

ORIGINAL ARTICLE**MOTOR VEHICLES THIRD PARTY LIABILITY INSURANCES APPLIED IN TURKEY: EXAMPLE APPLICATIONS**

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Abstract

Responsibility is defined as assuming responsibility for one's own actions or the consequences of any event that comes within its jurisdiction. Liability insurance is used to compensate for the harm done to others as a result of one's activities. If this liability causes a loss due to fault, intent, or hazard, the insurance pays for this loss at a predefined amount, up to the applicable maximum. Liability insurance is becoming more important in our society. It is a fact that some of these insurances are compulsory. In this study, motor vehicles' third-party liability insurance applied in Turkey was conceptually examined, and the current production situation was analyzed and supported with case studies. In this context, it has been observed that motor vehicle liability insurance has three main applications in our country, namely compulsory motor liability insurance, facultative motor third-party liability insurance, and green card insurance, and it has been determined that the relevant branches have become increasingly important in production over the years.

Keywords

Liability, Insurance, Motor Vehicles Third Party Liability Insurances, Traffic Insurance, Facultative Motor Third-Party Liability Insurance, Green Card Insurance.

JEL Classification

G22, G29.

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1. INTRODUCTION

When the academic studies on motor vehicles' third-party liability insurance are examined, it is observed that there has been little research on land liability insurance in recent years. Most of the studies were carried out in the field of law.

Acar and Karabey (2015) investigated risk assessment sensitivity using an insurance company's dataset of traffic insurance claims. They employed the Value at Risk and Expected Loss methodologies to calculate risk.

Baykal and Bülbül (2016) used a prior and posterior pricing model created with damage frequency data instead of the reward-punishment system and the reward-penalty system with predetermined rates to be used in the pricing of compulsory motor liability insurance. The study concluded that while good drivers who had an accident were given a discount based on their damage history, the drivers who claimed more damage were given a surcharge based on their damage history. Umut (2020) considered the nature, extent, and guarantees of obligatory traffic insurance in his research, which has a significant position and share in the Turkish Insurance industry and is the most prevalent insurance type in our nation. The recent price rises were explained in terms of the ceiling price and risky insured pool applications presented by the public authority, and their potential impacts in future periods were analyzed.

Aygül (2021) concentrated his research on the legal foundation of the Turkish Motor Vehicles Bureau's (TMTB) liability to the wounded and its position in the case. In the cases pending in Turkey, it has examined the legal basis of the cases brought against the foreign insurance or related office of the TMTB.

According to the literature analysis, there are research primarily in the area of mandatory traffic insurance; however, there are few academic studies on optional liability insurance for motor vehicles and green card insurance. As a result, this research will help to close a gap in the literature on motor vehicle third-party liability insurance and example applications in Turkey.

2. THE CONCEPT OF LIABILITY AND INSURANCE

In parallel with the division of labour in society, people are assigned duties, and it fulfils these duties within specific times and rules. With responsibility, an actual obligation arises from one's actions. In summary, the reason for all the actions that the person will have to do to others due to his actions (defect, intention or activity) is responsibility.

Responsibility is defined as taking on one's own actions or the consequences of any event that falls under their jurisdiction. (Turkish Language Institution, 2022)

For the concept of responsibility, the individual must bear the legal consequences that may arise against himself. This obligation may arise from a legal rule as well as from a religious, moral or social rule.

Legal responsibility, on the other hand, is eliminating the damage caused to another person due to an unlawful act or transaction. (Çelikleş, 1987, p. 5).

Because, Article 49 of the Code of Obligations numbered 6098, with the upper heading "Liability", gives meaning to the legal dimension in question with the statement that "even if there is no legal rule prohibiting the harmful act, a person who intentionally harms another person with an immoral act is obliged to compensate for this damage". (Turkish Code of Obligations [TBK], 2011: article 49)

Insurance can be defined as the undertaking of risks by institutions specialized in this field in return for a certain price to prevent financial losses that may occur as a result of a possible event in the future (Akpınar, 2018, p.3).

The insurance sector, which is one of the leading actors of financial intermediation, has an increasing effect on society's financing and investment opportunities with the premiums it collects within

the scope of its various products and services. (Turkel, 2022, p.72).

3. PURPOSE OF LIABILITY INSURANCE

Liability insurance is a type of insurance that provides insurance under certain conditions for material and bodily damages to third parties due to the insured's fault.

Liability insurance provides coverage for the indemnity burden to be incurred by the insured for material and bodily damages to third parties due to his own faults, under certain conditions and up to certain limits. (Bozer, 2007, p.130-134)

The main principle of Liability Insurance is to prevent the decrease in the insured's assets from compensating for the damages that the insured may cause to third parties. Liability insurances aim not only to protect the insured but also to eliminate the damages of third parties from the insured's actions (Ulaş, 2005, p.635).

4. TYPES OF LIABILITY INSURANCE IN GENERAL

It is not in accordance with the insurance technique to provide coverage under the same liability products for all the losses that individuals may cause to third parties as a result of tortious acts. As a result, many types of liability insurance have emerged throughout history. When the types of liability insurance applied in our country are examined, this distinction is observed under four main headings. These are under four main headings: motor vehicles liability insurance, Air Vehicles Liability, Marine Vehicles Liability and General Liability. As can be seen from Table.1, motor vehicle liability insurance implemented in Turkey is grouped under three main headings. These are Compulsory Motor Liability Insurance, Facultative Motor TPL, and Green Card Insurance.

Table 1

Motor vehicles liability insurances implemented in Turkey

Compulsory Motor Liability Insurance

Facultative Motor TPL Insurance

Green Card

Source: Turkish Insurance Association, "Sector Report 2021".

5. COMPULSORY MOTOR LIABILITY INSURANCE

Compulsory motor liability insurance covers the claims for indemnities, the content of which is determined in the relevant General Conditions and within the framework of the legal responsibility of the insured according to the Highway Traffic Law No. 2918, due to the death or injury of third parties during the operation of the motor vehicle. (Turkish Insurance Association Report, 2021, p.40) This liability insurance, also called Traffic Insurance, is valid only within the borders of Turkey.

Compulsory motor liability insurance is passive and, at the same time, loss insurance since it secures the financial and legal liability of the motor vehicle operator against third parties due to bodily and property damages caused to third parties due to the vehicle operated by the motor vehicle operator on the highway. One of the most essential features of this type of insurance is that the conclusion of this insurance contract is made compulsory by law. (Ulaş, 2005, p.693)

Traffic Insurance, a type of liability insurance, also provides many benefits in terms of sharing

the damage that occurs after the accident and affects the reduction of legal disputes and disputes resulting from the accident. Some accidents can cause significant damage and cause tremendous material damage. The victims of the accident and the persons responsible for the accident may not have the economic power to cover the damages that may occur because of the accident. In this case, legal regulations that will ensure the payment of the damage caused by traffic accidents are essential. Compulsory traffic insurance is carried out in order to guarantee the responsibilities in the relevant article (Highway Traffic Law, 1983, 18195/91-123 art.) and to keep the losses in the accident safe. (Tunç and Akpınar, 2018, p.223)

Traffic insurance can also be explained as compulsory insurance to compensate for the damage that may occur in the other party's motor vehicle within the scope of the traffic insurance general conditions and coverage limits. (Akman and İşler, 2012, p.21)

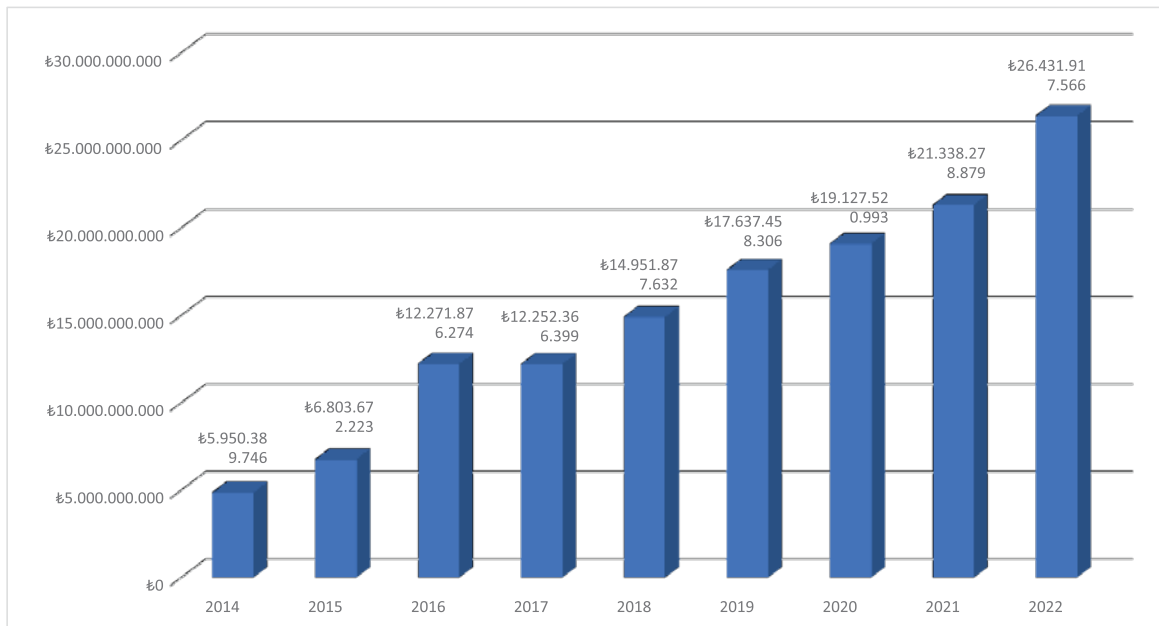
The purpose of traffic insurance is to protect the insured up to the limits of the traffic insurance in the event that the person who owns a motor vehicle causes death or injury to someone else or another vehicle or object in an accident that may occur during the operation of the vehicle. In other words, damage caused by a vehicle is covered. The regulation of traffic insurance in Turkey has been made compulsory by law. (Yalçınkaya, 2019, pp.403-407)

It is possible to classify the coverage of traffic insurance as follows: (Özen and Yurdakul, 2020, p.96)

- Material Damages Coverage
- Health Expenses Coverage
- Permanent Injury Coverage
- Withdrawal of Support Coverage

Table 2

Compulsory motor liability insurance (Traffic Insurance) Premium Production: (2014-2022)*



Source: Insurance Association of Turkey / Statistics <https://www.tsb.org.tr/tr/istatistikler> (Access Date: 01.11.2022)

* The figures for 2022 are the figures for the first 6 months..

Traffic insurance premium production in motor vehicles liability insurance in which 29 companies operate in our country as of 2022 is shown in Table 2. According to the production figures excluding

the green card, it is seen that the production in the first six months of 2022 has reached 26.4 billion TL. Since 2014, except for 2017, traffic insurance has increased its importance in our country with an increasing trend every year.

As of July 2022, the guarantees given by the traffic insurance are given in Table 3. The mentioned guarantees are valid for each damage separately. For this reason, no additional premium is demanded from the insured during the maturity period. However, the premium amount is increased at the end of the period renewal, considering the damages incurred.

Table 3

Minimum Insurance Coverage to be Applied as of 01/07/2022 for Motor Vehicle Operators

Vehicle Group	Guarantees (TL)					
	A-Health Expense		B-Injury and Death		C-Material	
	Per Person	Per Accident	Per Person	Per Accident	Per Vehicle	Per Accident
Motor Vehicles Used in Human Transport	1.000.000	5.000.000	1.000.000	5.000.000	100.000	200.000
Motor Vehicles Used in Goods Transport, Trailers and Construction Machines		10.000.000		10.000.000		
Agricultural Vehicles and Special Purpose Vehicles		5.000.000		5.000.000		
Motorcycle and Freight Motorcycle		3.000.000		3.000.000		

Source: Official Gazette, No: 31838, Regulation on amending the regulation on the principles of tariff application in the compulsory liability insurance of motor vehicles on highways. 17.05.2022.

Example Case; At the beginning of 2022, a person who is 33 years old, married, has a 30-year-old wife and two children aged 1 and 4 and earns 10.000 TL per month, dies in a traffic accident and if no fault is found in this accident, the compensation amount to be paid to the spouse and children will be around 2.250.000 TL. . From this point of view, when a person working for minimum wage dies without fault, the compensation to be received by the relatives of this person corresponds to the traffic insurance limit (Turkish Insurance Institute Foundation, 2022). This brings people face to face with the fact that traffic insurance cannot always provide full protection.

6. FACULTATIVE MOTOR THIRD-PARTY LIABILITY INSURANCE

Motor vehicle voluntary liability insurance covers the legal liability arising from the use of the motor vehicle and related to the insured in accordance with the general provisions of the highway traffic law, as well as the portion above the compulsory traffic insurance coverage limits, provided that it is covered by the policy, up to the scope and limits written in the policy (Turkish Insurance Association Report, 2021, p.40).

Aside from the restricted risks covered by the highways motor vehicles compulsory liability insurance, meeting this need in the face of the insufficient minimum insurance coverage limits determined and announced by the authorized bodies has created the facultative motor TPL Insurance. This type of liability insurance is also called (increasing liability insurance) or (high liability insurance) in practice

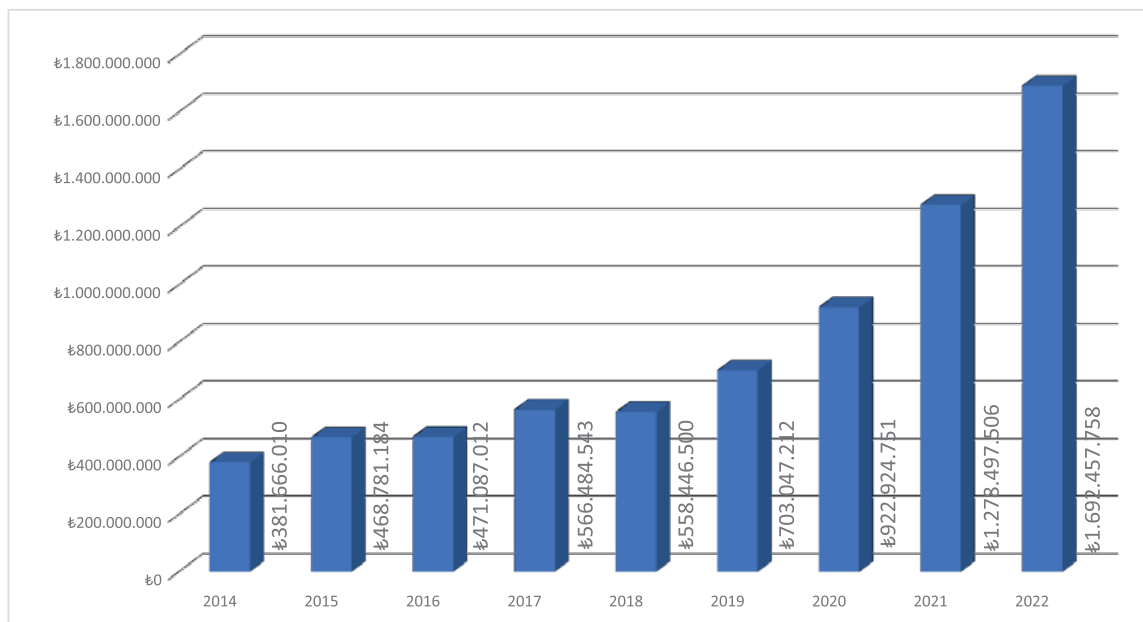
(Ulaş, 2005, p.886).

Although traffic insurance is compulsory, this type of insurance is left to the request of the insured.

When Table.4 is examined, it is seen that the first six-month production of 2022 reached 1.6 billion TL, according to the facultative motor TPL Insurance premium production figures. Considering the ever-increasing repair costs, it is observed that the demands for IMM guarantees have increased rapidly, especially as of 2019. It is observed that a trend that has been increasing every year in recent years will also take place in the coming years.

Table 4

Facultative Motor Third-Party Liability Insurance Premium Production: (2014-2022)*



Source: Insurance Association of Turkey / Statistics <https://www.tsb.org.tr/tr/istatistikler> (Access Date: 01.11.2022)

* The figures for 2022 are the figures for the first 6 months.

Example Case: Assume that if a person aged 33, married, spouse unemployed, father of two children aged 4 and 7, with a monthly net income of 10,000 TL, dies in a traffic accident without fault, the compensation amount to be paid is 3 million TL. If the ages are younger, the compensation amount will increase, and if they are older, the compensation amount will decrease. As a result, considering that the traffic insurance will pay 1 million TL for this loss, approximately 2 million TL of compensation will be on the operator of the vehicle. This responsibility can be transferred to the insurer with the Facultative Motor Third-Party Liability Insurance. This insurance does not replace traffic insurance, but in cases where traffic insurance is not sufficient, it additionally comes on top of traffic insurance.

7. GREEN CARD INSURANCE

The protection and measures brought by the states for the damages suffered by their citizens as a result of traffic accidents on the territory of the country remained insufficient, especially after the Second World War. The development of international trade relations has led to an increase in land transportation. Thus, the number of citizens of the countries who are victims of the damages caused by accidents involving motor vehicles from foreign countries has increased. Likewise, the development of international tourism has led to an increase in the number of motor vehicles coming from

foreign states and involved in accidents. These developments have led to the obligation to take out insurance at the country border gates, primarily for vehicles with foreign license plates registered in another country. Thus, protection was provided for the damages caused by vehicles with foreign license plates. (Akin, 1973, p.463)

Green Card Insurance is a document that provides coverage to the countries within the green card system within the framework of the Strasbourg Agreement of 1959, in the form of an international supplement to the compulsory traffic insurance within the scope of the legislation and limits of the accident site country. Currently, there are 46 countries included in the system.

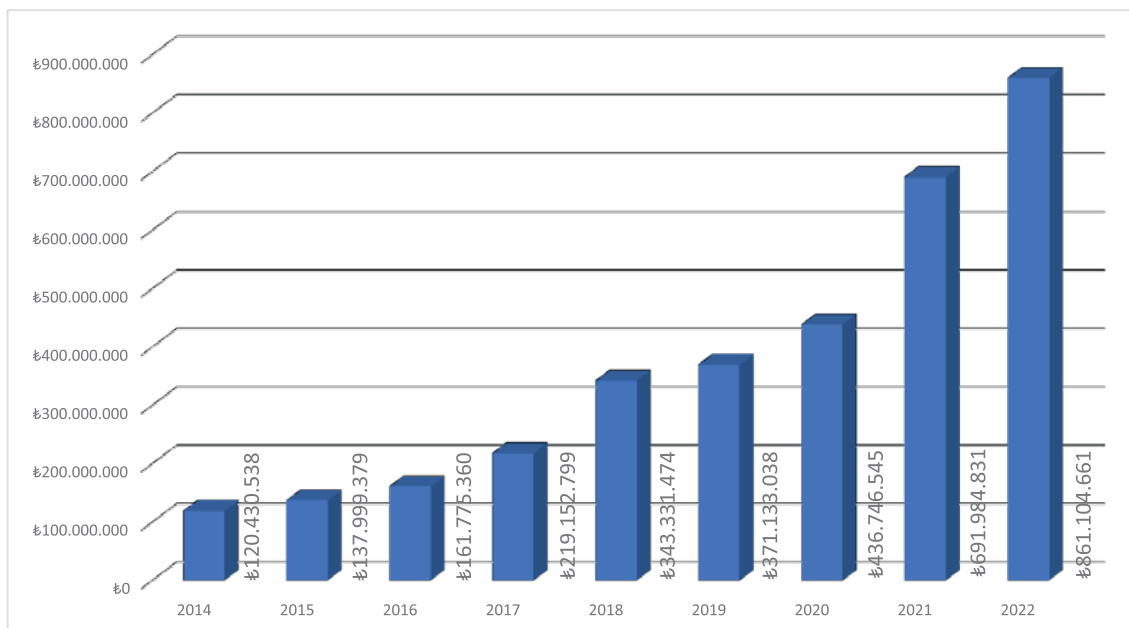
One of the primary conditions for applying for membership in the Green Card System is the establishment of a national Green Card Bureau. Upon completing the preparations in this direction, the “Turkish Insurance and Reinsurance Companies Association Motor Vehicle Bureau Regulation” was accepted at the Extraordinary General Assembly Meeting of the Cooperation of Turkish Insurance and Reinsurance Companies dated 6 August 1963 and numbered 8. The regulation was approved by the Ministry of Commerce’s letter dated 25 September 1963, numbered 4/16636 – 59/A and entered into force after being published in the Official Gazette dated 19 October 1963 and numbered 11535. At the same meeting of the Association of Insurance and Reinsurance Companies of Turkey, the “Executive Committee” was formed under the chairmanship of the President of the Association and with the participation of three members who were also elected following the first article of the Regulation. Thus, “The Motor Vehicle Bureau of the Association of Insurance and Reinsurance Companies of Turkey” was established. (Insurance Training Center, 2012, p.45)

The system’s primary purpose is to protect those harmed because of accidents caused by motor vehicle users travelling between countries. (Turkish Insurance Association Report, 2021, p.40)

In other words, the first purpose of the Green Card System is to facilitate the passage of motor vehicles across international borders with an internationally valid insurance document. Thus, a vehicle with this insurance will not have to have ZMSS at the border. The second purpose of this system is to protect those who have been harmed due to accidents in the destination country of vehicles with foreign license plates.

In this way, the damaged person will be able to find a responsible interlocutor to whom he can claim all his demands due to the damage caused by the vehicle’s operation with a foreign license plate. He will not experience any further grievances because the vehicle has a foreign license plate. Green Card Insurance protects up to the minimum ZMSS limit in the country where the accident occurred. Therefore, the damaged vehicle gains protection equivalent to the damage to itself by a vehicle registered in its own country. (Merkin and Hemsworth, p.681) (Ekşi, 2012, p.37).

Table 5
Green Card Insurance Premium Production: (2014-2022)*



Source: Insurance Association of Turkey / Statistics <https://www.tsb.org.tr/tr/istatistikler> (Access Date: 01.11.2022)

* The figures for 2022 are the figures for the first 6 months.

According to the Green Card Insurance premium production numbers, Table.5 shows that production for the first six months of 2022 totaled 861.1 million TL. The demand for the Green Card guarantee has increased rapidly, particularly as of 2021. It has been noted that a trend that has been rising year after year in recent years will continue in the next years.

Conclusion

In parallel with the division of labour in society, people are assigned duties. It fulfils these duties within specific times and rules. Responsibility is an actual obligation arising from the actions of the person.

Insurance can be defined as undertaking risks by institutions specialized in this field in return for a certain price to prevent financial losses that may occur as a result of an event that may occur in the future. With liability insurance, policyholders ensure the increase in their passive assets due to their financial liabilities that may arise as a result of their faulty or faultless behaviour.

With liability insurance, there are purposes to prevent the decrease in the insured's assets from compensating for the damages the insured may cause to third parties. Liability insurance aims not only to protect the insured but also to eliminate the damages of third parties caused by the insured's actions.

Motor vehicle liability insurance implemented in Turkey is grouped under three main headings. These are highway motor vehicles' compulsory liability insurance (Compulsory Traffic), facultative motor third-party liability insurance, and Green Card Insurance.

Compulsory motor liability insurance is passive and, at the same time, loss insurance since it secures the financial and legal liability of the motor vehicle operator against third parties due to bodily and property damages caused to third parties due to the vehicle operated by the motor vehicle operator on the highway. One of the most critical features of this type of insurance is that the conclusion of this insurance contract is made compulsory by law. In our country, as of 2022, it is seen that the traffic

insurance premium production in motor vehicle liability insurance, in which 29 companies operate, reached 26.4 billion TL in the first six months of 2022. Since 2014, except for 2017, traffic insurance has increased its importance in our country with an increasing trend every year.

Motor vehicle discretionary liability insurance covers the legal liability arising from the use of the motor vehicle and related to the insured in accordance with the general provisions of the highway traffic law, as well as the portion above the compulsory traffic insurance coverage limits, provided that it is covered by the policy, up to the scope and limits written in the policy. According to the motor vehicles' discretionary liability insurance premium production figures, it is seen that the first six-month production of 2022 has reached 1.6 billion TL. When the ever-increasing repair costs are considered, it is observed that the demands for IMM guarantees have increased rapidly, especially as of 2019. It is observed that a trend that has been increasing every year in recent years will also take place in the coming years.

Green Card Insurance is a document that provides coverage to the countries within the green card system within the framework of the Strasbourg Agreement of 1959, in the form of an international supplement to the compulsory traffic insurance within the scope of the legislation and limits of the accident site country. According to the Green Card Insurance premium production figures, it is seen that the production for the first six months of 2022 has reached 861.1 million TL. It is observed that the demand for the Green Card guarantee has increased rapidly, especially as of 2021. It is observed that a trend that has been increasing every year in recent years will also take place in the coming years.

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