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AAE POSITION: “ENVIRONMENTAL LIABILITY DIRECTIVE – FINANCIAL SECURITY AND THE POLLUTER PAYS PRINCIPLE”

The Actuarial Association of Europe (AAE) published a paper titled [“Environmental Liability Directive – Financial Security and the Polluter Pays Principle”](#).

All economic activity can result into damage to the environment. Some activities are riskier than others. When damage occurs, remedial actions are necessary. Such actions are more or less costly depending on the damage. It is important that the one who has caused the damage also pays for the remedial action. This is called the ‘polluter pays’ principle.

The European Union has adopted in 2004 the Environment Liability Directive (ELD), the purpose of which is to implement the ‘polluter pays’ principle. There are now plans to renew the ELD. One of the difficulties of implementing the ‘polluter pays’ principle is that the actor responsible for the liability might no longer exist when the damage is found out. It is therefore often next to impossible to charge the costs according to the ‘polluter pays’ principle. It is therefore clear that the assets covering the costs should be collected ex ante, i.e., during the time when the polluter is still in business. Insurance could be one possible tool to make this happen.

The paper addresses the prerequisites for the use of insurance techniques. It also addresses the pro’s and con’s of using insurance.

The conclusion is that insurance could be one possible tool to implement the ‘polluter pays’ principle. Much further work is needed to make sure the risks can be covered with insurance. Also market research is needed in order to make sure that the market participants will offer suitable cover in case insurance will be used as a technique in the renewal of the ELD.

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