

Hazardous Waste: Liability Coverage

A report entitled “Financial Limits of Liability and Compulsory Insurance Under the Draft Protocol on Liability and Compensation for Damage Resulting From Transboundary Movement of Hazardous Wastes and Their Disposal, drawn up by Belgian Professor *Hubert Boecken*, was prepared for the fifth Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (see article above).

The report, which is based on information provided by governments, academics and associations representing insurance and reinsurance firms as well as insurance brokers, states that international insurers are ready to meet the demand for increased coverage of waste shipments, while noting that such coverage is expected to be very expensive.

The report notes that “there clearly is substantial capacity available in the international market” for pollution damage insurance. “One should, however, be careful not to draw the conclusion that imposing routinely very high financial guarantees does not pose any problems... The insurance is not always available.” Premium coverage “will depend on an individual assessment of an installation or

operation,” while operations that are not managed properly will “not get coverage.”

The report notes that the premium will depend on the type of operation, the ceiling and wording of the cover, and many other factors. “There also will be a substantial difference according to whether or not the premium is taken out for an isolated operation or whether it is a blanket policy covering a continuous operation. In the latter case, the premium will probably become lower not only in view of the effect of economy of scale but also in view of the higher degree of specialisation of the operator.”

With regard to the financial limits for any one spill or accident incident, the report recommends that negotiators fix a minimum liability of US\$5 million for shipments of 2,000 tons or less, a figure that would rise by US\$1,000 for each additional ton.

“This limit would probably be consistent with the status of the insurance market, the report notes. “It would in the majority of the cases provide a very substantial protection of the victims.” The report notes that despite the capacity for increased coverage, special environmental liability policies are being offered by only a limited number of insurers. □