

Propositions

Civil Liability for Marine Oil Pollution Damage

- A comparative and economic study of the international, US and Chinese compensation regime

Wang Hui

Defence 27 January 2011

1. The international regime on civil liability for marine oil pollution does provide for sufficient compensation in most cases, but when it comes to catastrophic spills, it turns out to be inadequate.
2. A limited liability set at a too low level is in principle inefficient in the context of marine oil pollution compensation regime, especially when the victims are third parties. However, the limitation of liability can be designed in such a way that it is at least to a certain extent risk-related, whereby it may still give incentives to the actors to take preventive measures.
3. A compensation fund is necessary to provide additional compensation to the pollution victims, inter alia for catastrophes.
4. The current funding structure of the International Oil Pollution Compensation Fund (IOPC Fund) only provides incentives for the parties contributing to the Fund to adapt their activity level, but not the level of prevention, because it is only related to the amount of oil transported by the contributor, but not related to the preventive measures taken or the safety performance of the contributor.
5. The US regime may seem more efficient than the IOPC Fund regime at least from the perspective of economic theory, but there is not empirical evidence to support this.
6. Compulsory insurance is a necessary mechanism for catastrophic disasters caused by industrial activities, but is not useful for man-made disasters such as terrorist activities.
7. A legal regime that develops as a result of the availability heuristic is not necessarily a bad regime.
8. Increased liability burdens on polluters have led to increased preventive effects, but equally to more investments by polluters in avoiding to be detected.
9. The best solution to transboundary externalities from a theoretical point of view is to implement a cooperative equilibrium, whereby all the externalities are internalized at the global level.
10. Although there has been no competition law and hence no anti-monopoly mechanism in China until very recently, the Chinese economy has been growing rapidly during the last two decades. Therefore, the existence of economic institutions (e.g. competition rules) is not a precondition for the success of an economy.
11. Being a Chinese in China is only one tiny component of the 1,331 million, but as the only Chinese resident in the Community of Riemst in Belgium, I am the absolute star.¹

¹ See Het Belang van Limburg, 2008.