

Research on the Way of Promoting Environmental Pollution Liability Insurance in China

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Abstract

The pilot work of environmental pollution liability insurance in China has gained some success since 2007, the number of insured companies has been increased year by year, but it has gradually exposed the lack of legal protection, imperfect product system and so on. The planned goal hasn't been achieved. So more research should lead on promoting the environmental liability insurance in China. After analysis of the present situation, the paper puts forward a series of suggestions to stimulate the development of the environmental pollution liability insurance in China.

Keywords: environmental pollution liability insurance, promoting way, suggestion

1. Introduction

In recent years, the achievements of China's economic development are remarkable, however, environmental pollution accidents occur frequently and ecological damage can't be ignored any more. These accidents often cause a series of bad consequences. For instance, the victims consume a lot of energy on compensation but often can't obtain it in time. Environmental pollution restoration requires a very longer time, and so on. Polluting enterprises would face a huge claim and often unable to bear the liability of compensation. If only rely on the government to bear the consequences, it will face considerable pressure. Therefore, most western developed countries such as United States, Germany, Sweden, Finland disperse environmental risk with the environmental pollution liability insurance. This is not new to China. We have experienced a failed pilot in the last century, then restart the pilot program until 2007. On the basis of guidelines, provinces and cities as selected units have done a lot to develop environmental pollution liability insurance. The number of insured companies increased every year. The accidents within the scope of coverage have received timely compensation. But by the insurance awareness, product liability coverage and other reasons, the pilot effect isn't satisfactory still. We need to find a more effective way to expand the coverage of environmental pollution liability insurance, to reach its true effectiveness. So after analyzing the achievements and existing problems of the pilot in China, the paper focuses on exploring measures to improve the environmental pollution liability insurance.

2. The Current Situation of China's Environmental Pollution Liability Insurance Pilot

2.1 The Promotion of Environmental Pollution Liability Insurance Pilot Work

Environmental pollution liability insurance is no stranger to China. As early as 1990s, the environmental pollution accidents have been occurred frequently. In order to promote the protection of ecological environment, safeguard the interests of victims, Dalian, Shenyang and other provinces and cities have done some attempts to carry out environmental pollution liability insurance pilot. But the pilot didn't achieve the planned goal. It failed in a very short period of time due to the lack of insured companies, product defects and other reasons. Over the next decade, this field had always been blank, until after entering the twenty-first Century, environmental issues became increasingly prominent, environmental pollution liability insurance pilot work was put on the agenda again. After a series of researches and investigations of the China Insurance Regulatory Commission and the State Administration of Environmental Protection, the new pilot work officially began since 2007.

The State Council issued document 23rd "Some opinions on the reform and development of the insurance industry" on June 15, 2006. The fifth part point out, we should join the insurance means to disaster prevention and rescue system, insurance can play its important role in the disaster accident disposal and loss prevention and disaster reduction. The development of environmental pollution liability insurance can be guided by the policy, through the government's promotion, relying on market operations or legislation to force and so on.

On December 8th of the same year, the State Environmental Protection Administration proposed we should earnestly study the environmental pollution liability insurance development experience of foreign countries, and establish the system for China. Then, the environmental protection agency did a study on the feasibility of compulsory environmental pollution liability insurance.

From April 10, 2007 to 13th, the China Insurance Regulatory Commission and the State Environmental Protection Administration jointly formed a research group to carry out investigation work in Jilin province and Zhejiang province. Then the research group announced a research report on the development of environmental pollution liability insurance on July 26th. The specific content of the research included the level of understanding of the insurance of local environmental protection departments, companies and insurance companies, and their attitude of the business. Along with the release of research report, the pilot cities began a new round of pilot work.

On February 18, 2008, the "environmental pollution liability insurance guidance" was officially released. The State Environmental Protection Administration and the China Insurance Regulatory Commission formally defined a road map to establish the system of China.

After the start of a new pilot, the pilot provinces and cities made many beneficial attempts, but by the limit of consciousness of insurance companies, product range, promoting measures, voluntary insurance mode, the results weren't satisfactory. The environmental pollution liability insurance was often on a "Best Game No One Played" embarrassing position. Governments and insurance companies began to explore more effective ways to advance. Subsequently, on January 21, 2013, the Environmental Protection Administration and the China Insurance Regulatory Commission jointly issued the guidance on the development of compulsory environmental liability insurance pilot work. The guidance proposed the implementation of environmental pollution liability insurance and cleared the scope of the pilot enterprises.

2.2 The Situation of the Pilot Provinces and Cities

After the guidance was issued, the pilot provinces and cities did a lot of work to develop the pilot program on the basis of their own characteristics. And they formed a lot of representative development model by constant exploration of promoting measures.

2.2.1 Hubei" Premium Subsidy Model"

Hubei province offers premium subsidy for environmental pollution liability insurance. On one hand, the insured companies can enjoy insurance premium subsidies. The proportion of high-tech companies is 70 percent, the general business is 50%. On the other hand, the insurance companies insuring environmental pollution liability can enjoy tax incentives and subsidies.

2.2.2 Suzhou"Collective Insured, Professional Hosting, CO Underwriting Model"

Suzhou cooperation mode started operation on June 5, 2010. Insurance broker mechanism was introduced into this model. Specifically, first batch of a total of 66 enterprises was collective insured by four insurance companies respectively according to 45%, 35%, 10% and 10%, and their interest distribution was at this ratio too. Considering most companies don't understand insurance, Environmental Protection Bureau specifically introduced insurance broker companies to increase the advantages of enterprises to negotiate with insurance companies.

Pay particular attention to the design of product in Suzhou model. It represents interests of enterprise, provides a more comprehensive and reasonable protection, not only in the main terms contained of a lot of free terms, such as pollution clean-up costs, natural disaster insurance terms, the evacuation of the crowd, the cost of pollution, but also improves the level of social and public interests. In particular, the natural disaster terms are based on the natural situation in Suzhou, raised for the first time in China. In addition to the above terms, there are two terms for the choice of the enterprise-"underground storage tank" and "spirit damage compensation". Moreover, there are a number of new terms: prepaid payment terms, the insured company can get advance payment about 50% of the loss when the enterprise need to evacuate the surrounding masses or implement some emergency measures because of the occurrence of accident within the scope of the insurance policy; Error and Omissions Clause, the insurance company can't refuse payment due to delayed report by the company because of negligence. These are the most complete

terms of this insurance product currently.

2.2.3 "Coinsurance Model"

In view of the particularity of environmental risk, it is the most widely used model. Such as Guangdong Province set up a "Guangdong provincial environmental pollution liability insurance group" including 13 insurance companies through public elections. Insurance companies are not responsible for compensation such as progressive and gradual pollution, fine, punitive damages and mental injury compensation. It has established a special reserve fund of environmental pollution liability insurance claims by 10% of annual premium income. When the annual payment rate over 80%, or a single accident compensation amount over 30% of the previous year's premium income, the part in excess can be paid for by the special reserve fund.

Wuxi City began pilot work in 2009 and issued local administrative regulations "Wuxi City Environmental Pollution Liability Insurance Implementation Opinions" in 2011. It established the Insurance Co Body in accordance with the basic principles of "the government to promote, market operation, professional management, risk control, win-win".

By the way of competitive negotiation between brokerage companies, Hunan province composed the coinsurance pilot companies by Ping An Hunan Branch Company and PICC Hunan Branch Company, built a "five unified" operation mechanism--"unified terms, unified rate, unified security range and unified compensation standard, unified operation scheme".

3. The Achievements of the Pilot

Environmental pollution liability insurance pilot work has achieved a stage victory through constantly adjusting and improving these years.

3.1 The Positive Progress of Pilot Work

The number of insured companies increases year by year, the premium income continues to rise, the amount of protection of enterprises is also expanding. Such as by the end of 2014, the number of insured companies has developed from the initial 18 to 1754 in Hunan province, the cumulative amount of protection was 7.6 billion yuan. When the pilot began in 2009 in Wuxi City, only 17 enterprises covering chemical, sewage treatment and other 4 industries were insured. In 2010, the number was 212. In 2011, the number was 685. In 2012, the number was 663. In 2013, the number was 1028. In 2014, the number of insured companies was 1032, covering metallurgy, pharmaceutical, paper, thermal power and other 21 industries.

3.2 The Relevant Government Measures

From the point of legislation, at the national level, article 52nd of the Environmental Protection Act implemented from January 1, 2015 defines that the State encourages companies to buy environmental pollution liability insurance. Article 51st of Taihu Management Regulation regulates that the State encourages enterprises in Taihu basin to buy pollution liability insurance. At the local level, several pilot provinces and cities have the environmental liability insurance written to the local environmental protection laws, such as the Anhui Provincial Air Pollution Control Regulations, article 29th says that we need implement the environmental liability insurance system, encouraging enterprises to buy environmental pollution liability insurance to prevent risk and protect citizen's environment rights and interests. Article 26th of Hebei Province Reducing Pollutant Emissions Regulations encourages heavy pollution discharge units to participate in environmental pollution liability insurance. Article 8th of Shenyang City Hazardous Waste Pollution Prevention and Control Regulations supports and encourages insurance companies to set up a hazard wastes pollution damage liability insurance, supports companies disposing of hazardous waste to buy liability insurance. Besides, each pilot provinces and cities developed the implementation plan in accordance with the local conditions.

From the perspective of preferential policies, government of Wuhan and other places allocated special funds for the insured companies in accordance with the proportion of the premium to give subsidies, and actively encouraged local businesses to insure environmental pollution liability insurance. In addition, the relevant departments did a lot of researches on tax incentives related to environmental pollution liability insurance policy, and have proposed the policy recommendations, that give insurance companies covering the environmental risks business tax incentives.

3.3 Supporting Technical Specifications

Environmental risk assessment technology is non-standardized or even backward has been a major bottleneck restricting the development of China's insurance industry and the environmental protection department. In the pilot period, the development of environmental risk assessment standards has made a significant progress. In January 2010, the China Insurance Regulatory Commission with the State Environmental Protection Administration jointly issued

the "Environmental risk assessment technical guidelines for method of classifying risk of chlor-alkali enterprise". In April 2014, the State Environmental Protection Administration issued "Risk assessment of the enterprise sudden environmental incidents (Trial)". At the same time, the two sectors continue to promote the development of environmental risk assessment technology in other high-risk industries, including sulfuric acid, synthetic ammonia, paper and other industries. In addition, the work related to the assessment of environmental damage has also made a good progress.

4. The Problems in the Pilot

Although the pilot has achieved good results in recent years, but there are still some problems hinder the environmental pollution liability insurance pilot to promote the work, in many of the cities the work is "applaud not draw a large audience".

4.1 Lack of Awareness

Although the pilot work has been carried out in full swing, but environmental pollution liability insurance as a new type of insurance isn't well known by some environmental protection departments and some government departments still, they don't fully understand the market mechanism and its role. Chance still exists in many enterprises, environmental awareness and insurance awareness are need to be improved. Furthermore, some insurance companies do not have enough confidence in carrying out this business taking into the account of environmental risks and the amount of compensation.

4.2 A Small Number of Insured Companies

The number of insured companies is increasing year by year. But compared with the number of risky enterprises in the pilot provinces and cities, the number remains quite small. There are still a large number of enterprises under no cover. This is not conducive to dispersing and sharing risk and then not conducive to playing the role of environmental pollution liability insurance. The reasons for the lack of insured companies are concentrated in the lack of awareness and products that are not attractive because of narrow range.

4.3 The Imperfect System of Products

China officially launched the environmental pollution liability insurance in the end of 2007. Huatai Insurance Company contacted with the field of environmental pollution liability insurance in the first, started selling two environmental pollution liability insurance products- "Place pollution liability insurance" and "Place pollution liability insurance (sudden and unexpected protection)".

More than half of the 71 domestic insurance companies have carried out environmental pollution liability insurance, but most companies only provide a single form of pollution liability insurance, responsibility range including water pollution, gas pollution, nuclear radiation pollution and noise pollution. This single environmental pollution liability insurance lets many insured companies feel premiums overcharged, then weakens the proposal or renewal intention of insurance. This is not conducive to the development of the environmental pollution insurance. And most of the existing products only cover the loss of a sudden accident, don't conclude the gradual pollution. Therefore, in view of the different forms of pollution, creating the corresponding environmental pollution liability insurance is imminent.

4.4 Insufficient Technical Support of Insurance Companies

A major objective obstacles of insurance companies is the lack of professional environmental protection technical personnel and the corresponding experience data support in the development of environmental pollution liability insurance. Because the environment risk is more complex, it is very difficult to identify and quantify. After a few years of pilot experience, the insurance industry hasn't accumulated enough experience in the risk assessment, pollution damage identification and disposal, payment timeliness, etc. With the growing complexity of the environment risk, the lack of specialized service team in insurance companies would be a big problem, not only can't help companies in advance to prevent risks better, but also impact the claiming work.

4.5 Lack of Legal Norms

From the last century, in the pilot of the ninety's, debate about whether to take the implementation of environmental pollution liability insurance compulsory has been in existence. The new pilot also experienced a transition from voluntary to combination of compulsory and voluntary after restart in 2007. It is still need to continue to study what kind of form is suitable for China to protect the environment and the economic development. In addition, China doesn't have environmental pollution accident civil compensation legal system at present. "Environmental Protection Law" implemented in January 2015 hasn't made a clear provision also. This leads to the responsibility is difficult to identify because there is no criteria for pollution and compensation.

4.6 Supporting Policy Issues

In order to encourage enterprises to cover, many preferential measures have been taken and achieved a certain effect like the premium subsidy, cancellation the sewage charges in a proportion in the pilot cities. But for insurance and insured companies, these are still not enough. How to promote the insurance company underwriting and insured companies buying more effectively, still need to research and explore continually by state departments and local governments.

5. Suggestions for Promoting the Development of Environmental Pollution Liability Insurance

Environmental pollution liability insurance has a very important significance for the sustainable development of China's economy and the protection of the ecological environment. It is the trend to continue to intensify efforts to promote the pilot work and to choose a good point in time to across the country.

5.1 Increasing Publicity and Raising Awareness

Environment is the basic premise of human survival and development, and environmental problems are the inevitable outcome of the development of human society, especially the development at the expense of the environment. For China, protecting the environment is a basic national policy of China, it is an important and difficult task for the government to solve the problem of environment, promote the coordinated development of economy, society and environment and implement the sustainable development strategy. Therefore, we should increase the publicity efforts to advertise that local governments, insurance companies and production companies must avoid short-sighted behavior, improve the degree of emphasis on environmental protection, improve the understanding of environmental pollution liability insurance.

5.2 Expansion of Product System

Insurance companies need to develop the new varieties of environmental pollution liability insurance to meet the various levels of demand from different enterprises. They should amend the current environmental pollution liability insurance provisions, and establish the price system according to the environmental pollution risk characteristics. Especially for the progressive environmental pollution liability risk strongly reflected by enterprises and the risk of environmental public interest litigation may be faced by enterprises in the future, insurance companies must strive to come up with practical and feasible insurance scheme by actively exploring as soon as possible.

5.3 Improving the Service Level of Insurance Institutions

Insurance institutions should improve initiative of promoting environmental pollution liability insurance, including changing service attitude, enriching service content, optimizing service level.

5.3.1 Providing Risk Management Services

The insurance industry should strengthen loss prevention services they can provide, and not just implement the economic compensation function of insurance. Insurance companies and insurance Broker's Firm need to develop environmental risk assessment tools and environmental risk management system through a special research on environmental risk. They can provide the enterprise environmental risk assessment report for the enterprise to rate environmental risk, and give some insurance advice; provide the enterprise environmental risk service report for the enterprise to give corrective advice and emergency measures. Insurance companies can do a lot to promote environmental pollution liability insurance combined with environmental management science.

5.3.2 Optimizing the After-sales Service

After the insurance risk occurs, the insurance companies should actively carry out the claiming work, deal with problems arising from the issue, take full advantage of high-quality services to establish a brand, develop and occupy the market.

5.4 Strengthening the Government's Measures to Promote

In the process of promoting the environmental pollution liability insurance, the task of the government is extremely important, even it can be said to be decisive. We need to strengthen communication and cooperation between ministries, specifically, the following aspects should be done.

5.4.1 Improving the Relevant Legal System

Implementation of the environmental liability insurance can't be separated from the legal system. Although China government enacted "Environmental Protection Law" "Air Pollution Prevention Act" and "Water Pollution Prevention Law" and other laws and regulations, but the terms about compensation for the victims from polluting

enterprise or individual are lack of operatability because polluters can't afford and the terms are too principle to operate. Therefore, it is necessary to improve the environmental protection laws and regulations as soon as possible. The law system must clear compensation standards, dispute handling mechanism, etc.. In addition, the environmental pollution liability insurance should be written into the "Insurance Law", in order to ensure the implementation of compulsory insurance.

5.4.2 The Establishment of Environmental Protection Information Sharing Platform

The implementation of environmental pollution liability insurance involves the environmental protection department, the China Insurance Regulatory Commission, local government, insurance companies, insured companies and the public. So the information communication from the parties is particularly important. Especially the insurance companies and Insurance Regulatory Commission are in the location of information loss, environmental protection technology and personnel are relatively scarce, and therefore we need to establish a platform for information sharing. The information will include monitoring indicators from environmental protection departments, environmental information from production enterprises, insurance information and claims information, the cause and processing of pollution incidents and so on. The establishment of this platform will help regulators and government departments to master comprehensive environmental pollution liability insurance information, to further confirm whether the relevant policies are in place; help the insurance companies to share the claims experience of environmental pollution liability insurance and accumulate practical data.

5.4.3 Improving the Tax Incentives and Increasing the Intensity of Financial Subsidies

The environmental risk of high cost been faced with insurance companies inhibit the supply of insurance products to a certain extent. Therefore, the government should give the insurance company tax incentives to help them establish risk defense system to reduce the risk of operation. Specifically, the insurance regulatory authorities and the relevant functional departments need to require the insurance company to account for the environmental pollution liability insurance policy separately, otherwise no reduction or exemption shall be allowed. For insured companies, in order to stimulate the demand for environmental pollution liability insurance, we need to implement the premium tax incentives. For example, the majority or even all of payment of polluting enterprises can be exempted taxation.

Governments at all levels should develop appropriate subsidies system according to the local economic development, business conditions and financial strength. To reduce the cost of insurance companies, the insurance company's subsidies are concentrated on the proportion of the management cost of the insurance business, in order to encourage insurance companies to carry out this business. In addition, in order to effectively stimulate the enterprises' demand of environment pollution liability insurance, the government should implement a certain proportion of subsidies for insurance premium also.

5.4.4 The Establishment of Environmental Damage Compensation Fund

Some malignant pollution incidents tend to result in a lot of personal injuries and huge direct economic losses in a wide range of areas. The loss of such a catastrophe is difficult to rely solely on the insurance companies, which requires effective risk dispersion mechanism to spread the risk. The establishment of environmental damage compensation fund is one of them. The environmental damage compensation fund can be established by government departments according to the provincial planning, and the government is responsible for the management of special funds. The compensation fund is mainly used to deal with the huge amount of compensation for the vicious pollution accidents. Compensation fund is mainly made of a certain proportion of environmental pollution liability insurance premium income of insurance companies, financial fund from the local government in accordance with the proportion of premium income, fines from companies that should be insured as required, costs such as sewage fees levied by the government, social donations, investment income generated by the fund.

5.5 Improving the Green Credit and Other Related Policies

At the same time, the government should introduce preferential policies in the administrative examination and approval, credit financing, land use, etc.. Governments policies incline to those companies purchased environmental pollution liability insurance to improve the enthusiasm of the insured. For example, when the commercial banks extended loans, it considers an important basis that the enterprise whether to buy the environment pollution liability insurance. The commercial banks implement different credit policy, give some preferential policies to the insured companies. The commercial banks should implement loan limit of the new project investment and liquidity loan for those enterprises should purchase insurance but not yet and implement differentiated credit policy.

We must believe that the development of the environmental liability insurance will become better and better by constantly improving the way to spread it through making summary of the pilot process. Environmental pollution

liability insurance will play a more important role in the environmental risk management in China.

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