

AIDA NEWSLETTER

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Association
Internationale de
Droit des Assurances

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SARA LANDINI EDITOR

AIDA PRESIDENT'S MESSAGE

We are pleased to share this new edition of our Newsletter, which brings together four valuable contributions on relevant and current issues in insurance law. Each article addresses, from a different perspective, how insurance responds to increasingly complex risks affecting society, businesses and public policy.

This edition opens with the article by Robert Koch, who presents a detailed analysis of recent developments in Side A D&O insurance in Germany, with particular attention to the internal liability of directors and officers, the assignment of indemnification claims, and recent case law involving major corporate disputes.

Teresa Franquet then contributes two articles. The first examines agricultural insurance, highlighting its importance as a protection instrument for farmers and livestock producers in the face of the growing impact of climate change, extreme weather events and the need to stabilize producers' income.

The second analyses environmental insurance as a suitable financial guarantee to cover environmental liability, particularly in relation to the prevention and remediation of environmental damage within the framework of European and Spanish law.

Finally, the Newsletter includes an article by Sara Landini on war risk clauses, a topic of growing relevance in a context marked by geopolitical instability, hybrid conflicts, international sanctions and disruptions in transport and marine insurance markets.

Taken together, these articles show the central role of insurance in addressing some of today's main challenges: corporate liability, corporate governance, climate risk, environmental protection, armed conflicts and international sanctions. We sincerely thank the authors for their valuable contributions and hope that this edition will be of interest to AIDA members and to all those engaged in the study and practice of insurance law.

Nos complace compartir esta nueva edición de nuestro Newsletter, que reúne cuatro valiosas contribuciones sobre temas relevantes y actuales del derecho de seguros. Cada artículo aborda, desde una perspectiva distinta, el modo en que el seguro responde a riesgos cada vez más complejos, que afectan a la sociedad, a las empresas y a las políticas públicas.

Esta edición se inicia con el artículo de Robert Koch, quien presenta un detallado análisis sobre los desarrollos recientes del seguro D&O Side A en Alemania, con especial atención a la responsabilidad interna de directores y administradores, la cesión de reclamaciones de indemnización y la jurisprudencia reciente vinculada a importantes controversias corporativas.

Luego, Teresa Franquet contribuye con dos artículos. El primero analiza el seguro agrario, destacando su importancia como instrumento de protección para agricultores y productores ganaderos frente al impacto creciente del cambio climático, los fenómenos meteorológicos extremos y la necesidad de estabilizar sus ingresos. El segundo examina el seguro medioambiental como una garantía financiera adecuada para cubrir la responsabilidad medioambiental, especialmente en relación con la prevención y reparación del daño ambiental en el marco del derecho europeo y español.

Finalmente, el Newsletter incluye un artículo de Sara Landini sobre las cláusulas de riesgo de guerra, una materia de creciente relevancia en un contexto marcado por la inestabilidad geopolítica, los conflictos híbridos, las sanciones internacionales y las interrupciones en los mercados de transporte y seguro marítimo.

En conjunto, estos artículos muestran el papel central que cumple el seguro frente a algunos de los principales desafíos actuales: la responsabilidad corporativa, el gobierno de las empresas, el riesgo climático, la protección del medio ambiente, los conflictos armados y las sanciones internacionales. Agradecemos sinceramente a los autores por sus valiosos aportes y esperamos que esta edición sea de interés para los miembros de AIDA y para todos quienes se dedican al estudio y la práctica del derecho de seguros.

Carlos Estebenet

President AIDA World.

Association Internationale de Droit des Assurances

COMPARATIVE NOTES

1. RECENT DEVELOPMENTS IN 'SIDE A' D&O INSURANCE IN GERMANY

Robert Koch

A. Relevance of 'Side A' D&O Insurance in Germany

In Germany, 'Side A' cover plays a crucial role in D&O insurance. There are two reasons for this. Firstly, members of the executive board owe a duty of care and loyalty only to their company (internal liability), but not to third parties (external liability).^[1] They are liable to third parties only in exceptional circumstances, such as in the case of tortious acts, failure to pay taxes or social security contributions, or late filing for insolvency.^[2] Secondly, the executive board members' duty of care and loyalty includes the obligation to ensure that the company acts lawfully and fulfils its legal obligations. Consequently, any breach of duty by them in dealings with third parties, for which the company is liable either solely^[3] or jointly and severally, also constitutes a breach of duty towards the company. For this reason, the company is under no obligation to indemnify its executive board members from third party claims. Rather, once the company has settled the third party's claim for damages, it has a right of recourse against its executive board members.^[4]

[See more -](#)

2.ENVIRONMENTAL INSURANCE: A SUITABLE FINANCIAL SECURITY TO COVER ENVIRONMENTAL LIABILITY

Teresa Franquet

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According to the Directive 2004/35/EC of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage, an operator causing environmental damage or creating an imminent threat of such damage should, in principle, bear the cost of the necessary preventive or remedial measures. Consequently, its Article 14 provides that Member States shall take measures to encourage the development of financial security instruments and markets by the appropriate economic and financial operators, including financial mechanisms in case of insolvency, with the aim of enabling operators to use financial guarantees to cover their responsibilities under this Directive. Insurance is a very appropriate financial security in order to provide effective cover for financial obligations under this Directive.

Environmental liability and environmental damage

The Directive seeks to ensure that an operator (natural or legal, private or public person) who, in the course of the occupational activity, causes environmental damage is held financially accountable. Thus, it also aims to minimize the risks of environmental damage occurring and, consequently, to reduce exposure to financial liabilities.

[See more -](#)

3.AGRICULTURAL INSURANCE

Teresa Franquet

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The agricultural sector constitutes a strategic sector; however, the recent extreme weather events pose a challenge for governments and businesses, which must adopt strong and effective measures to address their consequences and mitigate the damage caused in this sector. Among other policies, financial instruments that facilitate the management of economic losses and damage in the agricultural sector are supported. In this context, it is worth highlighting the role played by the insurance contract, considered a measure within reach of the agricultural sector that allows for the protection of farming and livestock from the risks inherent to the sector. It is a way of transferring risk, preventing it from being borne by the farmer himself.

Definition

The agricultural insurance contract is an insurance contract in which, as in any other insurance contract, the insurer undertakes, in exchange for the payment of a premium and in the event that the covered risk occurs, to compensate the insured for the damage suffered, within the agreed limits. The particularity of this type of insurance contract lies in the risks it covers, as well as in the subsidies that are granted for the payment of the premium.

[See more -](#)

3. WAR RISK CLAUSES

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War is not only a direct threat; it also fundamentally alters the nature of risk. For example, the likelihood and consequences of a property fire can change significantly when that property is located in a conflict zone. In such contexts, risks become more unpredictable and potentially more severe.

Modern warfare—particularly in its hybrid form—represents a major catastrophic risk. Hybrid conflicts combine traditional military operations (land and naval) with cyberattacks and other non-conventional tactics. This blending of methods can produce widespread and long-lasting impacts on infrastructure, economies, and civilian life.

From an insurance perspective, war is generally treated similarly to terrorism: it is typically excluded from standard coverage due to its scale, unpredictability, and systemic impact. This exclusion is formalized through “war clauses,” which are particularly relevant in transportation insurance, where goods and vessels may be exposed to conflict-related risks.

War risk clauses constitute a fundamental component of modern marine insurance law, reflecting the historical and conceptual separation between “marine perils” and “war perils.” Since the late nineteenth century, underwriting practice—particularly within the London market—has treated war-related risks as qualitatively distinct, requiring separate contractual treatment and pricing mechanisms.

[See more -](#)

FUTURE EVENTS

**26-28 AUGUST 2026
CILA CONFERENCE
CARTAGENA DE INDIAS
COLOMBIA**

PC and EC Meetings –
International and CILA
working groups sessions.
Plenary sessions.

[See more-](#)

**14-17 SEPTIEMBRE 2027
WORLD CONGRESS
HAMBURG GERMANY**

International working groups
sessions- General Assembly-
PC and EC Meetings, Plenary
sessions..

[See more-](#)



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