ENVIRONMENTAL INSURANCE
FINEX GLOBAL
Environmental Insurance

Environmental risk affects all industry sectors from the smallest business to the largest global organisation. With already existing legislation in place and the impending implementation of new environmental regulation in many territories around the world, it is a risk that needs to be considered by all businesses, including:

- Manufacturing industries – from heavy industry or chemical companies to agribusiness, including metal works, automotive, aerospace, plastics, food & drink, etc.
- Energy sector - including Oil & Gas, Bulk Storage and Power
- Utilities - waste and water treatment facilities
- Transport and Logistics, including warehouses
- Property owners and developers
- Construction companies for their operational risks or for specific projects
- Large infrastructure management (ports, airports, commercial centres)
- Environmental Professional Service firms (including asbestos removal and soil remediation)

Environmental insurance is a mechanism to transfer environmental risk and provides cover against losses incurred as a result of third party or regulatory action arising from pollution or physical impairment to the environment.

“In an increasingly environmentally conscious world where the “polluter pays”, a variety of businesses are financially exposed to severe consequences of environmental liabilities.”
ENVIRONMENTAL DAMAGE COSTS

As more stringent legislation is being implemented and enforced by regulators across the world for those with business activities that could harm the environment, companies need to consider if they are financially equipped to deal with the potentially extensive costs that could result from pollution events or environmental damages, such as:

- Emergency costs
- Investigation and forensics costs
- Clean-up costs
- Primary, complementary or compensatory remediation costs
- Indemnifications to victims of injuries or distress
- Indemnifications to victims of property damage
- Indemnification for disruption caused to neighbouring activities
- Own-business interruption costs
- Legal fees
- Public relations costs
- Criminal fines or Civil sanctions

Some environmental claims, particularly those involving environmental damage to protected species, their habitats and protected sites, can be severe and potentially disrupt business operations for years.

With extensive liabilities such as these, businesses can turn to environmental insurance as a viable risk transfer solution to protect their balance sheet.

A fire erupted in a large chemical warehouse in the Netherlands which released 4,000 tonnes of chemicals (pesticides) into the environment. The clean-up of soil and groundwater contamination cost **EUR 65 million**. The company did not have an environmental insurance policy, nor the capital to cover the costs and subsequently went bankrupt.

**CONCERNS ABOUT ENVIRONMENTAL LIABILITIES**

Environmental risks and liabilities are typically low frequency, high severity events that, by nature, are unquantifiable and unpredictable from a risk management perspective. For this and the reasons below, environmental liabilities are often underestimated by businesses:

**NEW RISKS**

With the implementation of new regulations across the world expanding the ‘polluter pays’ principle, companies are faced with new liabilities for biodiversity damages including tougher requirements and remediation measures that go beyond traditional ‘clean-up’. Companies are faced with these new changes even though their activities have not changed. The established trend towards tougher regulations, enforcement and increasing claims is expected to continue.

**NEW PERCEPTIONS**

Over recent years, public intolerance of environmental damage has grown and the obligations placed by the regulatory authorities on those responsible has increased. Polluters are exposed through media coverage and in turn via laws which allow the public and green action groups to bring claims against them. Regulators are duty bound to take action and with the use of highly developed scientific contamination investigative technologies, the likelihood of statutory and civil prosecution after degrading the environment has never been higher.

**NEW EXPOSURE FOR DIRECTORS AND OFFICERS**

Following an environmental incident, various stakeholders will hold officers personally accountable for decisions made (or not made) that led to the damages and for the impact that these damages may have on the business - whether it is to the bottom line or the company’s reputation. Furthermore in some jurisdictions, directors and officers can even be held personally liable for damages.

**NEW COMPLIANCE ISSUES**

Within the European Union, the Environmental Liability Directive has left stakeholders with an optional provision for mandatory financial security. The directive has not, as yet, been consistently transposed across local legislations and currently in certain countries (e.g. Spain, Portugal, Slovakia or Czech Republic) proof of financial assurance (which can be in the form of an insurance) has to be confirmed for certain categories of business in order to operate.

Beyond the European Union, countries like Argentina, China, Philippines, Turkey or even Kazakhstan have similar requirements.
## Environmental Claims Scenarios

### (Not Covered Under General Liability Insurance)

<table>
<thead>
<tr>
<th>Industry</th>
<th>Scenario</th>
<th>Type of Costs Incurred</th>
<th>Cover Under an EIL Policy</th>
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<tbody>
<tr>
<td>Paper Manufacturing</td>
<td>A tank containing black liquor ruptured and released 300 m³ of chemicals into the retention basin at an industrial plant. The retention basin overflowed and pollution entered a nearby protected stream.</td>
<td>Thanks to very good pollution management procedures, the plant incurred small costs for emergency clean-up and biodiversity damages. However, the incident generated extensive loss of revenue as it was shut down for 3 months by the local authority to carry out root cause investigations and testing on other tanks.</td>
<td>Emergency &amp; mitigation costs/Biodiversity damages/First party business interruption/Investigative costs</td>
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<td>Retail (DIY)</td>
<td>A fire degraded a DIY store which had been built on a redeveloped industrial area. During the debris removal works, historical pollution conditions were uncovered and a remediation order was issued by the local authority.</td>
<td>The retailer had to appoint environmental consultants to isolate the pollution source and lawyers to assist in appointing responsibility to the previous owner. As the previous owner had gone bankrupt, the shop owner had to pay for the site's remediation in order to obtain approval to rebuild its store.</td>
<td>Costs of on-site clean-up of historical pollution/Costs of investigative works undertaken by consultants/Legal expenses</td>
</tr>
<tr>
<td>Aircraft engine manufacturing</td>
<td>During a kerosene transfer between outdoor and indoor storage tanks (used to fuel a test bench for aircraft's engines), a joint broke open from a pump inside an ancillary workshop. Kerosene was projected outside the secondary containment and migrated into a nearby sewer. Due to a preferential pathway, the kerosene migrated into a dry well on the site that was supposed to be sealed, from which it migrated into the groundwater.</td>
<td>An environmental consultant was brought in immediately. Emergency intervention included implementation of testing wells, laboratory sampling of the groundwater and implementation of a treatment station for remediation ('pump and treat'). These measures were taken to prevent the pollution from extending outside the site's boundaries and the incident was reported to the local authority.</td>
<td>Statutory on-site clean-up/Emergency costs/Costs of investigative works</td>
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<td>Oil &amp; Gas</td>
<td>An oil puddle was found in a telephone manhole located on a road alongside an oil bulk storage facility. A faulty joint in a bypass valve on a transfer pipeline had leaked more than 200 m³ of fuel into the ground for an estimated period of 18 months without being detected.</td>
<td>After investigation, the facility owner who was responsible for operating the pipeline was required to carry out remediation works in the impacted areas on neighbouring sites. He also had to indemnify other pipelines operators for their loss of revenues caused by the shutdown of their pipes during the works.</td>
<td>Third-party claims for property damage and financial loss caused by gradual pollution/Off site clean-up costs/Legal expenses</td>
</tr>
<tr>
<td>Construction Contractor</td>
<td>As part of a regeneration project, an environmental contractor had been appointed to undertake remediation of buried waste. During excavation, it was found that a number of chemical drums had been pierced by the earth-moving equipment used during the contractor’s operations. This resulted in the release of a significant volume of process effluent, containing toxic organic compounds into the surrounding soils and groundwater.</td>
<td>The site owner had to bear the costs of disposal of the additional volume of contaminated soils and the installation of a containment system to prevent migration to off-site receptors. He then claimed the costs back under the contractor’s liability.</td>
<td>Third-party claims for property damage and financial loss caused by covered operations</td>
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<tr>
<td>Transport &amp; Logistics</td>
<td>A tank lorry transporting potassium hydroxide left the road and the cistern partially burst open releasing chemicals into protected waters. The leak killed fish and small fauna within a 4km zone, and extensively damaged the environment downstream. As part of remediation works, the local authority required that the hydroelectric power company operating dams upstream released water to flush the stream of chemicals out of the stream.</td>
<td>The dam’s flush resulted in financial loss for the hydroelectric company due to their loss of hydroelectric production. Fishing was banned for 5 years to help nature restore itself. The transport company had to pay for primary remediation (restock the river with fish) and complementary measures (riverbanks enhancement) and had to indemnify local fishermen associations. The reputation of the company was damaged in the press.</td>
<td>Third-party claims for pure financial loss/Statutory claims for environmental damage caused by sudden &amp; accidental pollution (during transportation)/Legal expenses/PR expenses</td>
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BENEFITS OF ENVIRONMENTAL INSURANCE SOLUTIONS

Elements of environmental exposure have been covered through property and casualty insurance policies for years. It is clear, however, that these policies were never designed to respond to the wide range of statutory environmental liabilities that companies face today. An increased number of declined environmental claims and unexpected liabilities are highlighting the limitations of these traditional coverages.

Environmental insurance provides the most proactive solution as it is an insurance cover:

» FOR ALL POLLUTION CONDITIONS

It is sometimes difficult to establish if a pollution occurrence was caused by a sudden & accidental or a gradual event. Subjective interpretation of events could leave insurers with an opportunity to decline claims under the limited coverage offered by traditional casualty products. Environmental insurance is designed to cover all pollution conditions as no distinction is made between sudden & accidental and gradual pollution.

» WHEREVER THEY HAPPEN*

Before it reaches the surroundings of one site, pollution generally starts and has impacts within its boundaries. Own-site remediation and clean-up expenses or emergency response costs are not covered by general liability policies. Environmental insurance can provide cover for pollution conditions occurring within site boundaries (on-site) or beyond site boundaries (off-site, including impacts on environmental receptors) with no third party claimant required. It can even be extended to cover own-business interruption costs if the operating permit is suspended or revoked.

» WHENEVER THEY HAPPEN

Pollution can be present on sites even though there is no current operational risk and property owners may face historical contamination from a site’s previous uses. Environmental insurance can provide coverage for inherited liabilities coming from historical pollution discovered on and off-site.

» FOR MORE THAN POLLUTION CONDITIONS

Environmental damage can be the result of occurrences other than pollution conditions: physical damage from over-abstraction of groundwater, the use of heavy machinery or fire can trigger statutory environmental obligations. Environmental insurance is designed to cover the resulting costs of such events.

In today’s economy with streamlined, straightforward underwriting requirements, highly flexible products and competitive pricing, there is no reason to risk having an uninsured environmental loss.

*As long as pollution conditions are originating from an onshore source.
HOW CAN WE HELP?

Our Global Environmental Practice encompasses nearly 90 specialists in over 20 countries from a cross-section of professions including, but not limited to, environmental lawyers, regulators, environmental consultants and, of course, specialists in risk management, insurance, claims and environmental underwriters.

➤ SPECIALIST KNOWLEDGE

With our long-standing knowledge of the environmental insurance market and wealth of technical environmental, insurance and legal expertise, Willis can produce an innovative and tailored solution to meet your needs. We are one of the largest specialty environmental practices in London and provide excellent advice to our clients in the UK, Europe and Internationally.

➤ A CONSULTATIVE APPROACH

We bring specialist analysis to your environmental exposures before proposing the most appropriate risk transfer solutions for your business.

➤ CLAIMS HANDLING

Environmental claims are highly technical and often require skilled resources to manage them. We have been in the environmental market for over a decade and we have insightful experience in how best to deal with your environmental claim to ensure your claim is resolved promptly and with the minimum amount of disruption.

➤ MARKET LEVERAGE

Willis has excellent market leverage due to the significant amount of premium that our environmental practice places into the market.

➤ MARKETING APPROACH

The same team that analyses your risks and develops a protection strategy approaches markets on your behalf.

➤ THE WILLIS ‘ONE FLAG’ APPROACH

Willis’ expertise in all of our offices around the world is available to you – essential for international companies who need to comply with the various international environmental laws.

➤ We are one of the largest insurance brokers in the world

➤ We have over 180 years of history and experience in insurance; we currently operate in over 400 offices in nearly 120 countries, with a global team of approximately 17,000 Associates serving clients in some 190 countries

➤ USD 32.2 billion of global premiums placed through worldwide markets
If you are concerned about your business's environmental liabilities, contact us and arrange an initial consultation to start mapping out your risks and hear about potential risk transfer solutions:

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