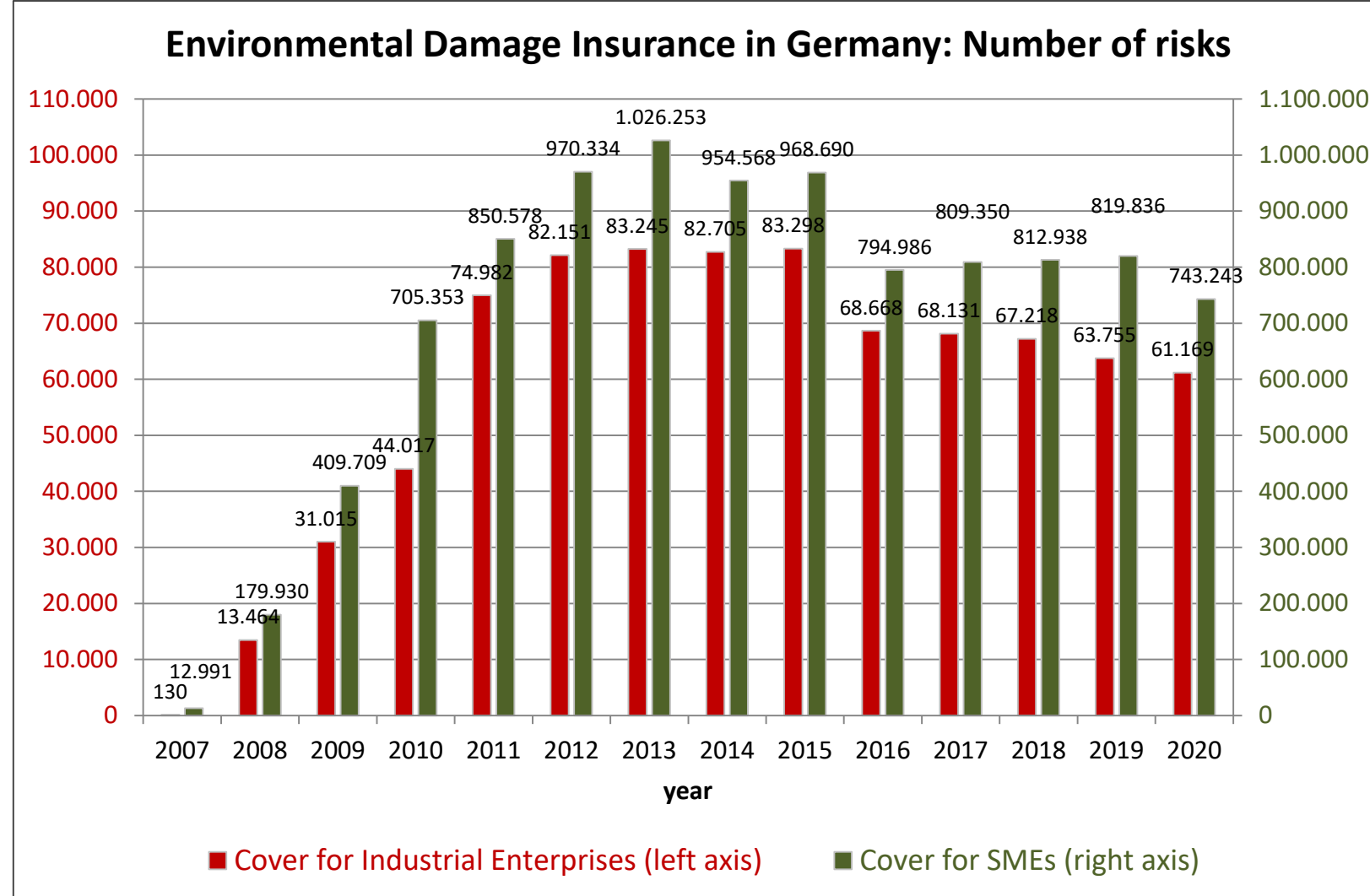


# Advantages of the voluntary insurance market

ELD Stakeholder Workshop, 22.11.2022  
Karl Ortmann, GDV

# German Environmental Damage insurance (EDI)



# There are no claims?

---

- The German government reported **60** ELD cases to the Commission in April 2013, and **147** cases in April 2022 (for period 26.06. 2019 – 31.12.2021).
- GDV member companies reported a total of **3,265** EDI claims for 2010 – 2020 (**297** claims p. a. on average).
- Of these, 34 are large claims (> €50k), ranging between €125k and €1.2mn).
- Total expenditure: €14mn.

## Caveats:

- Claims are captured on reporting year basis und not adjusted for subsequent developments.
- There should be more cases as many claims have both civil law third-party liability and ELD elements. These ELD claims disappear if the claims handler labels the whole claim as „corporate liability“.

# EDI main principles

---

EDI is designed to **complement** existing traditional liability (and property) policies without creating any overlap.

Two policy forms: **Basic Cover** and “**Comprehensive**” **EDI**

Basic Cover is aimed at operators with low environmental risk exposure.

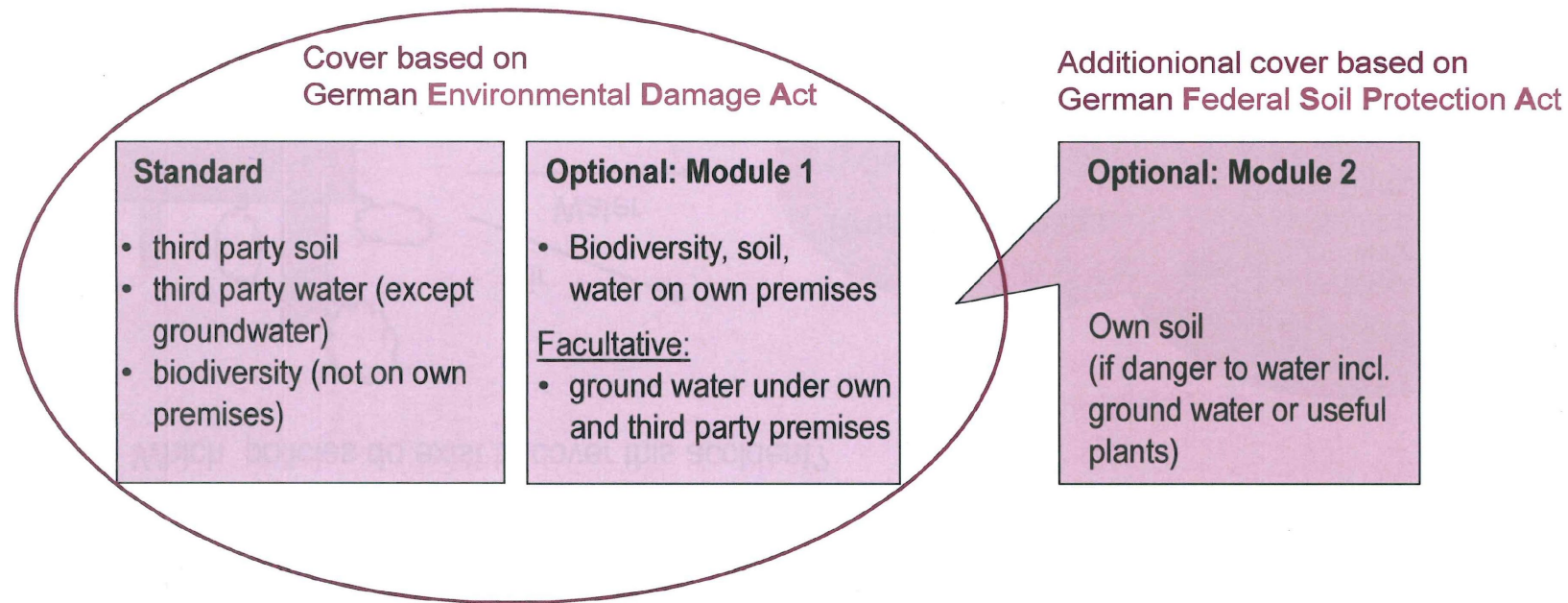
Basic cover has **exclusions** for

- certain hazardous operations subject to permit, or to strict civil law liability under domestic legislation (Water Resources Act, Environmental Liability Act),
- first party damage and damage to groundwater.

Basic Cover is a **standard section** of GDV’s model corporate liability policy wording. Cover is automatically included.

# EDI main principles

## „Comprehensive“ EDI



# EDI main principles

---

- Cover is for the Insured's statutory (public law) responsibility for the **remediation** of environmental damage under
  - the Umweltschadensgesetz (Environmental Damage Act, German transposing legislation), and
  - any other country's legislation transposing the ELD, except where such legislation imposes any obligations or responsibilities going beyond the ELD's material scope,but cover for non-domestic operations/premises is subject to special agreement.
  
- Remediation costs may be
  - incurred by the insured himself, or
  - claimed against the insured by a competent authority or other party.

# EDI main principles

---

## Covered Costs

- Primary, complementary and compensatory remediation
- Prevention and mitigation measures
- Legal defense (court and administrative proceedings) and loss investigation (experts, surveyors etc.)
- Within the material scope of the ELD, it is **irrelevant** if a public authority imposes remediation obligations on the basis of ELD **transposing** legislation or **other domestic environmental protection law**.

# EDI main principles

---

## Sudden and accidental / gradual pollution

- Coverage is triggered by “disruption of operations”:

an **event** that is **sudden and accidental**, unexpected and unintended.

- It is the **event** that must be sudden and accidental, **not** the pollution.

Gradual pollution is therefore covered if resulting from a sudden and accidental event.

**Exclusion for** environmental damage arising from **normal operations** (caused by operationally inevitable, necessary or accepted influences on the environment).



## Since 2019: Environmental Risks Insurance (ERI) (Umweltrisikoversicherung – URV)

---

- Combines the previous separate
  - Environmental Liability Insurance - ELI (Umwelthaftpflichtversicherung - UHV)  
Civil-law liability for damage occasioned by “environmental impact”
  - Environmental Damage Insurance – EDI (Umweltschadensversicherung – USV)  
ELD liability for damage to the environment
- Better alignment of both covers in a single wording, no more need for separate “basic” and “comprehensive” covers.
- A number of coverage extensions, particularly to the EDI cover.

# Advantages of voluntary insurance markets

---

## A voluntary insurance market ...

- enables the insurance industry to design products that touch all the necessary bases, but are also accepted and taken up by operators.
- allows insurers and operators to negotiate insurance contracts to a level of coverage that accurately reflects individual risk exposure at appropriate terms and conditions.
- By contrast, mandatory insurance regimes typically prescribe minimum requirements that apply to all insureds but are geared to the severest risk exposures.
  - Less exposed operators need to buy an unnecessarily high level of cover (uneconomical).
  - At the other end of the scale, severely exposed operators may decide to buy cover that is inappropriately low for their risks, but still compliant with requirements (moral hazard).

# Advantages of voluntary insurance markets

---

**To ensure a functioning ELD insurance market, some other factors are crucial:**

- Risk awareness and compliance by operators.
- Competent authorities able to monitor compliance and enforce environmental legislation.

The EU possesses a tightly meshed body of highly advanced environmental legislation. But it must be properly enforced.

- A vigilant civil society.
  - Reputational damage.

# Advantages of voluntary insurance markets

---

## Closing statements

- The German market wouldn't be where it is today if financial security had been mandatory.
- To further availability and uptake of ELD insurance,
  - raise awareness
  - collect and disseminate knowledge
  - provide guidance.
- Mandatory financial security schemes may well be appropriate at Member State level, but not at Union level.

# Thank you!

Wilhelmstraße 43 / 43G  
10117 Berlin  
T: 030-2020 5000  
F: 030-2020 6000  
E: berlin@gdv.de

Rue du Champ de Mars 23  
B - 1050 Brüssel  
T: 0032-2-2 82 47 30  
F: 0049-30-2020 6140  
E: bruessel@gdv.de

www.gdv.de  
www.DieVERSICHERER.de  
facebook.com/DieVERSICHERER.de  
Twitter: @gdv\_de  
www.youtube.com/user/GDVBerlin