

Status: Point in time view as at 31/12/2020.

Changes to legislation: There are outstanding changes not yet made to Regulation (EC) No 392/2009 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)

ANNEX II

Extract From the IMO Reservation and Guidelines for Implementation of THE ATHENS Convention, adopted by the Legal Committee of the INTERNATIONAL MARITIME ORGANISATION on 19 October 2006

IMO RESERVATION AND GUIDELINES FOR IMPLEMENTATION OF THE ATHENS CONVENTION

Guidelines

2. In the current state of the insurance market, State Parties should issue insurance certificates on the basis of one undertaking from an insurer covering war risks, and another insurer covering non war risks. Each insurer should only be liable for its part. The following rules should apply (the clauses referred to are set out in Appendix A):
 - 2.1. Both war and non war insurance may be subject to the following clauses:
 - 2.1.1. *Institute Radioactive Contamination, Chemical, Biological, Bio-chemical and Electromagnetic Weapons Exclusion Clause* (Institute clause No 370);
 - 2.1.2. *Institute Cyber Attack Exclusion Clause* (Institute clause No 380);
 - 2.1.3. the defences and limitations of a provider of compulsory financial security under the Convention as modified by these guidelines, in particular the limit of 250 000 units of account per passenger on each distinct occasion;
 - 2.1.4. the proviso that the insurance shall only cover liabilities subject to the Convention as modified by these guidelines; and
 - 2.1.5. the proviso that any amounts settled under the Convention shall serve to reduce the outstanding liability of the carrier and/or its insurer under Article 4bis of the Convention even if they are not paid by or claimed from the respective war or non war insurers.
 - 2.2. War insurance shall cover liability, if any; for the loss suffered as a result of death or personal injury to passenger caused by:
 - war, civil war, revolution, rebellion, insurrection, or civil strife arising there from, or any hostile act by or against a belligerent power,
 - capture, seizure, arrest, restraint or detainment, and the consequences thereof or any attempt thereat,
 - derelict mines, torpedoes, bombs or other derelict weapons of war,
 - act of any terrorist or any person acting maliciously or from a political motive and any action taken to prevent or counter any such risk,
 - confiscation and expropriation,and may be subject to the following exemptions, limitations and requirements:
 - 2.2.1. *War Automatic Termination and Exclusion Clause*
 - 2.2.2. In the event the claims of individual passengers exceed in the aggregate the sum of 340 million units of account overall per ship on any distinct occasion, the carrier shall be entitled to invoke limitation of his liability in the amount of 340 million units of account, always provided that:
 - this amount should be distributed amongst claimants in proportion to their established claims,

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- the distribution of this amount may be made in one or more portions to claimants known at the time of the distribution, and
 - the distribution of this amount may be made by the insurer, or by the Court or other competent authority seized by the insurer in any State Party in which legal proceedings are instituted in respect of claims allegedly covered by the insurance.
- 2.2.3. 30 days notice clause in cases not covered by 2.2.1.
- 2.3. Non-war insurance should cover all perils subject to compulsory insurance other than those risks listed in 2.2, whether or not they are subject to exemptions, limitations or requirements in 2.1 and 2.2.
3. An example of a set of insurance undertakings (Blue Cards) and an insurance certificate, all reflecting these guidelines, are included in Appendix B.

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