



Can insurance mitigate the risk of an E&E transaction?

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Can insurance mitigate the risk of an E&E transaction?

- Insurance taken out by the target company can mitigate the risk of an E&E transaction
- General Liability, Professional Liability, Environment Impairment Liability, Property, Business Interruption, etc.
- 3 examples of risks that can be mitigated by proper insurance cover

Example 1: Litigation about the performance of an Energy contract

- Contract between an Energy supplier and its contractor for the inland and submarine installation of a cable system between 2 power stations
- Litigation + arbitration over the alleged defective implementation of the cable system, 8 years after works were taken over
- Damage: black-outs and BI for repair/replacement works (claim £136.6 M)

Example 1: Litigation about the performance of an Energy contract

- Insurance triggered: General liability, including Professional Liability and Liability during and after works
- Coverage of PD and BI up to €50M
- Exclusion of certain costs
- Specific insurance issues

Example 2: Litigation about the performance of an Environmental contract

- Contract about the removal of asbestos in the Tour Montparnasse
- Asbestos legal threshold exceeded several times during the performance of the works
- Decision of the French Employment authorities and Order from the Prefect of Paris to suspend works
- Liability claim initiated by Co-Owners; court-appointed expert investigations

Example 2: Litigation about the performance of an Environmental contract

- Insurance triggered: EIL
- Costs covered
- Exclusion of certain costs
- Specific insurance issues

Example 3: loss sustained by an Energy supplier (target company)

- Machinery breakdown at a power station (collapse of a desuperheater)
- Repair works conducted on damaged desuperheater and improvement works needed on other desuperheaters to avoid similar breakdowns
- Property damage : €5 M
- Business Interruption: €17 M

Example 3: Loss sustained by an Energy supplier (the target company)

- Insurance triggered: PD and BI insurance
- Costs covered
- Exclusion of certain costs
- Specific insurance issues

Tips for assessing insurance coverage

- Pay attention to the following clauses:
 - ☐ Limits and deductibles
 - ☐ Exclusions
 - ☐ Conditions for coverage
- Beware of time-limitation (2 years in France)

Thank you

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