance and Gaps

We are designed to be different. We are Chubb Insurance.



Public Liability Policies

- Limited to third party Property Damage and Bodily Injury
- Often excludes indemnity for regulatory clean up - BARTOLINE
- No indemnity for own site damage/clean up
- Only covers sudden and accidental events leading to pollution
- Business Sustainability – business interruption losses following pollution incident not covered
- Mitigation costs not covered.



Property Policies

- Debris removal following insured event
- Not all “property” is covered by insurance – usually brick and mortar
- No cover for cleaning up contamination on site
- No cover for business interruption following a pollution incident



Environmental Insurance

We are designed to be different. We are Chubb Insurance.



Policy Types

- Site based environmental insurance policies
 - Insuring environmental liabilities that arise from the operations of an insured at their sites(s)
- Contractor's based Pollution policies
 - Insuring the environmental liabilities that arise from the contracting activities undertaken on a client's site(s)



What can be covered under a site based policy ?

- Third party property damage, bodily injury, remediation costs, defence costs arising from a pollution incident/condition
- Mitigation (emergency expenses) incurred to forestall a third party claim
- Remediation costs incurred by the insured at their own sites
- Definition of pollution incident/condition does not differentiate between a sudden and accidental cause and any other cause of a pollution incident – normal operations are covered



What can be covered ?

- Environmental Liability Directive - later
- Transportation of hazardous materials
- Non-owned sites
- Change in legislation
- etc



Contractor's Pollution Liability Policy

- Property damage, bodily injury, environmental damage caused by a pollution incident arising from “covered operations”
- Environmental damage includes remediation costs and natural resource damage
- No distinction between sudden and accidental and gradual causes of pollution incident



- “Traditional” environmental policies provide indemnity for legal liability arising from remediation costs
 - “. . . costs to investigate, neutralise, remediate . . . effects of pollution incidents”
 - No intended cover for the wider range of liabilities imposed by ELD



“Traditional Environmental Insurance

- Can be extended to cover:
 - Primary remediation
 - Complementary remediation
 - Compensatory remediation
 - Proposal in Germany to have a separate coverage for ELD liabilities



BUT

- Environmental policies ONLY provide indemnity for liabilities that arise from a pollution incident i.e.
 - “discharge, dispersal, seepage, migration, release or escape of any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapour, soot, fumes, acids, alkalis, chemicals and waste into or upon land, or any structure on land, the atmosphere or any groundwater, surface water or coastal waters.”

Not all environmental damage is caused by a pollution incident



Challenge to Insurers

- The biggest challenge environmental insurers have is not that cover can be provided, but the lack of consistency in the implementation of the directive provisions throughout Europe
- Baselines
- Lack of knowledge on Complimentary and Compensatory remediation
- We have had to rely on the Directive provisions in developing our capabilities rather than the local national legislation



Conclusion

- Each country is implementing ELD in different ways
- Environmental insurers have developed policies to cover risks
- Rely on base wording of ELD to cover risks in more than one country
- Some countries have limited cover provided by insurance pools etc



Thank you for listening

Any questions?