

Aviation Insurance Clauses Group (AICG)
Sixth Statement of Activities - October 2010 - September 2011

Overview

AICG operates under formal Terms of Reference (ToR) agreed between the International Underwriting Association (“IUA”) and the Lloyd’s Market Association (“LMA”) with the European Commission in March 2005. Under the ToR, the Chairman is required to produce an Annual Statement of Activities, “summarising the key developments relating to the AICG and the wordings, clauses and variants considered by the AICG during the course of the preceding year.”

The following represents a report of AICG’s activities during the period October 2010 to September 2011. The Group was scheduled to meet monthly during this period, but a number of meetings were cancelled in view of a light agenda. There have however been meetings of a number of AICG Working Groups (WG), consisting of nominated AICG members and others, as provided for in AICG’s ToR.

Activities

All AICG agendas, detailed minutes, and Consultation Drafts have been made publicly available on the AICG website. Accordingly, this report gives only a summary of the Clauses considered and published during the review period.

Sanctions & Embargo Clause

My last Statement of Activity reported that AICG had published a new Sanctions & Embargo Clause AVN 111, published on 1 October 2010. Subsequent feedback from the market suggested that, while sanctions clauses, including AVN111, were now being used being extensively on all classes of business, it had been brought to AICG’s attention that AICG’s Sanctions and Embargo Clause AVN 111 addresses only direct risks. It was suggested that an amended version for reinsurance risks might eliminate any errors or confusion which may arise in amending AVN 111 for reinsurance applications. AICG therefore issued as an AICG Consultation Draft a variant to AVN 111 for such applications, in accordance with the AICG Terms of Reference. No comments were received on this Consultation Draft, so a new Sanctions and Embargo Clause (for reinsurance applications) was published - as AVN 111(R) in order to distinguish it from AVN 111 - on 28 April 2011.

Space Product Liability Policies

An AICG member, a major space product liability insurer, has requested that AICG should review a number of space product liability coverages. It has been noted that the concept of space product liability insurance was introduced in the mid 1980’s for what was then predominantly Governmental involvement in space. However, since the 1980’s, the space market had changed significantly and developed to a much more commercial enterprise. This change from Governmental to commercial involvement means that the risks to insurers have changed significantly. It was suggested therefore that it might be appropriate for AICG to review of a number of space product liability insurance wordings - including AVN 98 - to see that they remained fit for purpose.

AICG therefore agreed to set up a Working Group to look in more detail at the issues involved. This Working Group party is still deliberating and will put their conclusions to the full AICG.

AVN1C - London Aircraft Insurance Policy

AICG has also been asked by the LMA Aviation Committee to look at AVN1C. Although it is believed that AVN 1C - and a number of broker variations - continues to be in regular market use, it is now 13 years old, having been published in 1998, and there are a number of known issues with it, including some previously referred for information to AICG.

As a consequence, AICG has therefore agreed that a review of AVN 1C would be timely, and that AICG could produce a useful product for the market as a result of such a review. An AICG Working Group has therefore been established to conduct this review. Issues to be considered will include whether AVN1C needs simply to be updated or whether a completely new wording is required, and whether any revised or new form should be “self contained” (i.e. including all types of coverage likely to be required) or whether it needs to provide just basic cover, with a number of separate “add-ons”, to reflect the needs of individual risks.

This Working Group has met on a number of occasions. AICG has agreed its remit should be limited to:-

- updating the current AVN 1C, rather than creating a new wording
- borrowing format, where appropriate, of already published wordings.
- not changing actual cover provided
- allowing for addition of new clauses/endorsement as necessary.

This Working Group party is still deliberating and will put their conclusions to the full AICG.

Tarbox Agreements

AICG has been made aware that the aviation Committees of LMA, IUA, LIIBA, and also the International Union of Aerospace Insurers (IUAI) , have been asked by the 2010 Industry Tarbox Review Implementation Working Group (consisting of many of the main aircraft refuellers) to comment on their proposed changes to the Aircraft Refueling Indemnity (Tarbox) Agreements.

LMA Aviation Committee, and IUAI’s Manufacturers, Products and Airports Study Group have suggested this might be referred to AICG for further study. It has subsequently been reported by LIIBA however that although Tarbox is a standard form of agreement it does not apply in every circumstance, so whether standard, modified, or no Tarbox at all is used, this was really an exposure issue not a clause issue, and addressed in the underwriting information that is discussed with insurers. LIIBA have therefore suggested that, once the industry discussions have been finalised, then brokers and insurers should have an initial meeting to consider this further. AICG have therefore agreed that this was not (yet) a policy drafting issue but if the industry discussions and any subsequent meeting between the industry, brokers and insurers, pointed to the need for new policy wordings, then AICG would be pleased to respond to any specific requests for such wordings, in accordance with the AICG Terms of Reference.

AICG Membership

During the last year, membership of AICG has remained relatively stable, although sadly one representative of LMA died unexpectedly earlier this year. Details of current membership are attached.

Commentary

AICG has been less active over the past twelve months, with fewer requests for new wordings or variants having been received. It is believed however that the aviation industry, including aviation insurers, brokers and clients continue to identify AICG as a useful forum for comment on a variety of matters related to aviation policy wordings

and clauses. Aviation insurance being of such a specialised nature allows AICG to continue to provide the expert body to develop the policy wordings the aviation industry, including aviation insurers, brokers and clients aviation insurance market, brokers and clients require. While the aviation insurance industry already has in place many policy wordings and clauses, there is always the possibility to improve existing forms or to introduce new forms where new market conditions or opportunities arise. AICG is therefore a potentially very useful resource.

Having now completed my second year as AICG Chairman I think the whole process continues to work well. A considerable amount of this is due to the individual members of AICG who give up a large part of their working day to participate in the drafting of complex wordings and clauses. The AICG is a very worthwhile committee and it has been a pleasure in chairing such a group of Market professionals.