



Experts warn of passenger liability chaos

Athens Convention revision could send premiums sky-high and bring some ferry firms to their knees, writes James Brewer

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CHAOS looms on a worldwide scale over the future of seagoing passenger liability, after a compromise between diplomats over the revision of the Athens Convention was slammed by insurers and shipping lines yesterday.

Industry chiefs fear it will be unworkable and could lead to a hotch-potch of separate compensation regimes. Risks could build-up to sky-high levels, they warn.

Tomorrow a final session of a conference convened by the International Maritime Organisation will give formal recognition to a protocol amending the 1974 convention, after which it will be released for publication.

Initial responses to the settlement, which raises limits to SDR250,000 for strict liability, direct action and compulsory insurance, and sets an overall limit of SDR400,000, were bitter.

Experts forecast that despite the consensus reached at IMO, few nations would ratify the protocol.

They pointed to the convention's undistinguished history, with only 28 nations ratifying the original agreement, and only three backing a 1990 protocol.

The main push for the new deal came from European states, which insisted stronger support for passengers was essential. The US is thought likely to be among those which will decline to ratify.

"The whole shipping industry, together with the protection and indemnity clubs, are very concerned," said a source close to the outcome.

"The main doubt is whether it is going to be ratified by the majority of countries. The danger is, we have already had a lot of countries in the Far East who said it was impossible to ratify."

Others warned that although cruise companies might succeed in charging wealthier travellers extra for tickets to absorb insurance costs, such a move would be too heavy a burden in countries where transport needed to be cheap.

"Some ferry operators could be forced out of business, and the cost of insurance could damage economies as a whole," said a senior liability specialist.

IMO secretary-general William O'Neil is seen as likely to have a tough job in selling the pact. He had stressed the crucial importance of a successful outcome to the meeting, so that all those affected by a shipping incident would receive prompt and adequate compensation based on internationally accepted criteria.

P&I clubs will be tempted to turn their backs on the formula.

They had been debating whether to go on offering cover in any event, but might have been persuaded to lend a hand had the limits been lower.

The International Group of P&I Clubs has consistently made it clear at IMO that if liability levels in the revised protocol resulted in an unrealistically high concentration of risk, clubs would be obliged to cap their exposure, or exclude passenger risks completely.

"The real issue is whether people can get insurance for these limits, and whether that insurance is going to be available in the longer term," said a P&I analyst.

The clubs had declared it was most unlikely they would be willing to pool cover in respect of the regime if it included a direct action limit of more than SDR100,000 per passenger and an overall limit of more than SDR350,000 per passenger.

A review by the International Group of claims incurred over the ten years to 2002 by one of the clubs most heavily committed to the sector, indicated that the average annual payment worldwide for claims for death or injury of a passenger was \$21,737.

The vast majority of such claims related to minor incidents.

With 97% of claims in a sample of UK ferry experience settled for less than \$100,000, the need to provide a central core of guaranteed cover would be satisfied by setting the limit for direct action at SDRs100,000, the group had told the conference.

In a further blow for the club viewpoint, the approved document includes an opt-out for individual states. Clubs argued this would deprive the insurer of certainty of exposure, and raise the aggregation of risk to potentially infinite levels.

They insisted the objectives of the protocol could be achieved in the current insurance framework, which had a proven track record.

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