



**PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE
COUNCIL ON THE LIABILITY OF CARRIERS OF PASSENGERS BY SEA AND INLAND
WATERWAYS IN THE EVENT OF ACCIDENTS**

IG COMMENTS FOR THE EUROPEAN PARLIAMENT'S SECOND READING

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The 13 P&I Clubs that comprise the International Group of P&I Clubs (the IG) are mutual not-for-profit insurance organizations that between them cover the third party liabilities (including loss of life and personal injury to passengers) of approximately 92% of the world's ocean-going tonnage.

The IG initially welcomed the Commission's original proposal on the liability of carriers of passengers by sea and inland waterways (PLR) since it would achieve a uniform, harmonised liability regime in the EU, and with other States worldwide which adopt the Athens Convention, and thus provide certainty for both carriers and passengers. The IG therefore supported the Commission's proposal in the Regulation, supported by the Parliament (EP) in 1st reading stage, to achieve total uniformity within the EU by allowing Member States (MS) to apply limits of liability higher than those in the Convention only in the event of agreement by all MS. This uniformity is now threatened by the Council's position to reject this approach and allow MS to apply higher limits of liability on an individual basis.

The IG has strong concerns with the Council's position, which is in conflict with the fundamental objectives of the PLR and would significantly impact on the workability of the PLR and the Athens Convention. The carrier's limits of liability in the Convention (400, 000 SDR) already represent a **considerable** increase in exposure for carriers (and a corresponding benefit for passengers), compared with the limits in the 1974 Athens Convention (46, 666 SDR) and the 1990 Athens Protocol (175, 000 SDR). If State parties to the Convention wish to apply higher limits of liability than those contained therein, there is a well known procedure in the Convention that allows States to do so collectively through the IMO, thereby ensuring that higher limits apply to all State parties and maintaining the principle objective of uniformity, harmonisation and certainty.

Adoption of the Council's position would simply allow MS to maintain the status quo and the patchwork of differing limits of liability that currently exists within the EU. It is likely that this would result in a continuing divergence of national limits and accordingly unfair competition between national carriers. Moreover citizens of different MS when travelling within the Community could be subject to differing limitation regimes when undertaking the same voyage given the multiple possible forums for actions that are contained in the Athens Convention. This would clearly be discriminatory.

The carrier's limits of liability in the Convention were achieved after many years of negotiation and represent a delicate compromise between all interested parties. If the Council's position is ultimately adopted and MS can apply higher limits individually it seems clear that there is little justification for the PLR given the lack of uniformity that would arise. The IG strongly urges the EP to maintain its position on MS ability to apply higher limits and to oppose the Council.