Conflict spirals over the Athens protocol

The biggest marine insurance stand-off since the conflict over the 1990 US Oil Pollution Act is in prospect over the world cruise and ferry fleet.

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Representatives of more than 70 countries last week agreed on a protocol to the Athens Convention lifting compensation limits for death or injury to passengers far beyond the level that is acceptable to the protection and indemnity (P&I) clubs. Leading P&I club managers are to meet next week but room for manoeuvre appears very limited, setting the stage for a new P&I 90-type row.

The diplomatic conference at the International Maritime Organisation (IMO) in London agreed that passenger compensation limits would rise to SDR 400,000 ($530,000) with compulsory cover and a right to directly sue an insurer for up to SDR 250,000 ($331,000). The figures are far beyond the SDR 200,000 and compulsory limit of SDR 100,000 that the P&I clubs were prepared to contemplate, sending the cruise and ferry fleet heading for uncharted waters.

Managers of the International Group of P&I clubs want to go on providing cover for passengers but they doubt that a fix such as that devised to meet P&I 90’s requirements on Certificates of Financial Responsibility (Cofrs) can be created this time round.

The time available to resolve the Athens-protocol conflict is also quite limited as the treaty provides that it will enter into force just 12 months after ratification by 10 states, so it could be a legal requirement facing cruise and ferry lines within two or three years.

The shipowner directors of the P&I clubs are united in the view that a compensation regime that would produce a claim of more than SDR 530,000 if all the passengers on the world’s biggest cruise ship perished is unacceptable.

Royal Caribbean’s 137,000-gt Voyager of the Seas (built 1999) carries 3,114 guests but future ships will be even bigger.

Diplomats and government officials take the view that the requirements of the protocol are not excessively onerous and that the P&I clubs and other insurers are prone to “cry wolf” over new challenges.

The P&I clubs, however, warn that even if they could provide the insurance, a single large loss could wipe out their reinsurance support, thus putting the liability cover of the world cargo fleet at risk. The new protocol sets out compensation requirements for passengers ships but does not force P&I clubs to continue to provide cover.

The compensation could equally come from an insurance company or a financial institution such as a bank.

Life assurance organisations are an obvious potential source of cover but they would not be prepared for the aggregation of risk posed by a cruise ship or even a large ferry. If the life market were to become involved, some sort of pool would probably have to be created to spread risk.

The final word of the International Group to the diplomatic conference was that it hoped it could provide cover but doubted this would be possible. A 2002 protocol to the Athens Convention has been “agreed” but the real world debate is still far from over.

Pause taken in US ports talks

FEDERAL mediators in the dispute that hit the US West Coast ports have adjourned negotiations for a week so the last main sticking point—pensions—can be reassessed by employers.

Earlier the Federal Mediation and Conciliation Service (FMCS) said a tentative agreement on key issues of new technology and retention of union jurisdiction over marine clerical work had been reached.

FMCS director Peter Hurtgen initially said agreement had not been reached on other important issues, including pensions.

But now Hurtgen says the week-long pause will allow the Pacific Maritime Association (PMA) to consider costs and data from its members related to pension enhancements for employees.

PMA members include all the major terminal operators and carriers operating on the West Coast.

While the International Longshore and Warehouse Union (ILWU) is prepared to continue with negotiations, "Hurtgen says, “management has requested additional time to evaluate anticipated technology-based operational savings and pension funding costs into future years.”

No details of the agreement will be released until a complete deal has been fully agreed and signed.

By Paul Berrill from London