



International Group of P&I Clubs

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Dear Erik,

Athens Convention

Thank you for your message of 3rd July.

I would like to comment first on your remarks regarding the proposals we put forward in June since some misunderstandings seem to have occurred.

Limitation. We suggested that a per capita figure of SDR250,000 be employed for the first 1500 claims and that a per capita figure of SDR175,000 be employed if that number of claims was exceeded. This is of course arbitrary but will serve to provide the Protocol figure for the vast majority of cases. The use of the LLMC per capita figure of SDR175,000 was entirely coincidental and was not intended to import the mechanics of LLMC. Thus if our scheme were adopted the jurisdiction provisions of the Protocol would not be disturbed and it would not be necessary for one jurisdiction to be chosen for distribution of a central fund as is envisaged under your proposal. Terrorism claims would be dealt with under the Convention in the usual way. For this purpose I thought it was a general assumption within the Legal Committee that parties to the new Athens Convention would avail themselves of the reservation disapplying LLMC in regard to passengers claims.

Competing claims. Under our proposal passenger claims arising from terrorism would not be reduced by other claims. The whole of the available War Risk cover could potentially be employed to meet passenger claims. Prudent shipowners might therefore wish to purchase additional cover to meet other potential claims, such as crew claims or pollution, but this would not be a concern of the Correspondence Group.

Turning to the Norwegian submission, the following comments may assist:

Paragraph 5. It is our belief that the proposal we have put forward would be better for passengers. The amounts at issue are marginally greater and the procedure envisaged is considerably simpler.

Paragraph 6. Our proposal utilizes current market cover. There would be no overwhelming difficulty in providing the identity of underwriters or price. These matters only become issues when it appears, as with the Marsh scheme, that it is intended to utilize the current war risks market to provide certificated Athens cover in respect of terrorism. If non-passenger vessels are asked to pay substantially more for their War Risks P&I in order to permit passenger vessels (circa 5% of ocean-going tonnage) to comply with Athens, they may take the view that this does not constitute a 'satisfactory solution' to the terrorist problem.

Paragraph 11. It is suggested that the carrier will not need to insure the same risks twice. If the Marsh scheme is followed this is precisely what the carrier will be required to do in effect. Marsh have made it clear that the fronting company they would establish would have to rely on the current war risks cover – the **ordinary war insurance** in your appellation – and purchase from the same market an additional cover – **compulsory war insurance** – to cover matters excluded under the first policy. This second cover would take the form of a D.I.C. (difference in conditions) cover which be in substance identical to the first but would additionally respond to matters excluded under the first policy. Because the market is limited to relatively few underwriters, carriers will therefore be required to pay the same underwriters twice in respect of substantially the same risks. By these means War Risk underwriters will be asked to cover in the second contract matters which were excluded in the first. It is doubtful that this stratagem will produce in practice any greater reliability than would be provided by our proposal.

Paragraph 16. Prospective compulsory war insurers may be content without detailed formal rules for notice, but can the same be said for States who have issued certificates or passengers who have failed to recover?

It is more likely that a Memorandum of Understanding would have to be agreed between the underwriters of the two War Risk contracts since terrorism is excluded under the main P&I cover. However since these parties are likely to be identical perhaps there will be no problem!

We are disappointed that there has been so little reaction from States to the proposal which we have put forward which was intended to provide a workable solution which could be readily implemented.

I would be grateful if you would circulate this letter to the Correspondence Group.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Lloyd Watkins', written in a cursive style.

Lloyd Watkins